

**COMMENTAIRES DE LA PART DES AUTORITÉS NATIONALES  
SLOVÈNES SUR LE TROISIÈME RAPPORT DE L'ECRI SUR LA  
SLOVÉNIE**

## **L'annexe qui suit ne fait pas partie de l'analyse et des propositions de l'ECRI concernant la situation en Slovénie.**

L'ECRI rappelle que l'analyse figurant dans son troisième rapport sur la Slovénie est datée du 30 juin 2006 et que tout développement intervenu ultérieurement n'y est pas pris en compte.

Conformément à la procédure pays-par-pays de l'ECRI, le projet de rapport de l'ECRI sur la Slovénie a fait l'objet d'un dialogue confidentiel avec les autorités slovènes. Un certain nombre de leurs remarques ont été prises en compte par l'ECRI, qui les a intégrées à son rapport.

Cependant, à l'issue de ce dialogue, les autorités slovènes ont demandé à ce que leurs points de vues suivants soient reproduits en annexe du rapport de l'ECRI.

## **Comments of the Republic of Slovenia on ECRI's Third Report on Slovenia**

### **Summary**

One cannot agree with the statement that "Ex-Yugoslav minority groups [...] [...] [...] [...] do not yet enjoy access to opportunities to promote their identity in a way that fully reflects their contribution to Slovenian society". On several occasions the Government of the Republic of Slovenia presented to ECRI and other international bodies a special programme of creating conditions for culturally diverse activity of different minority groups using normative, financial and organisational instruments. Furthermore, the Information-Documentary Centre for Heritage stores valuable artefacts supported by the Ministry of Culture which are accessible using the COBISS library system. In 2005 funds for the above mentioned activities were increased by 100%. The Ministry of Culture ensures dialogue with minority groups, especially during the preparation of annual programmes and reporting on their implementation.

### **I MONITORING OF THE IMPLEMENTATION OF THE ECRI'S SECOND REPORT ON SLOVENIA**

#### **International legal instruments**

On 23 November 2006, Slovenia signed the Convention of the Council of Europe on the Participation of Foreigners in Public Life at Local Level.

We have to be aware that the majority of European countries including Slovenia have not ratified the European Convention on the Legal Status of Migrant Workers and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

#### **Civil and administrative law provisions**

One cannot agree with the statement of ECRI, contained in the last part of the final sentence of item 20: "[...] or the need to place public authorities under a statutory duty to promote equality and prevent discrimination in carrying out their functions - an element which ECRI believes could help to bring about positive changes in public administration in these fields."

We wish to emphasize that, in compliance with Article 7 of the Implementation of the Principle of Equal Treatment Act (UL RS, No. 50/04) all public administration bodies (National Assembly, Government, ministries, other state bodies and bodies of the self-governing local communities) are bound to create conditions within their competencies for equal treatment of persons, regardless of any personal circumstance, by awareness-raising and supervising the conditions in this field and with normative and political measures.

### **Education and awareness-raising**

In addition to the above we wish to point out that a proposal of an optional subject for 7th, 8th and 9th year of elementary school, entitled "The Roma Culture", is currently in the adoption procedure with the Expert Council for General Education. The proposal is to be discussed in spring 2007.

The Government of the Republic of Slovenia is determined to introduce all necessary measures and activities for a more effective integration of different ethnic groups. In this respect, every year since 2005 an action plan of measures as well as the required activities for a more effective integration of the Roma in the education system are being adopted. The plan of measures is set up in cooperation with the Union of Roma of Slovenia. The President of the Roma Union is chairing the Commission charged with monitoring the implementation of measures. A draft strategy has been drawn up and appropriate measures designed for a more effective integration of migrant pupils into the education system; the draft is scheduled to be dealt with at the Expert Council meeting in April 2007. For the period 2007-2013 we plan to have the possibility to more effectively and more rapidly implement the measures referred to in the mentioned strategies (Roma, migrants) also with the support of the European Social Fund.

The content concerning human and children rights education is being introduced in Slovene school curricula in the following ways:

- within the framework of dedicated subjects such as Citizenship and Ethics;
- as a cross-curricular content; and
- as a multi-school approach.

The competent ministry will continue to implement the activities aimed at introducing the three approaches into the elementary and secondary school curricula. Apart from that a law is being drafted according to which all schools will have to prepare annual plans of covering topics like human rights education in the framework of school subjects, curricular and extracurricular activities ("school education plan"). It has to be pointed out here that in both elementary and secondary schools each year the so-called children/student parliament project is already being carried out.

### **Admission and status of persons without citizenship**

- **Asylum seekers**

In relation to the statements found in items **38 and 39** of the Report, we would like to explain that in February 2006 the Republic of Slovenia adopted the Act amending the Asylum Act, which amended and re-defined Article 26 that contains provisions regarding treatment of foreigners, who expresses intent to file an application for asylum. Immediately after the adoption of the Act amending the Asylum Act, an initiative to review the constitutionality of this Article was launched. On 3 April 2006, the Constitutional Court of the Republic of Slovenia issued decision U-I-59/06-11, which suspended the implementation of Paragraphs I, II, III and IV of this Article until final decision is taken by the Constitutional Court. The Constitutional Court has not yet taken this decision. The competent authorities of the Republic of Slovenia do not implement the above Article and thus transfer all foreigners, who apply for asylum at a police station, to the Ljubljana Asylum Home, where application for asylum on the prescribed form is arranged.

In relation to item **44** of the Report, we would like to explain that, as already mentioned, the Ministry of the Interior of the Republic of Slovenia will not implement Article 26 of the Act amending the Asylum Act until the Constitutional Court of the Republic of Slovenia has adopted a decision regarding the initiative to review the constitutionality of this Article. After the Constitutional Court decision is taken, the Ministry of the Interior will act in line with the adopted decision.

As regards the provision of legal counselling to asylum seekers (item **45** of the Report), the Ministry of the Interior follows the provisions of Council Directive 2005/85/EC of 1 December 2005 on minimum standards as regards the procedures for the recognition or denial of the refugee status in Member States. Nonetheless, it complements the provisions, which originate in the Directive and were transferred into the Asylum Act, by carrying out a legal counselling project, which is partly financed with funds of the European Refugee Fund.

We believe that, in line with the applicable legislation, Slovenia provides asylum seekers with all the necessary basic supplies and that all the basic needs of asylum seekers are thus satisfied (item **46** of the Report).

As regards item **47** of the Report, we believe that with the erection of a new Asylum Home appropriate conditions were created to receive and accommodate asylum seekers. Furthermore, it should be added that the personnel of the Asylum Home has always endeavoured to ensure that upon arrival of a large number of asylum seekers these would be accommodated in the appropriate department of the Centre as soon as possible after the formal receipt of the application for asylum. The Ministry of the Interior consistently implements the rights of asylum seekers stipulated in Article 43 of the Asylum Act.

Regarding item **48** we assure you that the Government of the Republic of Slovenia would continue to strive for positive cooperation with other organizations in the field of ensuring rights to asylum seekers.

- **Refugees**

In connection with the statements referring to the refugee status (items **49 and 50** of the Report), we would like to explain that since 2004, apart from regularly allocating

budgetary funds, the Ministry of the Interior has been publishing calls for applications in the field of care and housing of asylum seekers and refugee integration, financed from the Ministry's funds (60%) and from the European Refugee Fund (40%). These funds are allocated to NGOs and non-profit organisations active in the field of ensuring refugee rights.

In connection with the invitation to cooperation of various actors in authority, we would like to explain that representatives of the Ministry of the Interior cooperate closely with representatives of the relevant sectors and specialised services such as Employment Service of Slovenia, social work centres, health-care institutions, and intergovernmental organisations and NGOs.

As regards recommendation No 50, we can report that one of the priorities of the minority cultural policy included support for cultural activities of and for refugees, thus the endeavours and care for their quality of life and well-being in the society have been strengthened.

### **Access to public services**

#### **- Access to education**

We would like to add to item 51 that in Slovenia each elementary school has a defined school district from which the pupils enrolled in the school are coming. The situation at the Livada Elementary School is the result of the fact that the school district of each elementary school is defined by the residence address of pupils' parents. This means that, as a rule, the pupils enrol in the nearest elementary school. In the Livada Elementary School district there is an above-average number of families from former Yugoslav republics. It is a relatively new settlement that has been established mostly by families from former Yugoslav republics settling there; furthermore, it has to be pointed out that it is an urbanized settlement with mostly individual houses. To deal with the current situation, both the local community and the competent ministry are encouraging activities aimed at enhancing the pupils' social competence (diverse projects, curricular and extracurricular activities etc.).

We would like to add to item 53 that - having in mind that elementary schooling accessibility is guaranteed primarily through the possibility of enrolment into the nearest school - it may happen that in certain school districts there are increased numbers of specific ethnic groups. This, of course, is in no way caused by a segregation policy of individual schools but is the consequence of specific settlement circumstances. The policy of the competent ministry with regard to the mentioned issues is clear: it is opposed to any activities of hidden segregation, which was also demonstrated through its actions in 2005.

We would like to add to item 54 that in 2006 the Government of the Republic of Slovenia provided financial support to the project entitled "Slovene as the second language".

### **Vulnerable groups**

#### **- Ex-Yugoslav minority groups / Other groups**

As regards the ensuring of all-round cultural and linguistic development of other ethnic groups and immigrants including the representatives of the ex-Yugoslav minority groups and other groups, we would like to emphasize that they enjoy equal rights as other citizens and in addition benefit from special measures and assistance in the fields of culture and education aimed at their all-round cultural and linguistic development (in line with Articles 61 and 62 of the Constitution of the Republic of Slovenia).

Regarding the statement in item **69** that the Slovenian legal system does not grant special rights to minority groups other than the Hungarian, Italian and Roma, it has to be added that all the mentioned minority groups enjoy special attention of the Government of the Republic of Slovenia, through the Department for Cultural Rights of Minorities and Development of Cultural Diversity at the Ministry of Culture, which also offers expert assistance and legal counselling when responding to calls for applications by the Ministry of Culture for financing their activities. The statement that attempts from representatives of these groups to initiate regular dialogue with the Slovenian authorities had been completely unsuccessful is inaccurate. Representatives of these associations were received on 6 June 2005 by the Minister of Culture, Vasko Simoniti.

We would like to add to item **70** that the Government budget contains a special recurrent budget item No 6424 "Cultural activities of other minority groups". In 2005, funds under this item increased by 100%; financial implementation (funds, used by contractors on the basis of specific claims) for 2006 amounted to 39.6% (on 7 September 2006). Normative provisions relating to the accessibility of public cultural infrastructure for minorities are contained in the Public Interest in Culture Act, Articles 74 to 79. Legal counselling for the implementation of norms in the minority field is also organised (specialised legal expert for this field is employed at the Department for Cultural Rights of Minorities and the Development of Cultural Diversity of the Ministry of Culture).

We would like to add to item **71** that in 2006 the Government of the Republic of Slovenia provided financial support for the drawing up of curricula for three additional languages of the former republics of the SFRY and for the Romany language. Furthermore, the competent ministry in 2006 financially supported the editing of a Croatian language textbook. The introduction of these languages into the curricula has been further stimulated by more favourable norms for the setting up of relevant groups and through various promotional activities.

As regards item **78**, we would like to add that the Government of the Republic of Slovenia devotes special attention to the German-speaking minority groups in Slovenia; in June 2006 it analysed the measures for the protection of their cultural heritage and cultural activities. The comprehensive study showed that the heritage of the Kočevje Germans is particularly well presented and that literature, published on this topic in the past few years, is very rich. Monument protection activities and other cultural activities are also very diverse. Based on extensive analytical findings the Government of the Republic of Slovenia formulated several proposals for additional improvements. The Government of the Republic of Slovenia remains open to dialogue with this minority group. On 19 January 2007, the Ministry of Culture sent a written invitation to the Association of the German speaking groups to collaborate in the drawing up of a cooperation programme with Austria for the period 2008-2012,

which is being drafted on the basis of a bilateral agreement, notably in the part concerning minority culture.

With regard to item **80**, we would like to add that Sinti groups have approached the Ministry of Culture. Discussions on their issues and cultural needs have been carried out at the Department for Cultural Rights of Minorities and the Development of Cultural Diversity.

### **The media**

As regards item **87**, we would like to add that the Government of the Republic of Slovenia regularly follows media reporting on minority groups and, if the need occurs, either convenes meetings with all parties concerned or informs the media inspector. The competent ministry also gives priority support to different minority media. In order to improve the Department's qualifications in this field, Head of the Department for Cultural Rights of Minorities and the Development of Cultural Diversity at the Ministry of Culture participated at a seminar on discriminatory and hostile speech, organised by the Human Rights Ombudsman on 27 September 2006.

### **Public atmosphere**

On 24 November 2006, the President of the Republic, the President of the National Assembly and the Prime Minister called on all inhabitants of the Republic of Slovenia to work together to create mutual confidence and tolerance, which is the only guarantee of security, peace and co-existence.

### **Actions of law enforcement officials**

As regards item **96** we do not agree with ECRI's statement, that "racial profiling is not uncommon within the Slovenian police". Giving such a judgement on the basis of an isolated case is incorrect. We would furthermore like to emphasize that already on 14 May 2003, that is three years prior to the amendment to the Police Act, internal instructions were prepared, which include specific warning that the appearance of a person shall not serve as a basis for the identification procedure.

Under item **96**, we would like to underline the wording that in accordance with the Constitutional Court decision, provisions of Article 35 of the Police Act were amended in such a way that circumstances that enable the police to exercise their powers to establish identity are precisely set and do not allow for any confusion.

These circumstances limit police officers in carrying out identification procedures to persons who: need to be apprehended, brought in, arrested or placed in police custody; are located in the area where movement is forbidden or restricted; are located in the area, place or building, where measures related to seeking or tracing a perpetrator of a criminal or minor offence or items or traces that are important in a criminal or minor offence procedure; through their behaviour, actions, appearance or loitering at a particular location or at a particular time give reason for suspicion that they might commit, are committing or have committed a misdemeanour or criminal offence; whose appearance is similar to the description of a wanted person; are obviously helpless and whose identity need to be established to provide assistance; could provide information that would be useful for policing assignments.

## Situation monitoring

As regards item 104 of the draft report and recommendation under item 106 about the monitoring of the situation of minority groups in areas such as employment, education, etc., we would like to add that keeping records or statistics on specific data collected on a discriminatory basis - e.g. person's religion, national or ethnic origin - might be contentious. The Constitution of the Republic of Slovenia and international instruments safeguard individual's fundamental right to protection of personality and privacy, meaning that an individual may exercise his/her right not to declare (as regards religion, nationality etc.) particular personal circumstances (that might constitute grounds for discrimination). All state authorities, public administration institutions and NGO's that should wish to keep records on minority groups, marginalised for one reason or another, would in some way have to obtain personal data from the persons, on which statistics are kept (e.g. information on religion of all unemployed persons for the statistics of unemployed Muslims in Slovenia or information on (non-)Roma origin of the unemployed persons for the calculation of the proportion of the unemployed Roma in respect of the total number of the unemployed, etc.). The question arises, whether the mere fact that a person is asked about his/her religion, national or ethnic origin etc. and that subsequently records of such data are kept, may be discriminatory in itself.

Concerning the recommendation that the Republic of Slovenia should collect certain relevant personal data on minority groups, like religion, language, nationality and national or ethnic origin for purposes of monitoring the situation of minority groups in certain areas, it can only be assessed that this is quite problematic from the personal data protection aspect, especially in the context of the principle of proportionality and purposes of such processing of personal data. From the constitutional aspect of the principle of proportionality as enshrined in Article 2 and Article 15, Paragraph 3 in conjunction with Article 38 of the Constitution of the Republic of Slovenia such proposed provisions, if introduced in Slovenian legislation, would be inherently constitutionally disputable. Also, most of the mentioned data (with the exception of nationality) are sensitive personal data by virtue of Article 6, Item 19 of the Personal Data Protection Act of the Republic of Slovenia and special rules apply to their processing or legitimate purposes of processing. It is highly questionable whether statistical purpose of collecting, using and other processing of such personal data (only statistical purpose could be legally stated as grounds for fulfilling the primary purpose of monitoring the situation of minority groups in certain areas) would survive the constitutional review and even before that be considered legitimate by "the Legislator" (the National Assembly of the Republic of Slovenia), mostly due to reasons of individual constitutional rights of proportionality in general and personal data protection in particular.

Also, the right to religious confession is especially guaranteed in Article 41 of the Constitution of the Republic of Slovenia, and its Paragraph 2 states that no-one shall be obliged to declare his religious and other beliefs. Any provision in Slovenian legislation requiring the individual to declare her/his religious belief would run contrary to this provision, even if provided by consent of individual, since statistical purposes could not be deemed sufficient due to this constitutional obstacle.



As a conclusion, such collection and processing of personal data could be deemed to be a disproportionate encroachment upon an individual's right to informational self-determination.

## II SPECIAL ISSUES

### Situation of the “erased persons”

Before Slovenia's independence (1991) Yugoslav residents (with the exception of foreigners) held both the citizenship of the federal republic in which they were residing or whose citizenship they had chosen, and, at the same time, the citizenship of the Socialist Federal Republic of Yugoslavia (SFRY). Since the declaration of Slovenia's independence the status of the residents who had moved from other federal republics to Slovenia - usually to find employment - has changed. The Republic of Slovenia had to establish a body of citizens of the newly created state. With the aim of facilitating the transformation towards a new system and enabling the majority of citizens of other successor states to the former SFRY to regulate their status in time, the then municipal bodies for internal affairs (at present: administrative units) invited such residents to regulate their status and acquire identity documents of their countries of origin.

Among other laws the 1991 independence legislation contained the Citizenship Act (ZDRS) and the Aliens Act (ZTuj) that were establishing the body of citizens of the new state. Article 40 of the Citizenship Act allowed for obtaining citizenship of the Republic of Slovenia under rather favourable naturalization conditions. In fact, the only requirement was for a person to have had registered permanent residence in Slovenia on 23 December 1990. Altogether 171,120 persons obtained the citizenship of the Republic of Slovenia in this way, whereby they retained their former citizenship.

Persons who did not request Slovenian citizenship had the possibility to obtain a residence permit in the Republic of Slovenia according to the provisions of the Aliens Act. A great majority of citizens of other successor states to the former SFRY who had decided not to apply for Slovenian citizenship but to continue to live in Slovenia did so. However, as of 26 February 1992 those citizens of the former Yugoslav republics who have obtained neither Slovenian citizenship nor a residence permit according to the Aliens Act were considered as aliens without legal status (and hence without residence permit on the territory of the Republic of Slovenia). On the same date permanent residence registration and identity documents issued in the former SFRY became invalid for all citizens of successor states to the former SFRY. These citizens were not “erased” by any authority of the Republic of Slovenia. The designation “erased persons” was a fabrication of a political and media campaign, and was used for those persons who in the given timeframe have opted neither for Slovenian citizenship nor for a regulation of their status according to the Aliens Act.

The State became aware of the delicate and problematic situation of this group of people. It has been established, on the basis of the permanent residence register, that 18,305 citizens of the states successors to the former SFRY had not regulated their status. As a result, in 1999 the Act Regulating the Legal Status of Citizens of the Former Yugoslavia Living in the Republic of Slovenia (ZUSDDD) was adopted, thus making it possible for permanent residence permits in Slovenia to be acquired under revised, more favourable conditions as compared to those defined for the period after

26 February 1992 by the Aliens Act. Indeed, the only condition for a person to obtain a residence permit according to the said Act was that he/she de facto had resided in the Republic of Slovenia since 23 December 1990 or 25 June 1991. By 31 October 2006, 13,301 applications for the issuing of a permanent residence permit were filed according to the ZUSDDD Act. In 12,174 cases permanent residence permits were issued, in 1,346 cases the procedure was stopped because of failure of the interested party to cooperate, and 534 applications were refused.

In 2002, the Act Amending the Citizenship of the Republic of Slovenia Act was adopted, allowing (Article 19, transitory provision) easier acquisition of Slovenian citizenship to all foreigners who had permanent residence in the Republic of Slovenia on 23 December 1990 and had lived in Slovenia without interruption since that date. According to Article 19 of the Act Amending the Citizenship Act, the deadline for applications was 29 November 2003; 2,959 applications were filed.

In its decision No U-I-246/02-28 of 3 April 2003 the Constitutional Court of the Republic of Slovenia ruled on the constitutionality of several provisions of the ZUSDDD Act. A new constitutional law was drafted in order to eliminate the established nonconformities and complement the legislation with regard to the issuing of permanent residence permits for the citizens of states successors to the former SFRY:

- a) who had registered permanent residence in Slovenia on 23 December 1990, i.e. the day of the plebiscite on the independence and sovereignty of the Republic of Slovenia;
- b) have since that date de facto lived in Slovenia - under the condition that they have already applied for a permanent residence permit according to the Aliens Act, but that their application was refused.

The newly proposed law amends Article 13 of the Constitutional Act Implementing the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia (1991), which stipulates that citizens of other republics of the former SFRY who had registered permanent residence in the Republic of Slovenia on 23 December 1990, and had actually lived in Slovenia, held the same rights and were subject to the same obligations as the citizens of the Republic of Slovenia (except for the purchase of immovable property) up to the date when the provisions of the Aliens Act became applicable to them.

An analysis was carried out of data on persons for whom it had been established, on the basis of permanent residence register, that their status had not yet been regulated. The analysis revealed that the individuals in question had moved away, had been released from Slovenian citizenship or had died. This was the case of 4,205 persons who had not regulated their status and were, consequently, not in a position to register residence. In January 2006 the analysis was repeated and showed that the register still comprised 4,090 persons without a status; 47 individuals had acquired citizenship, 33 had regulated alien status and 9 had died. It can be inferred, on the basis of these data, that some 4,000 persons from the mentioned register do not reside in the Republic of Slovenia any more.

All of the above proves that the citizens of other states successors to the former SFRY had been given numerous opportunities to regulate their status in the Republic of Slovenia. Official records also show that a great majority of these persons have

regulated their status and reside in the Republic of Slovenia without any problems. Another revealing information in this respect is that, in the period from the end of 2004 to 30 October 2006, only 219 applications for permanent residence permit according to the ZUSDDD Act were filed.

The approach the Republic of Slovenia opted for in solving this complex and sensitive issue, which was new for Europe in general, has been evaluated very positively by various global organisations dealing with such matters. At an international seminar in Ljubljana on 1 December 1993, the experts of the Council of Europe's Committee on Nationality acknowledged that Slovenia's resolution of this issue was in perfect accordance with all standards concerning the regulation of citizenship by successor states. The same was the case in 1995 in Geneva, where UN Human Rights Committee was discussing Slovenia's 1st report on the respect of human rights and adopted it without objection, and in New York, where the Sixth Committee of the UN General Assembly verified and approved the conformity of Slovenian legislation with the international standards. It needs to be pointed out that the Republic of Slovenia and all its branches of authority have been continuously amending the relevant legislation, at all times following European legal practice. The latter includes the provisions of the European Convention on Nationality, which is one of the most progressive instruments in this field. The said Convention was adopted by the Council of Europe in 1997, which is 6 years after the introduction of relevant Slovenian legislation. The principles contained in Article 6 of the Convention, referring to citizenship and successor states, had already before that been included in relevant Slovenian legislation. The latter consistently respects one of the fundamental principles of the said Article, namely the principle of free will and decision of each individual.

The dramatized comments on the "erased" issue mostly result from insufficient information. A lot of dust was also raised by the claims and incentives of those "erased persons" who were regulating their status several years after elapsed deadlines or who encountered any kind of difficulties in their actions. Due to the difficulties encountered in regulating their status some of them expected extremely high damages from the Slovenian state, which resulted in bewilderment and anger of those who had regulated their status in time. Of course, while consistently respecting human rights, Slovenia will not hide from responsibility for any faults, errors or misuse that may have occurred. Slovenia is ready to repair any possible damage that may have been caused by unlawful action of state officials or authorities.

### **Situation of the Roma community**

The Roma Community Act will definitely contribute to the settlement of the situation of the Roma community in the Republic of Slovenia. At its session on 23 November 2006, the Government of the Republic of Slovenia determined the text of the draft law and submitted it into parliamentary procedure to the National Assembly. The proposed umbrella law on Roma is to provide a comprehensive legal framework for this issue and constitutes the first legal act of this kind in the EU. The discussion of this law was conducted several years and included organisations of the civil society, local communities, deputy groups, the Union of Roma of Slovenia and the Forum of Roma Councillors.

The legal basis for the regulation of the status of the Roma community in the Republic of Slovenia is provided for by Article 65 of Slovenia's Constitution, which stipulates as

follows: “The status and special rights of the Roma community living in Slovenia shall be regulated by law.” Article 65 of the Constitution is still being implemented through sector-specific legislation, and thus by twelve (12) sector-specific acts. The above constitutional basis relates only to members of the Roma community living in the territory of Slovenia for centuries. The Act Amending the Local Government Act also defines the territory, where Roma in Slovenia reside traditionally, and it is only in these areas determined by the borders of the relevant municipalities that Roma enjoy special rights (special facilities and privileges) ensured to them by the legislator through individual laws. Roma in the Republic of Slovenia residing outside of the enumerated 20 municipalities have equal rights and obligations as any other citizen of the Republic of Slovenia, provided that they have this status (e.g. relatively high social welfare benefits), otherwise, they enjoy the rights to which they are entitled as aliens in compliance with international norms and national legislation.

Some additional advantages of Roma constitute what is called positive discrimination.

We would like to add that in the field of culture there has never been any differentiation between autochthonous and non-autochthonous Roma in creating conditions for their cultural activities and creativity.

Data on the education structure of the Roma community show low education structure of the members as the majority has not finished elementary school. To improve the integration of Roma into society, the Strategy for Education of Roma in the Republic of Slovenia was adopted in 2004. The Strategy provides for the integration of Roma children in pre-school institutions at least two years before they start elementary school, i.e. with four years of age at the latest, with the purpose of language learning (both Slovenian and Roma).

The practice of classifying children in groups according to their level of knowledge, as was the case of the Bršljin elementary school is of general nature. It is important that the solution (the formation of special groups regarding the level of knowledge) is not permanent, but temporary, (perhaps lasting only a few weeks or months) - depending on the progress of pupils. The Roma education and information centre (REIC) is an institution established to improve the level of education. A working group for the preparation of an occupation standard "Roma assistant" and "Roma coordinator" is active within the Centre of the Republic of Slovenia for Vocational Education and Training. On 18 December 2006 the Expert Council for Technical and Vocational Education adopted the occupation standard “Roma Assistant” and the occupation standard “Roma Coordinator”, as well as the Catalogue of Standards of Professional Knowledge and Skills for the Professional Qualification “Roma Assistant” and the Catalogue of Standards of Professional Knowledge and Skills for the Professional Qualification “Roma Coordinator”.

The data of the 2002 census on the number of unemployed persons among Roma as compared to the remaining Slovenian population show that the number of unemployed persons among Roma is above average, i.e. approx. 72.3 per cent. Roma thus mostly depend on social assistance from the state, some of them are also into grey economy.

In order to reduce unemployment of Roma, the Ministry of Labour, Family and Social Affairs and the regional offices of the Employment Service have been implementing special active employment policy programmes for unemployed Roma for several years.

The purpose of special programmes is social inclusion, preparation for employment, which includes education and training, and employment itself. These programmes are tailored to the needs of specific groups. We should mention some of the programmes, special measures and projects for the employment of Roma: the social inclusion programme, special employment programmes, special education programmes, Roma employment programme, and equal employment opportunities for Roma - our common challenge programme.

The Ministry of Labour, Family and Social Affairs allocated funds within the EQUAL Community Initiative Programme in Slovenia for two development partnerships, the activities of which are aimed at members of the Roma community in the Republic of Slovenia - development partnership Roma employment centre coordinated by the Škocjan Municipality, and development partnership Roma education and information centre coordinated by the Regional Development Agency Mura Ltd.

The prerequisite for a successful inclusion of Roma in society (education, employment, etc.) is regulated and decent living conditions; therefore, Slovenia devotes much attention to this area. Thus, between 2002 and 2004, Slovenia allocated, on basis of the call for applications by the Ministry of the Economy, grants for the improvement of Roma settlements; in 2004, the Public Fund of the Republic of Slovenia for Regional Development issued »Call for applications for co-financing projects of basic public utility infrastructure in Roma settlements"; the Slovenian Government adopted the Implementation Programme of Assistance to Municipalities in order to settle the most urgent public utility infrastructure in Roma settlements. In 2006, SIT 314 million was allocated for the Implementation Programme; in 2007 SIT 343 million and in 2008 SIT 350 million.

The Ombudsman also endeavoured to resolve the problems of discrimination and organised in autumn a series of seminars within the "Face the Discrimination" project aimed at certain target groups, e.g. "Ethnic and racial discrimination", "Roma and discrimination".

#### **Amendments to Items 62 and 104 of ECRI's Third Report on Slovenia**

1. We would ask the last sentence of Paragraph 62 to be **deleted**.

Clarification:

**Statement that ECRI has established that members of minority groups only rarely reach senior or leading positions within the civil service is superficial and not supported by data. In view of the applicable Civil Servants Act (ZJU), which stipulates through the principles under Article 7 that:**

"The employment of civil servants shall be implemented so as to guarantee equal access to work posts for all interested candidates under equal conditions, and to guarantee the selection of candidates most professionally qualified for the performance of tasks in the respective work post,"

**the statement is also unfounded.**

The above principle is embodied in legal provisions. Officials are selected on the basis of open competition; in the open competition proceedings, candidates are treated

equally and the selection is made on the basis of best-demonstrated professional qualifications (Article 27 of the ZJU). In the case of official work posts in bodies required by law to use as official languages also the languages of national communities, the knowledge of such languages is also set as a condition for such work posts.

Open competitions are public (published in the Official Gazette of the Republic of Slovenia or in daily newspapers, and on the web-site of the ministry responsible for administration - Article 58 of the ZJU). The contents and the implementation of an open competition and the selection procedure are also regulated by law (Articles 58-65 of the ZJU). All the above facts guarantee consistent implementation of selection principles of best-demonstrated professional qualification.

For the implementation of the procedure, General Administrative Procedure Act was set as the procedural regulation. Candidates, who were not selected but satisfied formal conditions for the work post are allowed by law to inspect all the data included by the selected candidate in the application to the open competition and all materials of the selection procedure.

Article 65 of the Act gives the candidates, who were not selected, the right to appeal to the competent appellate commission, if they believe:

- 1 that the selected candidate failed to satisfy the competition conditions;
- 2 that they satisfy the competition conditions, but were not given the opportunity to participate in the selection procedure;
- 3 that the selected candidate manifestly failed to achieve the best results according to the criteria in the selection procedure;
- 4 that material violations of open competition procedure or of the selection procedure have occurred.

No appeal is allowed for candidates that have not participated in the individual procedural acts of the selection procedure and have failed to excuse their absence in spite of being regularly summoned.

**Appeals suspend the appointment of the selected candidate to title and the conclusion of the contract of employment.**

An administrative dispute may be initiated against the decision of the appellate commission. In case where the administrative court finds for the plaintiff, the aggrieved party may be awarded damages in the amount of no less than one and no more than three minimum gross monthly salaries for the work post for which the aggrieved party applied; in case pursuant subsection 1 in paragraph 1 of this Article, the administrative court may annul the decision on selection. The court awards the damages with due consideration of the seriousness of violations and the consequences suffered by the plaintiff. In the case of the annulment of the decision on selection, the competent appellate commission annuls - out of official duty - the act on appointment and the contract of employment.

In view of the above and because all candidates for all official work posts in state and public administration have all mechanisms for the protection of their rights at their disposal, including

the right to damages in case of established violations by the national administration bodies, we propose that the above stated sentence of item 62 of the Report be deleted.

2. We would ask the current third sentence of Paragraph **104** to be **deleted and replaced by the following** more specific **wording**:

**'In 2011 a completely register-based census is planned in Slovenia. The data will be obtained only from already existing and available registers and administrative sources and the Statistical Office will not be able to obtain via registers some data which were collected with field enumeration at the 2002 Census. Therefore in the near future the Statistical Office of the Republic of Slovenia will initiate the debate among Slovenian authorities about alternative data sources and how to collect these data in the future years.'**