



Ref: CommHR/ EB/sf 001-2013

Mr Janez JANŠA
Prime Minister of the Republic of Slovenia

Strasbourg, 10 January 2013

Dear Prime Minister,

Following up to the dialogue of my predecessor with the Slovenian government, I should like to take the opportunity to raise with you certain outstanding issues with regard to the situation of the approximately 25 600 persons whose names were erased from the Register of Permanent Residents of Slovenia in 1992.

In his letter of 7 June 2011 addressed to Prime Minister Pahor, my predecessor expressed his concern that the 2010 amendments to the Legal Status Act did not fully remedy the negative impact that the 1992 “erasure” has had on the enjoyment of human rights by the “erased” persons.

He emphasised that the provision that “erased” persons absent from Slovenia for more than ten years need to show proof that they have attempted to return to Slovenia was a major obstacle. He recommended that the authorities consider introducing in the amended Law less restrictive requirements, exempting the “erased” from paying the relevant administrative fees, and that the government translate into one of the regional languages the information brochure on the 2010 amended Legal Status Act. Concern was also expressed at the non-existence of any reparation mechanism at the national level that would provide adequate reparation to those “erased” persons who have endured injustices. These concerns were reflected in the judgement of 26 June 2012 of the Grand Chamber of the European Court of Human Rights in the case of *Kurić and others v. Slovenia*.

I have noted with satisfaction that the Slovenian authorities translated into several regional languages an information brochure concerning the amended Legal Status Act of 2010. I have been informed that this publication has helped the “erased” persons to become aware of the procedure that may lead to the granting of permanent residence under this law. Additional efforts are necessary to ensure wider dissemination of information about the rights and procedure provided for by the amended Legal Status Act.

As of 24 January 2009 there were 13 426 “erased” persons who had not yet settled their status in Slovenia. Your authorities have informed me that until 29 February 2012 the Ministry of Interior had granted 65 permanent residence permits out of the 232 applications following the amended Legal Status Act of 2010. In 84 cases the requests for permanent residence were rejected as groundless. The low number of applications and granted requests appear to indicate a lack of effectiveness of the existing legislation and its implementation. Given that the deadline for applying for permanent residence will expire in July 2013, I am seriously concerned that the majority of the “erased” who have not yet settled their residence status in Slovenia will not succeed in doing so before the expiration of this deadline. Moreover, I have noted that in May 2012 the inter-governmental commission tasked with developing integration measures for the “erased” persons who return to Slovenia terminated its work. I look forward to receiving information on the outcome of the work of the above commission.

In view of the above, I call on the Slovenian authorities to reconsider the relevant provisions of the 2010 amended Legal Status Act with a view to making possible the reinclusion into the Slovenian society of those “erased” persons who still wish to do so. Thus, it would be useful to consider and apply a prolongation of the deadline for the submission of applications for permanent residence. Moreover, I hope that your government will reconsider its position and exempt the “erased” persons from the payment of the relevant administrative fees.

In addition, I should like to share with you my very serious concern at the plight of those of the “erased” persons who still today remain stateless, as was the case of two of the eight applicants before the European Court of Human Rights in the *Kurić* case.

The human right to a nationality and a positive obligation of the member states to prevent statelessness are embedded in two major Council of Europe treaties: the 1997 Convention on Nationality and the 2006 Convention on the Avoidance of Statelessness in Relation to State Succession, to which Slovenia has not as yet acceded. I would like to reiterate my call on your authorities to take all necessary measures that would lead to Slovenia’s accession to these two treaties.

Recalling Recommendation R (99)18 of the Council of Europe Committee of Ministers *on the avoidance and reduction of statelessness*, I would like to stress that access to a state’s nationality should be possible whenever a person has a genuine and effective link with this state in particular through birth, descent or residence.

The links of the “erased” persons with Slovenia were severely interrupted in 1992 by their “erasure” from the Register of Permanent Residents. Those of them who could not prove the citizenship of one of the successor states of the former Yugoslavia, for example due to the loss of personal documentation, or destruction of registers in the context of the wars in the region, became stateless. This situation has disproportionately affected persons belonging to the most vulnerable social groups, such as Roma.

I urge your authorities to take all relevant measures in order to facilitate and make possible the acquisition by these persons of Slovenian citizenship in line with the Council of Europe standards. Particular attention should be paid to the children of those erased in 1992 who are still stateless. As a first step, the authorities could consider establishing a complete register of all the “erased” persons who have become and remain stateless.

I look forward to receiving your reply and to continuing a constructive dialogue and co-operation.

Yours sincerely,

Nils Muižnieks