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14th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF SLOVENIA

Article 7, 8, 16, 17, 19, 27, 31 for the period
01/01/2010 – 31/12/2013

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REPUBLIC OF SLOVENIA

Fourteenth Report of the Republic of Slovenia
on the implementation of the European Social Charter (revised)

Articles 7, 8, 16, 17, 19, 27 and 31
(thematic group: “Children, families and migrants”)

Reference period:
1 January 2010 to 31 December 2013

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INTRODUCTION

The European Social Charter (revised) was adopted by the Council of Europe in 1996 (hereinafter: the Charter). The Republic of Slovenia signed the Charter on 11 October 1997; the Act ratifying the Charter was adopted by the National Assembly on 11 March 1999 (*Uradni list RS – MP* [Official Gazette of the Republic of Slovenia – International Treaties], no. 7/99); the Charter was ratified on 7 May 1999 and has been applicable in Slovenia since 1 July 1999.

The system of reporting on the implementation of the Charter defined by the Committee of Ministers in April 2014 introduces some new elements but maintains reporting by four thematic groups. The right of children, families and migrants to protection is the thematic group for 2014. Slovenia submitted its most recent report on the implementation of articles covering the right of children, families and migrants to protection (Articles 7, 8, 16, 17, 19, 27 and 31) to the Council of Europe in December 2010 for the reporting periods from 1 January 2005 to 31 December 2009 (for Articles 8, 17, 27 and 31) and from 1 January 2006 to 31 December 2009 (for Articles 7, 16 and 19).

In January 2012, the European Committee of Social Rights (hereinafter: the Committee) adopted the conclusion that in 13 cases the situation in Slovenia had been in conformity with the Charter and in 12 cases it had not been (Articles 7§5, 8§3, 16, 17§1, 19§1, 19§3, 19§4, 19§10, 19§11, 31§1, 31§2 and 31§3). The Committee did not adopt a conclusion in 11 cases as it needed additional information, which Slovenia has provided in the present Report.

The fourteenth report of the Republic of Slovenia on the implementation of the Charter covers the reporting period from 1 January 2010 to 31 December 2013. In accordance with the decision adopted by the Committee of Ministers in April 2014, the reports must focus on: 1. the conclusions of non-conformity from the previous reporting period; 2. questions raised by the Committee with respect to Conclusions 2012 and the third modification (legislative and statistical) compared to the previous reference period.

Article 7 – The right of children and young persons to protection

Paragraph 1 - Prohibition of employment under the age of 15

The new Employment Relationships Act adopted in 2013 (*Uradni list RS*, no. 21/13; ZDR-1) does not change the system which was described in the previous report and is in the opinion of the Committee in compliance with Article 7§1 of the Charter. Articles 218 and 219 of the ZDR-1 govern sanctions. Its Article 21 defines the minimum age at which an employment contract may be concluded and stipulates that an employment contract concluded with a person under the age of 15 is considered null and void.

According to the data of the Labour Inspectorate of the Republic of Slovenia (hereinafter: the Labour Inspectorate) for the period from 2010 to 2013, inspectors did not establish any violations of Article 19 of the Employment Relationships Act (*Uradni list RS*, nos. 42/2002 and 103/2007; ZDR) or Article 21 of the ZDR-1. They refer to the capacity to conclude an employment contract and stipulate that an employment contract may only be concluded with persons older than 15 years or else such a contract is considered null and void.

Article 7 - The right of children and young persons to protection

Paragraph 2 - Prohibition of employment under the age of 18 for dangerous or unhealthy activities

The new Employment Relationships Act adopted in 2013 (*Uradni list RS*, no. 21/13; ZDR-1) does not change the system that was described in the previous report and is in the opinion of the Committee in compliance with Article 7§2 of the Charter. In the ZDR-1, the articles of the ZDR are only renumbered so that, for example, work that an 18-year-old person is prohibited from performing is covered by Article 191 in the amended Act, and sanctions by Articles 218 and 219. Rules on the protection of the health of children, adolescents and young persons at work (*Uradni list RS*, no. 82/03) have not changed in the reference period.

According to the data of the Labour Inspectorate for 2010, 2011 and 2013, no violations of the Rules on the Protection of the Health of Children, Adolescents and Young Persons at Work (*Uradni list RS*, no. 82/03) were established, and for 2012 the following two violations were established: one regarding the suitability of measures adopted in relation to the work of young persons, and one in connection with information provided by an employer to young persons on potential risks and occupational health and safety measures.

According to the data of the Labour Inspectorate, two violations of the relevant articles of the ZDR or ZDR-1 were established in the reference period:

Year	Number of violations
2010	1
2011	0
2012	0
2013	1

Source: Labour Inspectorate

Article 7 – The right of children and young persons to protection

Paragraph 3 - Prohibition of the employment of children subject to compulsory education

The new Employment Relationships Act adopted in 2013 (*Uradni list RS*, no. 21/13; ZDR-1) does not change the provisions governing the work of children under the age of 15 and students (Articles 211 and 212 of the ZDR-1) but stipulates sanctions for violations (Article 217 of the ZDR-1). No changes were made to the system presented in the previous report and considered by the Committee to be in conformity with Article 7§3 of the Charter (Conclusions 2012, p. 3).

Slovenia points to the unclear conclusion of the Committee that on the one hand states that the situation in Slovenia is in conformity with the relevant provision of the Charter (Conclusions 2012, p.

3), and on the other requires (for Portugal) an additional explanation of the two-week leave during summer holidays and rest periods during other holidays (Conclusions, p. 6).

To avoid further ambiguity, Slovenia notes that a child who has reached the age of 13 may also perform light work during school holidays but for a maximum of 30 days and in a manner, to the extent, and on condition that the work to be performed does not pose a risk to the child's safety, health, morals, education or development. The working time of children under the age of 15 who perform light work during school holidays must not exceed seven hours per day or 35 hours per week. During each 24-hour period, children must be granted a daily rest period of at least 14 consecutive hours.

According to the data of the Labour Inspectorate for 2010, 2011 and 2013, no violations of the Rules on the Protection of the Health of Children, Adolescents and Young Persons at Work (*Uradni list RS*, no. 82/03) were established, and for 2012 two violations were established.

Article 7 - The right of children and young persons to protection

Paragraph 4 - Working time for young persons under the age of 18

Slovenia notes that the legislative amendments in the previous and current periods have not addressed the working time of workers under the age of 18. The system that in the opinion of the Committee was in conformity with Article 7§4 of the Charter has not changed, only the articles have been renumbered. The Employment Relationships Act adopted in 2013 (*Uradni list RS*, no. 21/13; ZDR-1) regulates in Article 192 the working time of workers under the age of 18.

According to the data of the Labour Inspectorate for the reference period, six violations of provisions on the working time, breaks and rest periods of workers under the age of 18 were established.

Year	Number of violations
2010	0
2011	1
2012	1
2013	4

Source: Labour Inspectorate

Note: Violations of the prohibition of night work are excluded. Data are presented in the section on the implementation of Article 7§8 of the Charter.

Article 7 – The right of children and young persons to protection

Paragraph 5 - Fair pay

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 7§5 of the Charter on the grounds that:

- it has not been established that young workers receive fair pay; and*
- it has not been established that apprentices receive a fair allowance.*

Slovenia notes that, in accordance with the ZDR-1, an employer, in addition to his or her other obligations, must provide suitable remuneration. Article 44 of the ZDR-1 stipulates that the employer must ensure a worker appropriate remuneration for his or her work in accordance with the provisions of Articles 126 to 130, 133 to 135, and 137 of this Act. It should be noted that remuneration for work carried out on the basis of an employment contract is composed of the wage, which must always be paid in monetary form, and eventual other types of remuneration, if they are laid down in the collective agreement; while an employer is also bound by the minimum wage defined by law or a collective agreement. The minimum wage is defined by the Minimum Wage Act (*Uradni list RS*, no. 13/10).

The ZDR-1 also governs the pay of apprentices. Article 141 of the ZDR-1 stipulates that a **trainee or a worker undergoing training or a worker undergoing job coaching has the right to a basic wage**

in the amount of at least 70% of the basic wage a worker would receive in the workplace for the type of work that he is being trained for provided that this wage is not lower than the minimum wage defined by law (in 2010: EUR 679; in 2011: EUR 718; in 2012: EUR 763; in 2013: EUR 784).

Slovenia would like to emphasise that under the first and second paragraphs of Article 6 of the ZDR-1, an employer must, during an employment relationship or in connection with the termination of an employment contract, afford his or her employees equal treatment irrespective of their age, especially with respect to wages and other income from an employment relationship.

Furthermore, Slovenia notes that the relevant law in force (Vocational Education Act (*Uradni list RS*, no. 79/2006)) does not envisage a dual system but work-based training with employers. The duration of work-based training with employers depends on the programme: a minimum of 24 weeks of work-based training is required in the secondary vocational programme and a minimum of four weeks in the secondary technical programme.

Work-based training with employers is conducted on the basis of a collective agreement between a school and an employer or an individual agreement between a student and an employer for 55 weeks of work-based training in a three-year vocational education programme. The Vocational Education Act envisages the payment of remuneration to students (Article 37); the amount of remuneration paid to pupils and students for compulsory work-based training is defined in collective agreements for individual sectors. In the last three years, the ESF funds provided an incentive to employers to organise work-based training for secondary-school students and students of post-secondary technical education programmes; the share of remuneration for secondary school students in work-based training is also envisaged.

The Labour Inspectorate did not establish any violations of the Vocational Education Act (*Uradni list RS*, no. 79/06, ZPSI-1) in the reference period.

Article 7 - The right of children and young persons to protection

Paragraph 6 - Inclusion of time spent on vocational training in the normal working time

Slovenia notes that the system found in conformity with Article 8§6 of the Charter by the Committee has not changed in the reference period.

The Vocational Education Act (Article 39) envisages that the practical and theoretical education of students cannot exceed eight hours per day and the maximum number of hours per week defined by law or collective agreements minus two hours (which amounts to 38 hours per week under the regulations in force). In the case of five hours of theoretical education per day, practical education with an employer is not allowed on the same day. In the case of four or more hours of interrupted practical education, a secondary school student must be provided with a break of at least 30 minutes.

A secondary school student who participates in practical education with an employer for more than nine months, must be provided with at least three weeks of holidays annually. A restriction on theoretical courses for secondary school students is also in place: a maximum of 30 hours per week without physical education, and all forms of education work must not exceed 36 hours per week (Article 66).

The Labour Inspectorate did not establish any violations of the Vocational Education Act (*Uradni list RS*, no. 79/06, ZPSI-1) in the reference period.

Article 7 - The right of children and young persons to protection

Paragraph 7 - Paid annual holidays

Slovenia notes that the legislative amendments in the previous and current reference periods did not address the minimum number of days of paid annual holidays. The system that was, in the opinion of the Committee, in conformity with Article 7§7 of the Charter has not changed, only the articles have been renumbered. In the new ZDR-1 of 2013, the general provision on a minimum of four weeks of

annual leave is included in the same article (Article 159), whereas the provision on extended annual leave for workers under the age of 18 is included in Article 194 in the new Act.

In the reference period, the Labour Inspectorate recorded a decrease in the number of violations of the provision on the minimum number of days of paid annual holidays for workers under the age of 18:

Year	Number of violations
2010	46
2011	33
2012	34
2013	22

Source: The Labour Inspectorate

In the reference period, the Labour Inspectorate did not establish any violations of the provision on extended annual leave for workers under the age of 18.

Article 7 - The right of children and young persons to protection

Paragraph 8 - Prohibition of night work

The new Employment Relationships Act (ZDR-1) adopted in 2013 does not change the system that was described in the previous report and is, in the opinion of the Committee, in conformity with Article 7§8 of the Charter. The provisions on the prohibition of night work for young workers are now included in Article 193 of the ZDR-1.

According to the data of the Labour Inspectorate for the reference period, 14 violations of the prohibition of night work for workers under the age of 18 were established.

Year	Number of violations
2010	4
2011	1
2012	5
2013	4

Source: The Labour Inspectorate

Slovenia notes that up to and including 2011, the Labour Inspectorate did not keep separate statistics for violations involving workers under the age of 18 who in the event of *force majeure* must perform night work pursuant to the second paragraph of Article 197 of the ZDR (or the second paragraph of Article 193 of the ZDR-1)¹. With the installation of a new information system in 2012, separate statistics are kept for violations of this provision but the Labour Inspectorate did not establish any violations in 2012 and 2013. Data on the number of cases when night work is imposed due to *force majeure* in accordance with the law are not collected.

Article 7 - The right of children and young persons to protection

Paragraph 9 - Regular medical examination

Slovenia notes that the Rules on the Protection of the Health of Children, Adolescents and Young Persons at Work (*Uradni list RS*, no. 82/03) did not change in the reference period.

Rules on the Protection of the Health of Children, Adolescents and Young Persons at Work stipulate that for young workers an employer must arrange for regular health controls, and preliminary and periodical medical examinations. Periodical targeted medical examinations must be carried out within the period defined in the risk assessment but no later than within a year. In the period from 2010 to 2013, inspectors did not establish any violations in this area.

¹Any potential violations would be or were recorded under a single statistical entry: "violations relating to the prohibition of night work for workers under the age of 18 (Article 197 of the ZDR)".

The Rules do not envisage any sanctions for violations, which means that irregularities are eliminated on the basis of regulatory decisions.

With respect to the responsibility to organise medical examinations, attention should be drawn to the first paragraph of Article 36 of the Health and Safety at Work Act (*Uradni list RS*, no. 43/11, ZVZD-1), which stipulates that an employer must arrange for medical examinations of his or her employees corresponding to health and safety risks associated with their workplaces. The ZVZD-1 sanctions employers who do not arrange for medical examinations of their employees corresponding to occupational health and safety risks with a fine between EUR 2,000 and EUR 40,000. A fine of EUR 500 to EUR 4,000 is imposed on the employer's responsible person who commits such an offence.

In addition to the health protection of young workers in accordance with the above-mentioned legislation, the Rules on the Implementation of Preventive Health Care at the Primary Level provide young people with the possibility of a (free-of-charge) general medical examination at the age of 18.

The Healthcare Databases Act envisages the collection of data on preventive medical examinations of workers in order to monitor their health. The National Institute of Public Health collects these data on all categories of workers and publishes them in the Yearbooks of Health Statistics. The data are available at: <http://www.ivz.si/Mp.aspx?ni=202>.

Article 7 - The right of children and young persons to protection

Paragraph 10 - Special protection against physical and moral dangers

Protection against sexual exploitation

With respect to the Committee's question, Slovenia notes that substantive criminal law distinguishes between the age of consent (i.e. 15 years in the case of the criminal offence of a sexual assault on a person younger than 15 years) and a minor (i.e. a person younger than 18 years) who is a victim of certain criminal offences against sexual inviolability. In this report the term "minor" means a person under the age of 18. It is a criminal offence to participate in the prostitution of a minor for exploitative purposes or have recourse to the prostitution of a minor, or instruct, obtain or encourage a minor to prostitution by force, threat, deception, recruitment or solicitation (Abuse of Prostitution – the second paragraph of Article 175 of the Criminal Code; KZ-1). It is also incriminating to instruct, obtain or encourage (by force, threat, deception, exceeding or abusing powers, recruitment or solicitation, or for purpose of exploitation) a minor to produce pictures, audio-visual material or other items of a pornographic or other sexual nature, or to use them in a pornographic or other sexual performance or to be knowingly present at such performance (Presentation, Manufacture, Possession and Distribution of Pornographic Material – the second paragraph of Article 176 of the KZ-1).

The age of consent to sexual intercourse with an adult is therefore 15 years, but it is exceptionally possible (the fifth paragraph of Article 173 of the Criminal Code) to determine that it is not against the law under the age of 15 when it has been proved that the sexual intercourse had been with a person of a comparable age and if it corresponds to his or her mental and physical maturity.

In response to the Committee's question about trafficking in children, the Republic of Slovenia notes that this issue is integrated into the overall activities aimed against trafficking in human beings as defined in the two-yearly action plans approved by the Government of the Republic of Slovenia. Since 2010, **preventive** activities have been carried out at primary and secondary schools raising awareness among young people about the risks of trafficking in human beings. These programmes are part of the action plans funded by the government and carried out by the non-governmental organisations selected through calls for applications.

The Republic of Slovenia informs the Committee that there were two cases of trafficking in children registered in the reference period: a case of a minor girl (arranged marriage in the Roma community) in 2010 and one case in 2011.

The provisions of the criminal procedure referring to minors as witnesses should be highlighted. General provisions of the Criminal Procedure Act provide special rights for victims (some refer to all victims, some to certain groups of victims):

- the investigating judge and chair of the panel must inform the injured party about the aforementioned rights;
- Juvenile injured parties to criminal proceedings for offences against sexual inviolability, neglect and ill-treatment of a minor or trafficking in human beings must be guaranteed their rights, particularly in connection with the protection of the minor's integrity in court proceedings and when claiming compensation. A court must appoint an *ex officio* counsel to a juvenile injured party with no legal representation;
- The Criminal Procedure Act determines that during the investigation phase as well as during the main hearing a person charged may be disallowed to attend an interrogation if a witness is not willing to testify in their presence or the circumstances indicate that the witness fails to tell the truth in their presence. A person charged may not be present during the examination of a witness under the age of 15 who is a victim of criminal offences against sexual inviolability, neglect, and ill-treatment of a minor or trafficking in human beings; furthermore, such a witness may not be examined through direct questioning at the main hearing. In such instances, the court must order that the records of previous questioning of these persons be read;
- If a person under the age of 14 is examined as a witness in the main hearing, the panel may order that the public be excluded from the main hearing;
- If a minor attends the main hearing as witness or injured party, they must be taken out of the courtroom as soon as their presence is no longer required;
- In such examinations, in particular when the witness is also a victim of the criminal offence at issue, the witness must be examined compassionately so as not to impair their mental state. If necessary, an educationalist or some other expert is called to examine a minor.

In the Republic of Slovenia, trafficking in human beings is defined as a separate criminal offence in Article 113 of the Criminal Code². The Act Amending the Criminal Code, which was passed in November 2011 (and became applicable on 15 May 2012), instituted a new form of criminal offence under Article 113, which defines criminal offences of trafficking in human beings. In addition to sexual exploitation, forced labour, enslavement and servitude, the purposes for trafficking in human beings have been extended so as to also include the use of persons traded for the purpose of committing criminal offences (such as recruitment for street theft). New wording added to the first paragraph has eliminated any doubts about whether trafficking in human beings is a criminal offence even if committed with the consent of the injured parties. Since the victims of this criminal offence (especially children) are in an entirely subordinate position, their possible consent may not be taken into account, which means that absolute consensual incapacity is deemed to exist. The second paragraph identifies the "giving or taking of payments or benefits in order to obtain the consent of a person who exercises control over another person" as an aggravated criminal offence of trafficking in human beings. When the criminal offence under the first paragraph is committed, justification for more severe sentencing

2 Trafficking in human beings – Article 113

(1) Whoever purchases another person, takes possession of them, accommodates them, transports them, sells them, delivers them or uses them in any other way, or recruits, exchanges, or transfers control over this person, or acts as a broker in such operations for the purpose of prostitution or another form of sexual exploitation, forced labour, enslavement, service, committing criminal offences or trafficking in organs, human tissue or blood shall, regardless of possible consent by this person, receive a prison sentence of between one and ten years.

(2) If an offence from the preceding paragraph is committed against a minor or with force, threats, deception, kidnapping or exploitation of a subordinate or dependent position, or by giving or taking payments or benefits in order to obtain the consent of a person who exercises control over another person, or in order to force a victim to become pregnant or be artificially inseminated, the person committing such offence shall receive a prison sentence of between three and fifteen years.

(3) The sentence referred to in the preceding paragraph shall be imposed on a person who commits an offence referred to in the first and second paragraphs of this Article as a member of a crime group organised to commit such offences, or who obtains a large material benefit through committing such offence.

lies in additional direct economic exploitation of control over people through the sale or purchase of such control. Supplemented statutory elements of trafficking in human beings also provide a more appropriate framework for prosecuting all known forms of this criminal offence and imposing proportionate sanctions.

Assistance to and protection of victims of trafficking in human beings are provided by assistance and prevention programmes selected through statutory public calls issued by the competent ministries. The legal basis for the calls is provided in Article 4 of the Act on Ratifying the Council of Europe Convention on Action against Trafficking in Human Beings. Assistance is guaranteed to all children and to all other victims of trafficking and includes the provision of:

- suitable accommodation, food and care;
 - psychological assistance;
 - assistance in ensuring basic health-care services in accordance with the law governing health care and health insurance;
 - safety of victims and employees who carry out the care programme;
 - 24-hour availability for victims in crisis accommodation;
 - translation and interpretation services if necessary;
 - assistance in ensuring appropriate support to child victims;
 - counselling and information, particularly concerning victims' rights in a language they understand;
 - assistance in returning victims to their country of origin;
 - other activities aimed at socialisation and revitalisation;
 - awareness of young people and staff working with the young about the dangers and traps of trafficking in human beings;
 - assistance in the regulation of legal status in Slovenia;
 - assistance in informing child victims about their rights;
 - assistance to ensure that the rights and interests of victims of trafficking in human beings are represented and considered at appropriate levels of prosecution of perpetrators of criminal offences;
 - assistance in providing appropriate support to child victims throughout the legal procedure;
- professional training of health-care providers and other participating bodies (the police, employees at social work centres, etc.) in the process of assisting victims and prosecuting perpetrators of criminal offences.

Protection from other forms of exploitation

With respect to the Committee's question about the assistance offered to children in crisis centres, Slovenia provides the following detailed information.

Crisis centres are a form of short temporary placement of children or adolescents in distress. Their stay in crisis centres can last up to 21 days but may be extended. After a child or an adolescent is treated and his or her situation evaluated: 1) he or she is returned to his original family, or 2) in agreement with the parents, referred for further treatment to another institution, or 3) the competent centre for social work (hereinafter: the SWC) must find a suitable placement for this child or adolescent.

The tasks of a crisis centre include:

- the provision of initial social assistance – in person or by phone;
- the provision of personal assistance to placed persons;
- offering shelter to persons who urgently need to be temporarily removed from their home environment;
- the provision of placement, nutrition and safety to persons seeking refuge in a crisis centre;
- the preparation of persons for return to their home environment or for placement in another appropriate form;
- cooperation with the competent SWC, public institutions from the field of healthcare and education, the Police and other state authorities and organisations competent to deal with children and adolescents;
- the preparation of an individual plan of personal distress resolution;
- keeping documentation on the course of individual treatment for each person;
- the production of a final report after a person has left the crisis centre;
- providing counselling and educational counselling to parents;
- the participation of expert staff in the supervision group;

- providing information to the public, organising fun activities;
- the crisis phone entitled *Peter Klepec* (Youth Crisis Centre);
- cooperation with the parents of a child or an adolescent when this is in the best interests of the child;
- day treatment of children and adolescents;
- assistance in organising school and other duties;
- accompanying children or adolescents in organising social, health and other organised forms of assistance.

In the reference period, ten crisis centres were operational and provided assistance to users:

	Number of youth crisis centres	Number of users	Number over-night stays	Number of days in residence
2010	10	564	5,797	/
2011	10	/	6,159	/
2012	10	557	/	7,305
2013	10	490	/	6,232

Note: The number of days in Residence has been recorded since 1 January 2012.

Source: The Ministry of Labour, Family, Social Affairs and Equal Opportunities.

Article 8 – The right of employed women to protection of maternity

Paragraph 1 - Maternity leave

The right to maternity leave

With respect to the Committee's question, Slovenia notes that the Parental Protection and Family Benefits Act (*Uradni list RS*, nos. 110/06 UPB2 and 10/08; ZSDP) has been in force in the reference period. Maternity leave totals 105 days; a mother goes on maternity leave 28 days before the expected date of childbirth, which means that she has 77 days remaining after childbirth. Furthermore, Slovenia notes that workers are by law entitled to maternity leave. Employers must enable their employees to be absent from work or on leave in accordance with the law. Employers who do not enable mothers to take maternity leave are fined.

All the provisions on the right to maternity leave also apply to public sector workers.

After the expiry of the maternity leave, a parent is entitled to childcare leave (parents agree who will take this leave, or they may alternate or take it together simultaneously). In exceptional cases (twins, premature babies, children in need of special care) childcare leave of 260 days may be extended. A part of childcare leave, which does not exceed 75 days, can be postponed, but must be taken before the child reaches eight years of age.

Slovenia notes that less favourable treatment of workers on grounds of pregnancy or parental leave is considered discriminatory under Article 6 of the ZDR-1. In the event of a violation of the prohibition of discrimination and pursuant to Article 8 of the ZDR-1, the employer is liable to provide compensation to the worker under the general rules of civil law. Non-pecuniary damage incurred to a job candidate or worker also covers mental distress suffered owing to the unequal treatment of a worker and/or the discriminatory conduct of an employer. When determining the amount of compensation for non-pecuniary damage, the following must be taken into account: the compensation must be effective and proportionate to the damage suffered by the candidate or worker, and must discourage the employer from repeating the violation. A violation of this provision is sanctioned with a fine of between EUR 3,000 to 20,000 imposed on an employer – a legal person, sole proprietor or self-employed person, or by a fine of between EUR 1,500 to 8,000 imposed on a small employer – a legal person, sole trader or

self-employed person, and by a fine of between EUR 450 and EUR 1,200 imposed on an individual employer. A fine of between EUR 450 and EUR 2,000 is imposed on the responsible person of the employer – a legal person – and on the responsible person in a state body or a local community that committed the aforementioned offence.

This scheme also applies to the public sector.

With respect to the Committee's questions about additional protection in collective agreements, Slovenia notes that the Ministry of Labour, Family, Social Affairs and Equal Opportunities is only informed of the content of collective agreements that are concluded at the national level and do not contain any specific provisions guaranteeing additional protection in the sense of this Article of the Charter.

The right to maternity benefits

Slovenia notes that in the reference period until 30 May 2012 the childcare allowance amounted to 100% of the income basis. Since the entry into force of the Fiscal Balance Act on 31 May 2012 (*Uradni list RS*, nos. 40/12, 96/12 - ZPIZ-2, 104/12 - ZIPRS1314, 105/12, 25/13 - odl. US, 46/13 - ZIPRS1314-A, 56/13 - ZŠtip-1, 63/13 - ZOsn-I, 63/13 - ZJAKRS-A, 99/13 - ZUPJS-C, 99/13 - ZSVarPre-C, 101/13 - ZIPRS1415 in 101/13 - ZDavNepr), the childcare allowance has been reduced to 90% of the income basis whereas the maternity allowance has remained at 100% of the income basis.

Article 8 - The right of employed women to protection of maternity

Paragraph 2 - The illegality of dismissal

Slovenia notes that the ZDR-1 adopted in 2013 has changed the system described in the previous report. In accordance with Article 115 of the ZDR-1, the employer may not cancel an employment contract with a female worker during the period of her pregnancy or with a female worker who is breastfeeding a child of up to one year of age, nor may the employer cancel an employment contract with parents in the period when they are on parental leave uninterrupted in the form of fulltime absence from work and for one month after the end of such leave. The ZDR-1 also stipulates that at the time and in the cases referred to in the preceding paragraph (pregnancy, breastfeeding up to one year and parental leave), the employer may not undertake any action which would otherwise be required for the cancellation of the employment contract or for the employment of a new worker. In the abovementioned cases (pregnancy, breastfeeding up to one year and parental leave), the employment relationship cannot be terminated or cancelled by the employer under the ZDR-1.

The provisions of Article 118 have also been modified in the ZDR-1: Where a court establishes that the termination of the employment contract is illegal but that, with regard to the circumstances and the interests of both contracting parties, the continuation of the employment relationship would no longer be possible, the court, upon a proposal made by the worker or employer, may establish the duration of the employment relationship, but for no longer than until the court of first instance makes a decision, recognise the worker's years of service and other rights under the employment relationship, and grant the worker adequate compensation in the maximum amount of 18 monthly wages of the worker as paid in the last three months prior to the cancellation of the employment contract. The court determines the amount of monetary compensation with regard to the duration of the worker's employment, the worker's chances for new employment and the circumstances that led to the illegality of the termination of the employment contract, taking into consideration the rights enforced by the worker for the time until the termination of the employment relationship. In its judgment (Higher Labour and Social Court Pdp 234/2012), the Supreme Court explained that "compensation" under Article 118 of the ZDR (or a cash refund under the ZDR-1) should have been interpreted as compensation for the estimated future damage in the amount of one of 18 wages, and that the criteria determining its amount had been set by the case-law and are connected with the worker's years of service in total, the period of employment with the employer in question, the worker's chances of finding new employment, with an emphasis on the worker's age, education or profession, health, the situation on the labour market, the worker's efforts to find new employment, etc. In its judgment (VIII Ips 114/2012), the Supreme Court explained that compensation under Article 118 of the ZDR (or a cash refund under Article 118 of the ZDR-1) does not entail compensation for damage suffered by a worker at work or in

relation to work. This compensation is paid for the worker's reintegration with the employer or the loss of employment despite a previously established illegal cancellation of the employment contract by the employer and the establishment of the employment relationship up to but no later than the issuance of a decision by the first-instance court. This compensation is not paid for the loss of income or any other pecuniary damage caused by the illegal cancellation of the employment contract until this contract is terminated by a court ruling, or for non-pecuniary damage due to potential unlawful action by the employer upon the cancellation of the employment contract, but it is paid for the estimated future damage due to the failure to reintegrate.

The right to **compensation in general** is governed by Article 179 of the ZDR-1, which stipulates that should the worker suffer damage at work or in relation to work, the employer is liable to compensate him or her for the damage according to the general rules of civil law, and that the employer is also liable for damage inflicted by him or her on the worker when the rights under the employment relationship are violated. In connection with the right to a refund for non-pecuniary damage, Slovenia notes the Supreme Court Judgment (VIII Ips 97/2011) establishing that the employer's liability for damages in the event of an illegal cancellation of the employment contract must be interpreted from the standpoint of the event causing the damage, which means that the person causing damage is liable in tort or that there is no doubt that in this case the person causing damage is also liable for non-pecuniary damage. There is, however, no limitation on the liability for damages under this Article.

Slovenia notes that, pursuant to Article 6 of the ZDR-1, the less favourable treatment of workers in connection with pregnancy or parental leave is also considered discriminatory. In the event of a violation of the prohibition of discrimination and pursuant to Article 8 of the ZDR-1, the employer is liable to compensate the worker under the general rules of civil law. Non-pecuniary damage suffered by a candidate or worker also covers mental distress caused by the unequal treatment of a worker or an employer's discriminatory conduct. When determining the amount of monetary compensation for non-pecuniary damage, the following factors must be taken into account: the compensation must be effective and proportionate to the damage suffered by the candidate or worker and must discourage the employer from repeating the violation.

A worker claims compensation in the two cases described above at the competent court.

Provisions on sanctions have not changed, only the articles have been renumbered (the provisions of the former Article 229 can now be found in Article 217 of the ZDR-1).

Article 8 - The right of employed women to protection of maternity

Paragraph 3 - Time off for nursing mothers

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 8§3 of the Charter on the grounds that breastfeeding breaks are not remunerated.

Slovenia notes that remuneration for breastfeeding breaks was not regulated in the reference period. The new Parental Protection and Family Benefits Act (ZSDP-1) that entered into force in April 2014 and has been applicable since 1 September 2014 – which falls outside the reference period – introduces paid breastfeeding breaks. Mothers in full-time employment are, on the basis of a paediatrician's note, entitled to remuneration for breastfeeding breaks (one hour daily) until the child is nine months old; the amount of remuneration is proportionate to the indexed minimum wage under Article 2 of the Act Regulating Adjustments of Transfers to Individuals and Households in the Republic of Slovenia (*Uradni list RS*, nos. 114/06, 59/07 – ZŠtip, 10/08 – ZVarDod, 71/08, 98/09 – ZIUZGK, 62/10 – ZUPJS, 85/10, 94/10 – ZIU, 110/11 – ZDIU12, 40/12 – ZUJF and 96/12 – ZPIZ-2). During breastfeeding breaks, mothers in full time employment are (on the basis of a paediatrician's note) paid social security contributions by the Republic of Slovenia from the 9th to the 18th month of the child's life for the proportionate part of the indexed minimum wage under Article 2 of the Act Regulating Adjustments of Transfers to Individuals and Households in the Republic of Slovenia (*Uradni list RS*, nos. 114/06, 59/07 – ZŠtip, 10/08 – ZVarDod, 71/08, 98/09 – ZIUZGK, 62/10 – ZUPJS, 85/10, 94/10 – ZIU, 110/11 – ZDIU12, 40/12 – ZUJF and 96/12 – ZPIZ-2).

Article 8 - The right of employed women to protection of maternity

Paragraph 4 - Regulation of night work

With respect to the special medical commission, Slovenia notes that the Rules on the Protection of Health at Work of Pregnant Workers, Workers Who Have Recently Given Birth and Breastfeeding Workers (*Uradni list RS*, nos.82/03 and 21/13–ZDR-1) refer to the Rules on Preventive Medical Examinations of Workers (*Uradni list RS*, nos. 87/02,29/03 – corrigendum,124/06 and 43/11–ZVZD-1). The latter stipulates in Article 17 that a worker or his/her employer may request a review of the assessment of the fulfilment of special medical requirements for specific work in the working environment following a preventive health examination before a special medical commission. The worker or his/her employer can file a request within 15 days of receipt of the assessment of the fulfilment of special medical requirements for specific work in the working environment. The commission must consider a case within 30 days of receipt of the request to review the assessment of the fulfilment of special medical requirements for specific work in the working environment and send its opinion in writing to the worker or the employer and the authorised doctor no later than 8 days after its final consideration. The commission considers cases in a panel of three members. The chair appoints two members from among the designated experts in the relevant field.

The minister responsible for health appoints the members of the commission from among experts in occupational medicine. If necessary and at the request of the commission, medical specialists, psychologists who have passed a professional examination for work in healthcare, and other experts may be involved as advisers in a review of the assessment of the fulfilment of the special medical requirements for specific work in the working environment. The commission has a chair and is appointed for a period of four years. It has its seat at the Institute of Occupational, Traffic and Sports Medicine of Ljubljana University Medical Centre. A statute adopted by the commission governs its work.

This scheme also applies to the public sector.

Article 8 - The right of employed women to protection of maternity

Paragraph 5 - Prohibition of dangerous, unhealthy or arduous work

Slovenia notes that the system found to be in conformity with Article 8§5 of the Charter by the Committee did not change in the reference period. It applies also to the public sector.

Article 16 - The right of the family to social, legal and economic protection

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 16 of the Charter on the grounds that:

- it has not been established that Roma families have sufficient legal protection;*
- equal treatment of nationals of other States Parties to the 1961 Charter or the Charter in the payment of family benefits is not ensured because the length of the residence requirement is excessive.*

In reply to the Committee's question, Slovenia provides the following definition of a family under Article 2 of the Act Amending the Marriage and Family Relations Act (hereinafter: the ZZZDR): A family is a living community of parents and children, which, for the benefit of children, enjoys special protection. In the second paragraph of Article 3, the Act defines starting a family to be the purpose of marriage.

Social protection of families

Housing for families

See Slovenia's answer to the question regarding Article 31 of the Charter.

Childcare facilities

See Slovenia's answer to the question regarding Article 27§1 (Child day care services and other childcare arrangements).

Family counselling services

The Republic of Slovenia notes that the social assistance service of **help to family** under the Social Assistance Act (*Uradni list RS*, no. 3/2007 – *uradno prečiščeno besedilo*, 23/07 – popr., 41/07 – popr., 61/10 – ZSVarPre, 62/10 – ZUPJS in 57/12) is provided within the public network of social work centres covering the entire territory. Help to family includes professional counselling, help in re-establishing family relationships and domiciliary social care provided to beneficiaries. Within the framework of marriage and family counselling, the social work centres carry out:

- a counselling interview upon the divorce or termination of cohabitation;
- a counselling interview related to awarding the custody of minor children;
- counselling to persons experiencing difficulties in partnership relations;
- marriage and partnership counselling;
- family counselling.

Participation of associations representing families

Slovenia notes that associations representing families participated in policymaking at the following two levels:

- as members of the Expert Council for Family;
- as stakeholders in public debates on legislative proposals.

The Expert Council for Family is an advisory body that, on behalf of the minister responsible for family legislation and policy, performs the following tasks specified in the decision on its establishment:

- discusses expert basis for the adoption of legislation and system-wide measures in the area of family policy;
- discusses the proposed legal acts in the area of family and issues expert opinions on the proposed legal acts;
- prepares initiatives for the coordinated work of sectoral bodies in the area of family, and in general works to improve the status of the family;
- monitors the implementation of family policy measures;
- prepares proposals for the adoption of strategic documents and legislation in the area of the family.

The Council is composed of experts in family issues, including the representatives of NGOs: *Družinska pobuda* (Family Initiative), *Anin sklad (Ana's Fund)* and *Središče za zagovorništvo in informiranje o pravicah otrok in mladostnikov* (Centre for Advocacy and Information on the Rights of Children and Adolescents).

In accordance with the Resolution on legislative regulation, the general public, including family associations, participates in the preparation of regulations. Proposals and opinions on how to regulate issues or amend the existing legislation are welcome during public debates.

The legal protection of families

Slovenia notes that persons exercising the right to social protection are guaranteed equal treatment.

As the Roma in Slovenia have access to social protection services, they are, on an equal footing included in social protection services. As the Roma are provided with special programmes financed by the Ministry of Labour, Family, Social Affairs and Equal Opportunities and certain SWCs acquired additional staff in 2004 and received training for their work with the Roma, we may even use the term positive discrimination when speaking of the provision of social services. When a SWC finds that a

member of the Roma community does not have the required documents or that are these incomplete, the Centre's adviser directs him or her to the competent service. If a member of the Roma community does not have a certificate of permanent residence due to unresolved spatial planning issues associated with the Roma settlements, the address of the competent SWC is registered as his or her temporary residence for the purposes of exercising social protection rights. In the reference period, the competent ministry did not record any cases of the Roma being denied access to social protection services.

Slovenia notes that the Roma or Roma councillors are, on an equal footing, involved in the adoption and implementation of legislation on social protection.

The rights and obligations of spouses

The rights and obligations of spouses are regulated in Slovenia by the Marriage and Family Relations Act (*Uradni list RS*, no. 69/04 – official consolidated text; ZZZDR).

a) The rights and obligations of spouses

The ZZZDR stipulates that spouses must respect, trust and assist each other. Spouses freely decide on the birth of children. They have the same rights and obligations to their children as to each other. A spouse freely chooses a profession and work. Spouses decide on the place of joint residence by agreement. They also decide on joint matters by agreement.

The assets that a spouse has when concluding a marriage, remain his or her own assets and he or she may dispose of them freely. The assets that spouses obtain by work during the marriage are considered their joint assets. Spouses manage and dispose of their joint assets together and by agreement. Spouses may agree that only one of them manages these assets or a part of them, or that he or she manages and also disposes of them, taking into consideration the benefits of the other spouse. Either of the spouses may withdraw from such an agreement at any time, but may not do so at an unfavourable time. Unless agreed otherwise, the spouse who has been entrusted with the management of such, may also dispose of the joint assets or their part within the framework of regular management. A spouse may not dispose of his or her unspecified share of the joint assets by legal transactions between living persons, and in particular, he or she may not expropriate or burden it. Rights concerning the real estate that is a joint asset of the spouses are entered into the land register in the name of both spouses as their joint asset in terms of unspecified shares. For obligations which a spouse had before concluding a marriage and obligations that he or she undertakes after concluding a marriage, a spouse is responsible with his or her private assets and his or her own share of the joint assets. For obligations that are binding on both spouses according to the general regulations, for obligations created in connection with joint assets, and for obligations which one spouse undertakes for the current needs of the family, both spouses are responsible jointly, with their joint as well as their individual assets. A spouse has the right to claim from the other spouse the refund of the amount that was overpaid in relation to his or her share of debt when repaying the debt burdening both spouses. On the basis of a final judgement, a creditor may demand that a court determines the debtor's share of the joint assets and then demand execution on such share. If the sale of the share that a spouse has in the joint assets is allowed in execution proceedings, the other spouse has the right to purchase that share before all other buyers at a price that is determined according to regulations on execution. Joint assets shall be divided if a marriage is terminated or annulled. For the duration of marriage, joint assets may be divided by agreement or at the request of either spouse. When dividing the joint assets, it is considered that the shares of the spouses in the joint assets are equal, although the spouses may prove that they have contributed to the joint assets in some other proportion. In a dispute on the amount of each spouse's share in the joint assets, a court considers not only the income of each spouse but also other circumstances, such as the assistance that the spouses provide to each other, the care and upbringing of children, performing household work, concern for maintaining the assets, and any other form of work and cooperation in managing, maintaining and increasing the joint assets. The spouses themselves may decide on the amount of their share in joint assets, or request that a court determines such shares. After establishing the shares of joint assets, these are divided on the proposal of spouses, according to the rules applying to the division of joint assets. Prior to establishing each spouse's share in the joint assets, the spouses' debts and claims against these assets are established. When dividing joint assets, in particular those objects which are intended for carrying on his or her trade or profession or that enable him or her to earn a income, and objects meant

exclusively for his or her own personal use, such are awarded to a spouse at his or her own request against his or her share. The spouses may conclude any legal business between them that may be concluded with other persons too, and establish rights and obligations on such basis.

b) Rights and obligations of spouses and children

The ZZZDR stipulates that parents must provide their children with the conditions required for their healthy growth and balanced personal development, and prepare them for independent living and work. Parents are obliged to support their children, and take care of their life and health and upbringing. Parents are responsible within their powers to attend to the schooling and professional education of their children according to their capacities, talents and wishes.

The obligation to provide subsistence is mutual under the ZZZDR:

- parents are obliged to support their children until their maturity, so that they ensure living conditions needed for the child's development, according to their abilities and capacities; after maturity they are obliged to support them if they are enrolled in an education programme but only until they reach the age of 26;
- a child of full age is obliged to support his or her parents according to his or her abilities, if they have not or cannot acquire sufficient means of subsistence; but he or she is not obliged to support a parent who did not fulfil, for unjustified reasons, the obligations regarding the child's subsistence.

Enrolment in an education programme is one of the qualifying criteria for entitlement to maintenance after the age of 18. In the case law, enrolment in an education programme is primarily interpreted as regular fulfilment of school obligations by students. The objective of enrolment is to acquire education or a profession in order to support oneself. According to the case law, a *matura* course (i.e. preparatory course for the secondary school leaving examination) is also considered an education programme.

Maintenance is always defined on a case-by-case basis, taking into consideration all the circumstance of a case, the needs of the beneficiary or claimant, and the material and earning capacity of the respondent. The amount of maintenance must enable the child's successful physical and mental development and cover all the costs of living of the child, in particular the costs of lodging, food, clothes, footwear, care, education, upbringing, leisure, entertainment and other special needs of the child.

Maintenance shall be determined in a monthly amount and in advance; it may be requested from the time of filing a maintenance action. Maintenance cases are adjudicated by courts, i.e. district courts have jurisdiction *ratione materiae* at the first instance. If the parents agree on the amount of maintenance, they may propose that the court issue a decision on this in non-contentious proceedings. If the court finds that the agreement is not in the child's best interests, it rejects the motion. If the parties cannot reach an agreement on maintenance, an action is lodged with a court.

Under the ZZZDR, maintenance is defined by a court judgment or agreement between parents certified in non-contentious proceedings before a court. During proceedings in marital disputes and disputes concerning relations between parents and children, the court may, at the request of a party or *ex officio*, issue an interim order on the custody and maintenance of common children. In the event of a divorce, a decision on maintenance is issued by a court. When divorce is reached by mutual agreement, a maintenance agreement is an integral part of the divorce agreement. When the court grants a divorce on the basis of an action, it also decides on maintenance but it is not bound by the claim.

In accordance with the ZZZDR, maintenance defined by an instrument permitting enforcement is annually adjusted to Slovenia's consumer price index. The adjustment is made in March, taking into account the cumulative rise in consumer prices since the month in which maintenance was last determined or adjusted. The minister responsible for family issues publishes the maintenance adjustment index in the Official Gazette of the Republic of Slovenia.

A notary or judge must send a court settlement, final judicial decision, or an enforceable notarial deed of maintenance to the competent SWC, unless the adjustment has been arranged otherwise.

The SWC notifies in writing the beneficiary or claimant and the respondent of each adjustment and the new maintenance amount. The notification from the SWC, together with the court settlement, final judicial decision, or an enforceable notarial deed is the title of enforcement. If a child who has reached the age of 18 is not enrolled in an education programme in the year of maintenance adjustment, the SWC is not obliged to send a written notification of maintenance adjustment to the beneficiary or claimant and the respondent. A beneficiary who has reached the age of 18 must, by the end of January, submit a certificate of enrolment to the SWC or notify the SWC of the education institution in which he or she is enrolled in an education programme.

If the respondent does not voluntarily pay maintenance as specified in an enforceable act (a judgment, judicial decision, or enforceable notarial deed together with a notification of maintenance adjustment), the beneficiary or claimant may file a request for enforcement with a court in order to receive maintenance. Local courts have jurisdiction *ratione materiae* to permit enforcement and the security of claims, unless otherwise stipulated by law.

Mediation services

The Republic of Slovenia notes that the social assistance service of **family help** under the Social Assistance Act (*Uradni list RS*, no. 3/2007 – *uradno prečiščeno besedilo*, 23/07 – popr., 41/07 – popr., 61/10 – ZSVarPre, 62/10 – ZUPJS in 57/12) is provided within the public network of social centres covering the entire territory. Help to family includes professional counselling, help in re-establishing family relationships and social care for beneficiaries. Within the framework of marriage and family counselling, the social work centres carry out:

- a counselling interview upon the divorce or termination of cohabitation;
- a counselling interview related to awarding the custody of minor children;
- counselling to persons experiencing difficulties in partnership relations;
- marriage and partnership counselling;
- family counselling.

Domestic violence against women

In relation to the Committee's question on the implementation of the Domestic Violence Prevention Act and the National Programme for the Prevention of Domestic Violence for the Period 2009-2014, Slovenia notes that no major complications have been detected yet.

Slovenia also notes that several implementing regulations were adopted on the basis of the Domestic Violence Prevention Act (ZPND):

- Rules on Cooperation between Authorities, and the Work of SWCs, Multidisciplinary Teams and Regional Services in Dealing with Domestic Violence (*Uradni list RS*, no. 31/09);
- Rules on Procedures for Dealing with Domestic Violence in the Implementation of Health Activities (*Uradni list RS*, no. 38/11);
- Rules on Cooperation between the Police and other Authorities and Organisations in the Detection and Prevention of Domestic Violence (*Uradni list RS*, no. 25/10);
- Rules on the Treatment of Domestic Violence for Educational Institutions (*Uradni list RS*, no. 104/09).

These Rules specify the conduct of institutions in dealing with domestic violence with a view to linking measures adopted by different ministries and providing effective measures to reduce domestic violence in terms of identification and prevention. In addition, various instructions and guidelines were prepared for the work of institutions in the fight against domestic violence.

In 2013, the Ministry of Education, Science and Sport, in cooperation with the Ministry of Labour, Family, Social Affairs and Equal Opportunities and the Police, prepared an Agreement on the implementation of tasks for the protection of children defined in the Prevention of Domestic Violence Act.

For more information, see:

http://www.mizs.gov.si/si/delovna_podrocja/urad_za_razvoj_izobrazevanja/prepoznavanje_preprecevanje_in_obravnavana_nasilja/nasilje_v_druzini/

Economic protection of families and vulnerable families

Slovenia notes that families, **including Roma families**, are protected through schemes for parental protection, family benefits and social assistance for the most vulnerable groups.

In the reference period, the rights arising from parental protection insurance were regulated by the Parental Protection and Family Benefits Act (*Uradni list RS*, no. 110/06 – *uradno prečiščeno besedilo*, 114/06 – ZUTPG, 10/08, 62/10 – ZUPJS, 99/13 – ZSVarPre-C in 26/14 – ZSDP), and which included: parental leave (maternity leave, paternity leave, adoption leave, and childcare leave), parental benefits (the maternity allowance, paternity allowance, adoption allowance, and childcare allowance) and the right to part-time work due to parenting.

This Act also governed the right to the following family benefits financed by the state budget:

- a parental benefit in cash is provided to parents who are not entitled to parental allowance after the birth of a child,
- the birth grant is a one-off cash benefit for the purchase of a layette and can be exchanged for a benefit in kind of an equal value in the form of a package of goods;
- the child benefit is a supplement intended to ensure the subsistence and education of a child;
- the large family allowance is an annual benefit paid to families with three or more children under the age of 18, or 26 if they are enrolled in an education programme and have the status of a pupil, secondary school student, apprentice, or an undergraduate student;
- the childcare allowance is a right exercised by one of the parents of a child in need of special care and protection;
- the partial payment for lost income is a personal benefit paid to a parent who has interrupted his or her employment or started to work part-time in order to care for and protect a child with a severe mental development disorder or severe physical impairment.

Subject to certain conditions, the **social assistance scheme** provides a **social assistance benefit in cash** and a **supplementary allowance** to persons and families who find themselves in social distress and are not capable of ensuring the means of subsistence by themselves due to circumstances outside their control. New legislation on social protection was adopted in the reference period and has been applicable since 2012: the Social Protection Benefits Act (*Uradni list RS*, nos. 61/10, 40/11, 14/13 in 99/13) and the Exercise of Rights to Public Funds Act (*Uradni list RS*, nos. 62/10, 40/11, 40/12 – ZUJF, 57/12 – ZPCP-2D, 14/13, 56/13 – ZŠtip-1 in 99/13).

The **social assistance benefit in cash** should cover the minimum needs for survival. The minimum income defined by law is the basis for calculating the amount of the social assistance benefit in cash, taking into consideration the situation in the household concerned. The minimum income is defined by the Social Protection Benefits Act (*Uradni list RS*, nos. 61/10, 40/11, 14/13 in 99/13).

Persons who are permanently unemployable or permanently unable to work, women older than 63 years of age, or men older than 65 years of age are, under certain conditions, entitled to a **supplementary allowance**.

The equal treatment of foreign nationals and stateless persons with regard to family benefits

Slovenia notes that equal treatment in the exercise of the right to social security is guaranteed to migrants from the EU Member States and those countries with which Slovenia has concluded bilateral agreements on social security.

Bilateral agreements on social security were signed with the former Yugoslav republics, where the majority of migrant workers come from. In 2013, the National Assembly of the Republic of Slovenia adopted the initiative to conclude a social security agreement with Turkey. In the same year, the Ministry of Labour, Family, Social Affairs and Equal Opportunities sent to the competent authorities of Russia an initiative to examine the possibility of concluding a social security agreement with the

Russian Federation. Migration to and from other countries signatory to the Charter is very limited or even non-existent.

The Aliens Act (*Uradni list RS*, nos. 50/11 and 57/11-popr.) adopted in 2011 did not change the qualifying criteria of five years of continuous legal residence in Slovenia. It should be noted that certain rights to benefits from public funds (e.g. the child benefit) are not subject to a permanent residence permit.

Article 17 - The right of children and young persons to social, legal and economic protection
Paragraph 1 - Assistance, education and training

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 17§1 of the Charter on the ground that corporal punishment in the home is not prohibited.

The status of the child

In the second paragraph of Article 4, the Marriage and Family Relations Act (*Uradni list RS*, no. 69/04 – official consolidated text 1, 101/07 – Constitutional Court Decision 122/07, 122/07 – Constitutional Court Decision; ZZZDR) defines the purpose and content of the parental right: in order to provide for the healthy growth, well-adjusted personal development, and the capacity for independent living and work, parents have the right to care for the life, personal development, rights, and interests of their young children.

In accordance with Article 113 of the ZZZDR, the parental right is exercised by parents by mutual agreement and in the best interests of the child. If the parents cannot reach an agreement, the SWC assists them. When parents do not live together and do not have joint custody, they decide mutually on all issues decisive for the child's development in accordance with the child's best interests. If parents cannot reach an agreement, the SWC assists them. Issues concerning a child's everyday life are decided on by the parent with custody. If the parents cannot agree on an issue that is of crucial importance for the child's development, even with the assistance of the SWC, the court, at the request of one or both parents, decides on this in a non-contentious procedure. The motion or request to do so must be accompanied by a supporting document from the competent SWC, stating that the parents tried to reach an agreement with its assistance. Before issuing a decision, the court must also obtain the SWC's opinion on the best interests of the child. The court also takes into account the child's opinion if it has been expressed by the child or by a person the child trusts and was chosen by the child, provided that the child is capable of understanding its meaning and consequences. Where one parent is prevented from exercising his or her parental right, the other parent exercises it on his or her own.

If one of the parents is dead or unknown, or has been deprived of his/her parental rights or legal capacity, his/her parental right is assigned to the other parent.

Article 116 of the ZZZDR stipulates that a parent who abuses his or her parental rights or abandons a child or demonstrates unwillingness to take care of the child or in any other way neglects his or her responsibilities is deprived of his or her parental rights by judicial decision.

Education

See Slovenia's answer to the question regarding Article 17§2 of the Charter.

Protection from ill treatment and abuse

On 4 February 2013, the international non-governmental organisation APPROACH lodged a collective complaint against Slovenia with regard to an alleged violation of Article 17 of the Charter:

- Slovenian legislation allegedly does not explicitly and effectively prohibit corporal punishment of children in the family and other environments, and
- Slovenia allegedly did not act with due diligence to remedy such punishment in practice.

In its Opinion issued in September 2013 on the basis of Article 7 of the Additional Protocol to the Charter providing for a system of collective complaints, the Slovenian Government dismissed the accusation alleged by APPROACH in its entirety. The Slovenian Government is convinced that the national legislation in force protects children against violence, negligence or exploitation, as stipulated by Article 17 of the Charter, and that Slovenia acts with due diligence in this area. Corporal punishment of children is, according to the case law, one of the modes of committing the criminal offence of domestic violence. The Slovenian Government believes that it fully meets its obligations under Article 17 of the Charter.

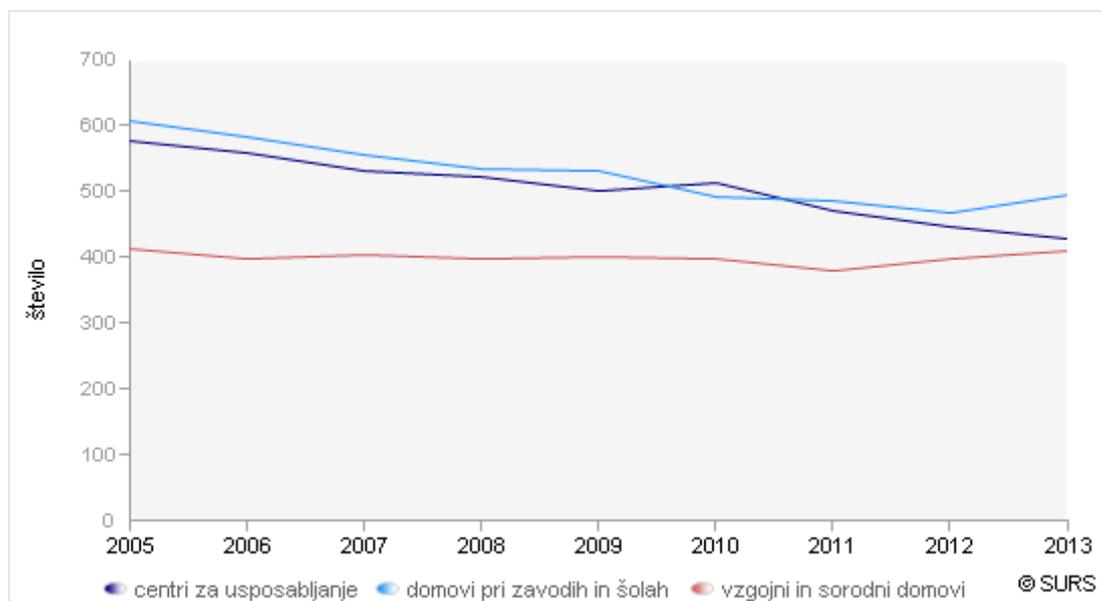
The Slovenian Government also believes that the explicit prohibition of corporal punishment in the national legislation alone does not and cannot provide children with adequate protection against violence. The system-wide regulation of the prevention of violence against children in Slovenia represents a much broader spectrum of the prohibition of violence against children, including a ban on corporal punishment, irrespective of the motive.

At the request of international organisations (The United Nations, The Council of Europe), the Slovenian Government inserted an explicit ban on the corporal punishment of children in the proposed Family Code, which was adopted by the National Assembly of the Republic of Slovenia on 16 June 2011. However, the Family Code was rejected at a referendum on 25 March 2012.

Children in public care

With respect to the Committee's question about children in public care, Slovenia notes that the number of children in public care decreased until 2012 and then slightly increased in 2013. The number of children with special needs who live in centres for training, work and care has been slowly but continuously decreasing. The number of children living in residential facilities of institutions or primary schools with adapted programmes had decreased until 2012 and then slightly increased in 2013. The number of children in institutions for children with emotional and behavioural disorders has remained more or less stable.

Table: Children and adolescents in public care in Slovenia in the period from 2005 to 2013:



Source: Statistical Office of the Republic of Slovenia

Table: Children with special needs in public care in the period from 2010 to 2013

Otroci s posebnimi potrebami v institucionalnem varstvu																
	2013				2012				2011				2010			
	število inštitucij	skupaj	celodnevni	dnevno varstva	število inštitucij	skupaj	celodnevni	dnevno varstva	število inštitucij	skupaj	celodnevni	dnevno varstva	število inštitucij	skupaj	celodnevni	dnevno varstva
CIUDV (socialno-varstveni zavodi)	5	427	258	169	5	445	316	129	5	471	348	123	5	512	369	143
Domovi v sklopu zavodov za otroke s posebnimi potrebami	13	495	495		13	466	466		13	484	484		13	491	491	
- zavodi za gibalno ovirane otroke	2	216	216		2	199	199		2	192	192		2	188	188	
- zavodi za slepe in slabovidne	1	18	18		1	17	17		1	19	19		1	22	22	
- zavodi za gluhe in naglušne	1	45	45		1	49	49		1	49	49		1	48	48	
- domovi v okviru OSPP za otroke z lažjimi in zmernimi motnjami v duševnem razvoju	9	216	216		9	201	201		9	224	224		9	233	233	
Vzgojni zavodi, mladinski domovi in prevzgojni zavodi	11	410	410		11	397	397		11	379	379		11	398	398	
- mladinski domovi	3	137	137		3	140	140		3	127	127		3	131	131	
- prevzgojni zavodi in vzgojni domovi	8	273	273		8	257	257		8	252	252		8	267	267	
Skupaj v institucionalnem varstvu		1332				1308				1334				1401		

Source: Statistical Office of the Republic of Slovenia

The placement of children with special needs is regulated by the Placement of Children with Special Needs Act (*Uradni list RS*, no. 58/11) which entered into force on 1 September 2013. It defines a new procedure for the placement of children with special needs, thereby improving the extent to which the placement of these children is carried out in accordance with their special educational needs. It also enables persons with moderate, severe and serious mental development disorders to prolong their education until the age of 26. The new definition of children with special needs in this Act excludes pupils with learning difficulties and gifted pupils and includes children with autism spectrum disorder.

The procedure for the placement of a child with special needs is initiated at the written request of the child's parents or school. The National Education Institute decides on the placement at the first instance. The physical, cognitive, emotional, social and health needs of a child are taken into consideration when deciding on the most suitable education programme. The child's developmental level is also taken into consideration together with the ability to learn and meet the standards of knowledge and anticipated future development corresponding to his or her handicaps or disorders.

Parents participate in the placement procedure, which is based on the findings of an expert commission for the placement according to the child's individual needs. Parents can also appeal against the first-instance decision. This appeal is decided on by a second-instance commission for the placement of children with special needs established within the ministry responsible for education. The first- and second-instance commissions draw up an expert opinion with a proposal for the placement of the child in a suitable education programme.

Juvenile offenders

With respect to the Committee's question about juvenile perpetrators of criminal offences and their right to education, Slovenia provides the following description of the educational system for juvenile offenders.

Care is provided by residential special schools (youth homes, residential communities, educational institutions) and one juvenile correctional facility. Education is provided also to juveniles, who are serving a sentence of juvenile prison (there is only one such detention centre in Republic of Slovenia in the framework of Celje prison). The residential special schools cooperate with SWCs (at the time of placement and discharge), parents, the local community (voluntary campaigns of wider social significance), health services (psychologists, paediatric psychiatrists, physiotherapists, etc.), the judiciary, the Police, schools, associations and labour organisations (integration). Around 450 children are currently in the ten residential special schools, 5 juveniles were serving a sentence of juvenile prison in 2013.

Education of juvenile offenders

a) Committal to educational institution

Educational institution admits children and adolescents with behavioural disorders, only educational institution in Planina also accepts children with minor developmental disorders. Only SWCs and courts

which have jurisdiction for juvenile offenders can refer children to such educational institutions. In the case of the former, this is an educational and preventive measure. In the latter it is an educational measure of committal to an educational institution applied to juvenile perpetrators of criminal offences. Educational institutions admit children aged between seven to 17 years. Post-school institutions for adolescents admit adolescents aged between 14 and 18 years, who can stay until their 21st birthday. Adolescents in such institutions choose between education in an internal school or regular schools.

b) Committal to a juvenile correctional facility

Adolescents of both genders are sent to the juvenile correction facility by the court as an educational measure imposed in the criminal procedure against juveniles. The difference between educational measures of committal to an educational institution and committal to a juvenile correctional facility is such that latter is imposed to juveniles in need of more efficient correctional measures. Juveniles aged between 14 and 21 years are sent to correctional facilities and can stay until their 23rd birthday. They have the right to education. Education of juveniles within correctional facility is taking place in the correctional facility (Radeče). Primary and vocational education is organised in accordance with rules on primary education and rules on education and schooling.

c) Committal to training institution

Court can impose committal to an appropriate training institution for juvenile perpetrator with disturbances in physical or mental development instead of a committal to an educational institution or correctional facility. The court may order such a measure also in place of compulsory psychiatric treatment and protection in a health institution if the necessary treatment and protection of the perpetrator can be provided in the training institution and the purposes of the safety measure in question can thereby be achieved. The perpetrator shall stay in the institution as long as is necessary for his training, treatment or protection but for not more than three years. Educational measure of committal to training institution is taking place in training institutions for children and youth with disturbances in physical and mental development.

d) Education of juveniles committed to juvenile prison

Prison (for serving the sentence of juvenile prison - the only one in Republic of Slovenia being in Celje) for juveniles places special attention to pedagogical, psychosocial and special-therapeutic treatment of a juvenile. It organises educational courses for completing primary school and acquire profession and provides for sporting and other activities for juveniles. When choosing educational courses for juveniles, prison is taking into account their personal characteristics and abilities, interests for certain profession and possibilities for organising education.

Article 17 - The right of children and young persons to social, legal and economic protection

Paragraph 2 - Free primary and secondary education - regular attendance at school

Below, Slovenia presents the legislative amendments adopted in the reference period, followed by answers to the Committee's additional questions. The latter established in its Conclusions 2012 that the situation in Slovenia is in conformity with Article 17§2 of the Charter.

Changes in legislation

Owing to an increase in the population of children (due to the higher birth rate) and the state's endeavours to have more children enrolled in nursery schools, the **Preschool Institutions Act** was amended in 2010 (*Uradni list RS*, no. 36/10). A new provision was inserted which makes it possible to set up two nursery school units in a building that was not built for this particular purpose but has an operating permit. It has enabled the municipalities to resolve the space shortage quickly and at relatively low cost.

In accordance with the Preschool Institutions Act, the Exercise of Rights to Public Funds Act (*Uradni list RS*, nos. 62/10, 40/11, 40/12 – ZUJF, 57/12 – ZPCP-2D, 14/13, 56/13 – ZŠtip-1 in 99/13) and the Fiscal Balance Act (*Uradni list RS*, nos. 40/12, 96/12 - ZPIZ-2, 104/12 – ZIPRS1314, 105/12, 25/13 – odl. US, 46/13 – ZIPRS1314-A, 56/13 – ZŠtip-1, 63/13 – ZOsn-I, 63/13 – ZJAKRS-A, 99/13 – ZUPJS-

C, 99/13 – ZSVarPre-C, 101/13 – ZIPRS1415 in 101/13 – ZDavNepr), parents have the right to reduced payment of preschool programmes if they meet certain legislative criteria. The payment is reduced for children enrolled in public preschool institutions, private preschool institutions with concessions, and private preschool institutions financed from municipal budgets. Parents can exercise the right to reduced payment of preschool programmes from the first day of the month following the submission of their request for reduced payment. The payment is thus reduced for a period of one calendar year or for as long as the relevant facts or circumstance do not change. Since May 2012 (when the Fiscal Balance Act entered into force), parents with two or more children in a **preschool institution** pay maximum 77 % (depending on the family income) of the full amount of the payment for the programme for the first child and only 30% of the amount defined under regulations for the second child. The difference between the reduced and full amount is covered by the state budget. Preschool programmes for the third and any subsequent child from the same family who attends a preschool institution simultaneously with his or her older siblings is free of charge. This Act also introduced partial subsidies for the work of caretakers who look after children who cannot attend preschool institutions because there are fully occupied. The municipality of permanent residence must subsidise preschool programmes in the amount of 20% of the full price of the programme that the child would attend if it had not been full.

The **Primary School Act** was amended every year throughout the reference period. The amendments relevant to the reporting are mainly two: 1) introduction of a **new definition of a child with special needs in 2011**, and 2) **the introduction of an obligation to organise supplementary lessons in Slovenian language and culture** for children residing in the Republic of Slovenia whose native language is not Slovenian; lessons must be provided upon entry into primary school.

Since 2011 pupils with special needs are those pupils who need adapted implementation of primary school programmes with additional professional assistance or adapted primary school programmes or special education programmes. These pupils are categorised according to the type and degree of their disability or disorder by the law on the placement of children with special needs. The definition excludes gifted pupils and pupils with learning difficulties, who are covered by two new articles. Pupils demonstrating intellectual skills significantly above the average or exceptional achievements in a learning field, art or sport are considered **gifted pupils** under Article 11. Schools provide gifted pupils with suitable conditions for their education by adjusting the content, methods and forms of work, enabling them to attend additional lessons, offering other forms of individual and group assistance and other forms of work. **Pupils with learning difficulties** require an adjusted implementation of primary school programmes with additional professional assistance or adjusted primary school programmes or special education programmes. These pupils are categorised according to the type and degree of their disability or disorder by the law on the placement of children with special needs.

A new **Placement of Children with Special Needs Act** (*Uradni list RS*, no. 58/11) was adopted in 2011 and became applicable from the 1st September 2013. It places an emphasis on increasing the number of children enrolled in regular education programmes. On the basis of this Act and according to their abilities and needs, children are placed in regular preschool and school programmes, or schools with adapted programmes or educational institutions for children with special needs. Conditions that systemically enable the successful attendance of children with special needs in preschool and school programmes:

- adapted implementation of programmes and additional professional assistance;
- adapted, special and education programmes;
- adapted tests and knowledge assessment;
- additional material conditions and physical assistance for seriously and severely physically impaired children and blind children;
- the option of home schooling;
- adjusted norms and standards for education programme implementation.

It defines a new procedure for the placement of children with special needs, thereby improving the extent to which the placement of these children is carried out in accordance with their special educational needs. It also enables persons with moderate, severe and serious mental development disorders to prolong their education until the age of 26. A new definition of children with special needs is specified in the Act, excluding pupils with learning difficulties and gifted pupils (the former definition was augmented with the inclusion of children with autism spectrum disorder).

It introduces three new types of additional professional assistance (assistance to overcome disabilities or disorders, advisory services and learning assistance). Furthermore, the Act envisages the establishment of expert advisory centres in regions in order to improve the efficiency of the expert treatment of children and support for teachers in mainstream schools and preschool institutions. These centres will organise the development of expert work with teachers, a mobile service for additional professional assistance in other preschool institutions and schools, work with expert commissions, further professional training and education of expert staff, the exchange of teaching materials and aids, textbooks, seminars for parents, etc. Following the example of many other countries, the centres will connect special schools with mainstream schools.

In addition to the new definition of children with special needs, the Act Amending the Primary School Act (*Uradni list RS*, no. 87/11) introduces some new content relevant to migrants. Its Article 8 establishes the obligation of organising lessons in Slovenian language and culture for children residing in the Republic of Slovenia whose native language is not Slovenian; lessons must be provided for the first two years of their inclusion into primary school. This means that now all children whose parents are not Slovenians (regardless of citizenship) are entitled to attend supplementary lessons in Slovenian language and culture. The obligation to organise supplementary lessons is now explicitly defined, while their funding has already been regulated in the amendment to the Organisation and Financing of Education Act (*Uradni list RS*, no. 36/08). The Rules on Criteria and Standards for the Delivery of Education Programs in Secondary Education (*Uradni list RS*, no. 87/11) regulate this obligation in relation to secondary school students, while its funding is regulated by the Organisation and Financing of Education Act. According to the Act financial resources for teaching native languages of migrants included into primary and secondary schools are provided from the national budget.

Pursuant to the Primary School Act, the class of enrolment or inclusion of a child holding a foreign education certificate into primary school education in the Republic of Slovenia is decided by the primary school in question. The school takes account of the submitted certificates of previous education and the child's age. It may also consider the child's command of the Slovenian language. Upon enrolment or inclusion the school issues a certificate of their enrolment. The Act also determines that the National Assessment of Knowledge is to be taken voluntarily by immigrant pupils whose native language is not Slovenian and who have enrolled in primary school in Slovenia for the first time. Furthermore, at the end of the first school year of their inclusion in primary school in Slovenia, they may advance to the next grade even if not assessed in all subjects. The promotion to the next year of study is decided by the class teachers' assembly on a proposal by the pupil's form teacher.

Certain implementing regulations governing **secondary education** were also amended. The **Rules on the Code of Conduct in Secondary Schools** (*Uradni list RS*, no. 60/10) entered into force in September 2010 and specify the rights, duties and prohibited conduct of students during lessons, the manner in which rights are exercised and duties discharged, sanctions for violations of the Rules and other general school acts, and the obligation of the school to implement the Rules.

The rights of students include: the right to attend lessons; the right to quality lessons; the right to updated and objective information; the right to respect for one's personality; the right to have one's individual and developmental characteristics taken into consideration; the right to security and protection against all forms of violence; the right to equal treatment regardless of gender, race, ethnicity, religion, the family's social status and other circumstances; and the right to a safe, healthy and encouraging work environment. A student is also entitled to: professional assistance and counselling services to improve his or her school work; personal data protection in accordance with the law and regulations; participation in the activities of the student community; expression of his or her opinion and the submission of proposals concerning the school's educational work; and discussion, defence and appeal in procedures. The primary duties of students include: regular attendance at lessons and timely arrival to lessons; fulfilment of the obligations set by the education programme, annual work plan, timetable and other rules of the school; a student must not hinder or disturb the work of other students and school staff; a student must comply with the provisions of the Rules, school rules and instructions; a student must take care of his or her health and safety and not put at risk the health and safety of other people and their physical and mental integrity. Students must also keep the environment clean, respect the general fundamental values and other cultures, respect the rights of other students, school staff and other people, enhance the school's reputation, protect the property of the school, its staff and students and handle such in a responsible manner.

Primary and secondary education is free of charge

The primary and secondary education programmes for children and adolescents are free of charge. Slovenia intensified its efforts to maintain equal access to education, especially regarding the access of vulnerable groups (the Roma, socially and economically disadvantaged groups, groups with special needs, immigrants, etc.).

The following three dimensions (school meals, textbooks and transport) improve the quality of education.

1. School meals are regulated by the School Meals Act (*Uradni list RS*, nos. 3/13 and 46/14) in connection with the Exercise of Rights to Public Funds Act, i.e. the organisation, food quality, the duty of schools to educate pupils and students about a healthy diet, and school meals subsidised in accordance with legislation.

2. The Ministry of Education, Science, and Sport provides free **textbooks** from textbook funds for all children enrolled in primary schools (with a single structure of primary and lower-secondary education). Textbook funds in primary schools are obligatory, while upper-secondary schools are free to establish textbook funds. Nevertheless, most of them decide to do so, with possible financial support from the state budget and a certain participation fee from students. This, however, must not exceed one-third of the price at which the textbook was purchased by the school. There are special subsidies for socially disadvantaged students, allowing them to borrow textbooks for free.

3. By law, local communities provide free **transportation** for children whose residence is located more than four kilometres from a primary school. First-grade children have the right to free transport irrespective of the distance from their residence to primary school, while in the other grades they have this right if the competent road traffic safety authority finds that the safety of children on the way to school is endangered.

Children and pupils with special needs have the right to free transport, irrespective of the distance from their residence to their school if so determined by the decision on the placement. Students that need education in specialised institutions have the right to free care and free transport home on days when there is no school.

Funds for the transport of primary school children are provided from the national budget. Funds to subsidise transport for apprentices, pupils and higher education students are also provided from the national budget. Funds from the national budget to subsidise the transport of apprentices, pupils and higher education students attending school at a distance of 5 km or more from their place of residence are provided so that the amount of the subsidy is at most 70%, depending on the social situation of the beneficiary, the distance from the place of education and the possibility of housing in an upper secondary school boarding home or a student residence hall.

Living in an upper secondary school boarding home: in cases where a family has one or more children residing in an upper secondary school boarding home, it only pays for the first child, while others are accommodated for free.

The education of Roma children

As regards the Committee's question about the education of Roma children, the Republic of Slovenia points to the prohibition of collecting data by ethnicity in Slovenia and, as a consequence, the lack of official data on the number of Roma children in education.

The current unofficial data on the inclusion of Roma children in basic education (compared with the previous years) are shown in the table below:

	ROMA	SCHOOLS – REGULAR CLASSES	percentage of Roma
2013/2014	1,965	39,753	4.94

2012/13	1,930	39,083	4.938
2011/12	1,880	42,601	4.41
2010/11	1,827	38,443	4.75
2009/10	1,813	38,099	4.758

Source: The Ministry of Education, Science and Sport.

Slovenian educational institutions implement the principle of inclusion. There is no segregation between Roma and non-Roma children; individualised teaching and differentiation methods prescribed by law are applied. The Slovenian school system does not allow data on students' achievements to be collected by ethnicity, only aggregate data are available.

Different measures have been drafted in Slovenia since the adoption of the *Strategy for the Education of the Roma in the Republic of Slovenia* in 2004; in 2010, an evaluation of the strategy was carried out and amendments to the strategy were adopted in 2011. The revised strategy (hereinafter: the 2011 Strategy) emphasised the necessity of integration, but also pointed to the utmost importance of developing, at the initial stage, different forms of preschool education also in Roma settlements with a view to increasing their social and cultural capital, which is extremely important for success at school. Emphasis is placed on the development of language skills (the Roma and Slovenian languages) and socialisation through educational institutions.

Different measures are needed to reduce the educational gap between the Roma and the general population, primarily those implemented on the basis of the 2011 Strategy; these measures provide for:

- the early integration of children into the educational process;
- the inclusion of Roma assistants in the educational process;
- the creation of conditions to build confidence in school, to learn about Roma culture and to eliminate prejudice;
- improving the quality of education for Roma children;
- creating support for educational networks, primarily for secondary school students.

In recent years, considerable financial resources have been devoted to Roma education (both national and ESF), resulting in significant progress. Based on the evaluation of individual projects, the contents relevant to the education of Roma have been included in all Roma-related public calls for applications.

Article 19 - The right of migrant workers and their families to protection and assistance

Paragraph 1 - Assistance and information on migration

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 19§1 of the Charter on the ground that it has not been established that Slovenian authorities took appropriate steps against misleading propaganda relating to emigration and immigration.

Migration trends

The Republic of Slovenia provides the Committee the following statistical data relevant to migration in the reference period.

Table: Number of valid residence permits, 2009-2013

	31 December 2009	31 December 2010	31 December 2011	31 December 2012	31 December 2013
Temporary residence permits/Residence registration certificates	61,540	96,880	52,682	49,381	46,808
Permanent	38,715	43,074	48,228	57,263	56,289

residence permits					
TOTAL	100,255	96,880	101,910	106,644	103,097

Source: The Ministry of the Interior.

Table: The first five countries by the number of nationals holding a valid residence permit in the Republic of Slovenia in 2013

Nationality	number
Bosnia and Herzegovina	43,947
Croatia	11,131
Macedonia	10,082
Serbia	9,010
Ukraine	1,876

Source: The Ministry of the Interior.

Slovenia has been recording a downward trend in the number of immigrants since 2011. The majority of immigrants still come from the countries of the former Socialist Federal Republic of Yugoslavia (Bosnia and Herzegovina, Croatia, Macedonia, and Serbia).

Permits issued in 2013

58,019 residence permits or residence registration certificates were issued in 2013, of which 46,634 were issued to third country nationals and 11,385 to European Economic Area and Swiss nationals.

Table: Number of issued residence permits or residence registration certificates by duration and nationality

Nationality	Permanent residence permit	Temporary residence permit/residence registration certificate
Third country nationals	12,505	34,129
EEA and Swiss nationals	767	10,618
TOTAL	13,272	44,747

Source: The Ministry of the Interior.

Table: Number of temporary residence permits issued in 2013, by type

Type of permit	Number
Temporary residence permit extension	24,386
First temporary residence permit	9,145
Residence registration certificate for EU nationals	8,827
Residence registration certificate renewal	1,791
Further temporary residence permit	598
TOTAL	44,747

Source: The Ministry of the Interior.

The above data indicate that in the majority of cases temporary resident permits are issued for extension purposes. Compared with past years, a decrease in the number of these permits was recorded. In 2011, almost 30,000 temporary residence permits were extended (29,255); in 2012, this number dropped by 2,660 (to 26,595); in 2013, an additional nearly 8% decrease over 2012 was recorded. The decrease in the number of temporary resident permit extensions is reflected in the total number of issued and valid resident permits.

A significant decrease was also recorded in the number of issued first residence permits, which fell by 19.2% compared to 2011; undoubtedly, part of this decline can be attributed to Croatia joining the EU on 1 July 2013 and its citizens becoming EU nationals.

Table: The top five countries by the number of nationals issued a residence permit in 2013

Nationality	Number
Bosnia and Herzegovina	23,541
Kosovo	6,469
Serbia	5,428
Macedonia	4,235
Croatia	2,533

Source: The Ministry of the Interior.

Change in policy and the legal framework

In 2011 a new Aliens Act (*Uradni list RS*, nos. 50/11 and 57/11-popr.) was adopted; it introduced the EU Blue Card. The EU Blue Card acts as a single work permit and residence permit. It allows aliens to enter, reside and work in the territory of the Republic of Slovenia.

No amendments were made to the other relevant legislation during the reference period.

Free services and information for migrant workers

With a view to providing information to aliens, the Ministry of the Interior has launched a website www.infotujci.si or www.infoforeigners.si containing all important information about entry and residence in the Republic of Slovenia, schooling, social and health insurance, language-learning programmes, programmes on Slovenian history, culture and the constitutional order, organisations and associations carrying out integration programmes, and a great deal of other useful information. The website can be accessed in seven languages (Slovenian, English, French, Spanish, Albanian, Bosnian and Russian).

It was created with a view to becoming a key source of information for aliens and at the same time a meeting point for all those who might need or wish to provide information related to the integration of aliens into Slovenian society.

In the period from 1 January to 31 December 2013, the website www.infotujci.si recorded almost 50,000 visits, of which 70% (or 36,400) were first visits. Most often, the website was accessed from Slovenia, followed by Croatia, Bosnia and Herzegovina, Serbia and the Russian Federation. The website content was mostly read in the Slovenian language, followed by English, Bosnian and Russian.

The first analysis of the effectiveness of the implementation of the integration measures was carried out in 2010; it showed that the Ministry of the Interior must improve the methods of providing direct information to the target audience, also with a view to increasing (through direct communication) the willingness and motivation of migrants to participate in integration programmes.

At the beginning of 2011, the Ministry and the selected provider carried out a programme aimed at providing information about programmes promoting integration into Slovenian society to third country nationals entitled "I am learning Slovenian, so I can say who I am". The programme was carried out in

January 2011 and was intended to promote programmes of inclusion and provide information about the possibility of participating in these programmes.

The Ministry also issues brochures and leaflets in several languages that provide information about entry and residence and opportunities to participate in integration programmes. The brochures and leaflets are also available at diplomatic and consular representations of the countries where most immigrants come from; thus information is made available to migrants before they enter the Republic of Slovenia.

The European Fund for the Integration of non-EU immigrants and the Ministry of the Interior co-funded the project "Raising employers' awareness of the importance of the integration of third country nationals into Slovenian society"; its aim was to inform employers of the opportunities available to third country nationals to participate in integration programmes and the added value such programmes provide to employees; it was also aimed at examining the possibility of employers participating in the process of integrating third country nationals into Slovenian society.

The project developed an innovative approach to motivating third country nationals, through their employers, to actively participate in Slovenian society; at the same time, it encouraged employers to recognise the positive aspects of the integration of third country nationals into Slovenian society and motivate their immigrant employees to participate in integration programmes.

Measures against misleading propaganda relating to emigration and immigration

With a view to promoting democratic values and social cohesion, the Ministry of the Interior has been providing funds for awareness-raising campaigns for the general public on topics related to immigration and integration and intercultural dialogue programmes.

In 2011 the Ministry of the Interior funded the programme "I am learning Slovenian, so I can say who I am", which was intended to inform and motivate third country nationals to participate in integration programmes; at the same time, the programme conveyed a message to the public with regard to the importance of accepting differences and cultural diversity, and a message to aliens about the importance of maintaining one's own cultural identity.

The intercultural dialogue programmes, which are co-funded by the Ministry of the Interior and the European Fund for the Integration of Non-EU Immigrants, are an important element of the system of integration of immigrants and measures against misleading publicity on migration. The aims of the intercultural dialogue programmes include the promotion of cooperation between different cultural and national groups, a tolerant and respectful approach to cultural differences and raising awareness of the importance of intercultural dialogue and ethnic diversity among the general and professional public. The aforementioned programmes are implemented locally.

Within the measures targeted against misleading publicity on migration, mention should be made of a training programme co-funded by the Ministry of the Interior in 2010; the programme was intended for employees engaged at different levels and services in the provision of information to migrants, which also includes information about integration into Slovenian society. The programme was aimed at improving the abilities of the personnel required for the provision of information to third country nationals, enhancing their skills in the area of intercultural dialogue and improving understanding of integration policy.

In relation to information measures aimed at preventing illegal migration, it should be noted that the brochures containing all relevant information about entry, residence, work and life in the Republic of Slovenia are also available at diplomatic and consular representations in the countries where most immigrants come from. Thus, immigrants have all relevant information available prior to leaving their country.

Article 19 - The right of migrant workers and their families to protection and assistance

Paragraph 2 - Departure, journey and reception

In reply to the Committee's question, the Republic of Slovenia summarises the relevant legal arrangements as follows.

In 2011, a new Aliens Act (*Uradni list RS*, nos. 50/11 and 57/11- popr., Ztuj-2) was adopted; it was based on the same concept as the previous Act adopted in 1999. The Aliens Act regulates the entry of aliens into and their departure from the Republic of Slovenia, lays down visa and resident permit requirements, governs the voluntary repatriation and removal of aliens, and specifies particular features of the procedure and the authorities responsible for the implementation of the Act. A special chapter is devoted to the integration of aliens in the Republic of Slovenia. The authorities responsible for the implementation of the Act are the Ministry of the Interior, the Ministry of Foreign Affairs, the Police and the administrative units.

The chapter on the integration of aliens lays down that the Republic of Slovenia must ensure conditions for the inclusion of aliens holding a residence permit or residence registration certificate in the cultural, economic and social life of the Republic of Slovenia. This chapter also provides that aliens other than EU nationals are entitled to participate in programmes facilitating their faster integration into the cultural, economic and social life, i.e. Slovenian language programmes and lessons in Slovenian history, culture and the constitutional order, programmes for mutual acquaintance and promotion of understanding with Slovenian citizens, and programmes for providing information to aliens regarding their integration into Slovenian society. An alien can participate in the programmes immediately after receiving residence permit or residence registration certificate.

The Ministry of the Interior is responsible for coordinating the integration measures; in November 2008 it launched integration programmes aimed at a wider circle of third country nationals; these programmes included free-of-charge Slovenian language lessons and lessons in Slovenian history, culture and the constitutional order. The aforementioned programmes were accompanied by programmes on intercultural dialogue and information provision programmes.

In 2012, the Government of the Republic of Slovenia adopted a Decree on the means and scope of providing programmes of support for the integration of third country nationals (*Uradni list RS*, no. 70/12), which replaced the Decree on the integration of aliens. The Decree entered into force on 1 January 2013; its essential new features refer to the conditions for participation in the free-of-charge Slovenian language courses and programmes for learning about Slovenian society. The aforementioned conditions are specified in detail and enable third country nationals to enter these programmes before their entry into the Republic of Slovenia or immediately upon arrival.

Analyses of the implementation of the integration measures, which the Ministry of the Interior has been carrying out since 2010, show that participants consider language knowledge to be more important than knowledge of history; in part, difficulties in attending the programmes on Slovenian history, culture and the constitutional order can be attributed to work and family obligations.

To remedy this situation, the Ministry of the Interior launched a programme entitled Initial Integration of Immigrants in 2012. The programme was designed by the Slovenian Institute for Adult Education, approved by the Expert Council for Adult Education and adopted by the Minister of Education and Sport. This is a state-approved Slovenian language education programme for immigrants; it also includes content related to life and work that facilitate the integration of immigrants into Slovenian society. The programme is co-funded by the European Fund for the Integration of non-EU immigrants.

Table: The number of third country nationals who participated in the combined programme and passed the examination in 2013

Number of participants combined	of –	Number of persons passed	of who the	
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programme	examination	
2,022	589	TOTAL: 2,567

Article 19 - The right of migrant workers and their families to protection and assistance

Paragraph 3 - Co-operation between social services of emigration and immigration States

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 19§3 of the Charter on the ground that it has not been established that Slovenian authorities promoted cooperation between social services, public and private, in emigration and immigration countries.

As regards the Committee's conclusion, the Republic of Slovenia explains that as an EU Member State it implements Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004; its introductory provisions define close and effective cooperation between institutions in the Member States (competent authorities and social insurance institutions) as a key factor in allowing migrants access to their rights as quickly as possible and under optimum conditions.

Bilateral cooperation established between Slovenian social insurance institutions and/or liaison bodies and institutions in other EU Member States has taken various forms (primarily by regular e-mail contact, regular mail, and telephone).

The geographical vicinity and economic ties with Austria give rise to strong labour migration; therefore, a particularly intensive bilateral cooperation has been established between the two countries in the form of annual meetings of the countries' responsible ministries, which are also attended by representatives of social insurance institutions; at these meetings, concrete questions arising in the areas of family benefits and child allowances, pension and disability insurance, the simultaneous employment of commuters, unemployment allowances and other issues are discussed and solutions sought.

Slovenia has concluded bilateral social security agreements with the Council of Europe members that are not EU Member States where most immigrants to Slovenia originate. These are primarily agreements concluded with all states formed in the territory of the former Yugoslavia. The agreements specify the method of their implementation and relevant liaison bodies. Regular and well-established meetings are organised and attended by the signatory states' liaison bodies (four from Slovenia: the Pension and Disability Insurance Institute of the Republic of Slovenia, the Health Insurance Institute of Slovenia, the Employment Service of Slovenia and the Ljubljana Bežigrad Social Work Centre, Central Unit). Their purpose is to discuss all pending issues under the competence of the liaison bodies, while topical issues are addressed through regular written and electronic communication channels.

Article 19 - The right of migrant workers and their families to protection and assistance

Paragraph 4 - Equality regarding employment, right to organise and accommodation

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 19§4 of the Charter on the grounds that:

- it has not been established that concerning remuneration, employment and other working conditions, the treatment of migrant workers is not less favourable than that of nationals;*
- it has not been established that concerning membership of trade union and enjoyment of the benefits of collective bargaining the treatment of migrant workers is not less favourable*

than that of nationals;

equal treatment and adequate conditions are not secured for migrant workers with respect to access to housing.

The Republic of Slovenia notes that pursuant to Article 23 (previous Article 21) of the Employment Relationships Act (ZDR-1), aliens or persons without citizenship may conclude an employment contract if they fulfil the requirements laid down in this Act and the requirements laid down in a separate Act regulating the employment of foreigners. Pursuant to Article 6 of the aforementioned Act, employers must ensure that job seekers offered employment or workers during their employment relationship and in connection with the termination of employment contracts are afforded equal treatment, irrespective of their nationality, race or ethnic origin, or nationality. Employers must ensure equal treatment in respect of the personal circumstances referred to in the preceding paragraph for both candidates and workers, especially regarding access to employment, promotion, training, education, re-qualification, salaries and other benefits from the employment relationship, absence from work, working conditions, working hours and the termination of employment contracts.

In the event of a violation of the prohibition of discrimination and pursuant to Article 8 of the aforementioned Act, the employer is liable to provide compensation to the worker under the general rules of civil law. Non-pecuniary damage incurred by a candidate or worker also covers mental distress suffered owing to the unequal treatment of the worker and/or the discriminatory conduct of an employer. When determining the amount of non-pecuniary damage compensation, the following must be taken into account: the compensation must be effective and proportionate to the damage suffered by the candidate or worker and must discourage the employer from repeating the violation. Article 217 of the Act punishes a violation of the aforementioned provision by a fine of between EUR 3,000 and 20,000 imposed on an employer – a legal person, sole trader or self-employed person, by a fine of between EUR 1,500 and 8,000 imposed on a smaller employer – a legal person, sole trader or self-employed person, and by a fine of between EUR 450 and EUR 1,200 imposed on an individual employer. A fine of between EUR 450 and EUR 2,000 is also imposed on the responsible person of the employer – a legal person – and on the responsible person in a state body or a local community who commits the aforementioned offence.

The Republic of Slovenia also underlines that Article 7 of the Employment and Work of Aliens Act (*Uradni list RS*, no. 26/11) clearly and unambiguously states that, as regards the rights and obligations deriving from employment, foreign workers employed in the Republic of Slovenia have the same position in the labour market as Slovenian citizens. This means that the provisions of the Employment Relationship Act apply fully to employed immigrants. Accordingly, the Republic of Slovenia ensures that migrant workers are not in a less favourable position compared with Slovenian workers as regards payment and other employment or work conditions.

Membership of trade unions and enjoyment of the benefits of collective bargaining

The freedom to join trade unions is guaranteed to all persons in Slovenia, regardless of their nationality. This is provided by Article 76 of the Constitution of the Republic of Slovenia. It is clear from this Article that the operation of trade unions, including those established by migrant workers, is free; this also covers the conclusion of collective agreements in accordance with the Collective Agreements Act. This issue is regulated in more detail in the Implementation of the Principle of Equal Treatment Act (*Uradni list RS*, no. 93/07, ZUNEO); its Article 2 lays down that equal treatment is afforded regardless of nationality, race or ethnic origin, in particular with regard to membership and participation in workers' and employers' organisations and other interest associations, including the benefits ensured by these organisations.

As regards the access of migrant workers to administrative and managerial posts in trade unions, mention must again be made of Article 6 of the ZDR-1, which lays down employers' obligation to ensure that job seekers offered employment or workers during their employment relationship and in connection with the termination of employment contracts are afforded equal treatment, irrespective of their nationality, race or ethnic origin, or nationality. Employers must ensure that job seekers and/or workers are afforded equal treatment, especially regarding access to employment, promotion, training, education, retraining, pay and other remuneration from employment, absences from work, working conditions, working hours and the termination of employment contracts. We again draw attention to the Implementation of the Principle of Equal Treatment Act, which provides for equal treatment

regardless of nationality, race or ethnic origin, in particular with regard to access to employment, self-employment or a profession, including the selection criteria and employment requirements irrespective of the type of activity and at all professional hierarchy levels, inclusive of promotion and employment and work conditions, employment contract termination and payment.

Accommodation

In Slovenia, the housing issue can be solved in a number of ways. One of the options for solving the housing issue is to purchase an owned dwelling, the other is to rent one. EU citizens and citizens of the countries with which Slovenia has concluded appropriate agreements can purchase their own dwellings in the same way as Slovenian citizens.

There are four categories of rental housing:

- non-profit rental housing rented out for an indefinite term and for non-profit rent;
- market rental housing freely placed on the market;
- service rental housing rented out in order to satisfy service needs;
- dedicated rental housing devoted to institutional care of elderly persons, retired persons or special groups of the adult population.

The housing legislation provides that in addition to Slovenian citizens, non-profit rental housing may also be obtained by EU citizens subject to reciprocity and by the persons erased from the Register of Permanent Residents who later obtained a permanent residence permit under the Aliens Act, the Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia or the Temporary Asylum Act.

The demand for non-profit rental housing considerably exceeds the supply. A persistently high demand for non-profit rental housing is recorded in larger towns and settlements of an urban character where employment opportunities are better. According to the latest data submitted by the municipalities, there were 8,040 non-profit housing units required as of 31 December 2012. Due to fierce economic conditions and the economic crisis, the municipalities have limited funding available for purchasing non-profit housing. In recent years, they have nevertheless succeeded in buying approximately 400 housing units per year. The waiting periods for non-profit housing has remained unchanged in the majority of municipalities and range from three to five years; some municipalities succeeded in limiting the waiting time to one or two years. This can be attributed to the amended provisions of the Housing Act, which provide that the entitled persons who fail to obtain non-profit rental housing and resolve their housing issue by renting a dwelling at a market rate are entitled to subsidy for market rent. Ljubljana is an exception, with its up to seven-year waiting period for non-profit rental housing.

Dedicated rental housing is primarily given to retired persons over 65 years of age.

The owners of market and service housing units can rent them freely, there are no restrictions regarding citizenship.

According to the recent data and estimates, there are more than 100,000 empty housing units in Slovenia; therefore, applicants are able to obtain an appropriate dwelling suitable for their needs (rent amount, size, location, etc.) rather quickly. If socially disadvantaged, they are entitled to a subsidy.

Living units are intended for applicants faced with severe material deprivation and in urgent need of a roof over their head; citizenship is not a condition for entitlement. Their specification is provided in the Housing Act; they are classified by the purpose of use as the units with shared use of sanitary facilities and kitchen, the units with sanitary facilities or bathroom and shared use of kitchen and the units with bathroom and mini-kitchen. The minimum technical requirements for living units intended to temporarily address the housing needs of socially disadvantaged people are specified in an implementing regulation.

According to the most recent data, the municipalities have 503 living units at their disposal; identified needs indicate that a further 589 are required.

The Housing legislation does not directly address the provision of housing to migrant workers. A few years ago, a boom in the construction sector caused a heavy demand in rental market housing for migrant workers. Employers often arranged for them to occupy premises inappropriate in terms of room area and equipment. To remedy this situation, the Rules Laying Down Minimum Standards for the Accommodation of Aliens Employed and Working in the Republic of Slovenia (*Uradni list RS*, no. 71/11) were adopted in 2011 under the provisions of the Employment and Work of Aliens Act (*Uradni list RS*, no. 26/11); the Rules specify minimum housing and hygiene standards for the accommodation of foreign workers. The implementation of these Rules is supervised by the Labour Inspectorate of the Republic of Slovenia. Violations of the minimum housing and hygiene standards can be reported by aliens, their fellow residents from the same or nearby residential building, interested non-governmental organisations and other interested entities.

Article 19 - The right of migrant workers and their families to protection and assistance

Paragraph 5 - Equality regarding taxes and contributions

The Republic of Slovenia confirms that the Committee's understanding of the concept of the taxation of residents and non-residents in Slovenia is correct.

Hereinafter, the Republic of Slovenia informs the Committee of the relevant legislative amendments adopted in the reference period. In 2011, the Personal Income Tax Act (*Uradni list RS*, nos 13/11 – official consolidated text, 24/12, 40/12 - ZUJF, 75/12, 94/12 and 93/13) was adopted; Article 116 thereof lays down tax allowances for residents of the EU and EEA Member States as follows:

“A natural person who is a resident of an EU and/or EEA Member State other than Slovenia and who derives income from employment, income from self-employment, income from basic agricultural and forestry activities, income from leasing property and income derived from the transfer of property rights and other revenue shall have the right to claim tax relief specified in Articles 111, 112 and 114 of this Act provided that the person concerned demonstrates that the aforementioned income derived in Slovenia amounts to at least 90% of his or her entire taxable income for the tax year and that the income derived in Slovenia is exempt from tax or is tax-free in the country of his or her residence.” The aforementioned Articles list the following tax reliefs: general tax relief, personal income tax relief, special personal income tax relief, special tax relief for dependents and relief for voluntary supplementary pension insurance.

Article 19 - The right of migrant workers and their families to protection and assistance

Paragraph 6 - Family reunion

With regard to the Committee's request for a comprehensive description of relevant legal arrangements, the Republic of Slovenia notes that with the exception of aliens holding a temporary residence permit issued for seasonal work purposes, an alien holding a permanent residence permit or a temporary residence permit in the Republic of Slovenia is granted the right to family reunion, maintenance and the recovery of family integrity with immediate family members who are aliens, subject to and in accordance with the Aliens Act (*Uradni list RS*, nos. 50/11 and 57/11-popr.).

An alien referred to in the preceding paragraph who is entitled to family reunion may lodge an application for a temporary residence permit for his or her family members with a diplomatic or consular mission of the Republic of Slovenia abroad or with a competent authority in the Republic of Slovenia.

Pursuant to the aforementioned Act, the family members of an alien include:

- a spouse, a registered civil partner or a person with whom an alien lives in long-term cohabitation;
- the unmarried minors of an alien;
- the unmarried minors of a spouse, a registered civil partner or a person with whom an alien lives in long-term cohabitation;
- the parents of a minor alien with whom he or she lived in a family unit prior to arrival in the Republic of Slovenia;
- the unmarried adult children and parents of an alien, his or her spouse, registered civil partner or person with whom he or she lives in long-term cohabitation in respect of which a maintenance

obligation of the alien, his or her spouse, registered civil partner or person with whom he or she lives in long-term cohabitation has been established under the law of the country of his or her citizenship.

In exceptional cases and where specific circumstances support the reunion of the family, the competent authority may deem any other relative of the alien to be his or her family member. In the case of polygamous marriages, a residence permit for the purpose of family reunion may only be granted to and extended for one spouse.

A residence permit for the purpose of family reunion may be issued and extended upon the request of the alien reuniting the family who must submit evidence of sufficient subsistence means to support the family members who intend to live in the country.

A temporary residence permit for the purpose of family reunion is granted to a family member of an alien holding a temporary residence permit; it is issued for the period of validity of the alien's permit or until its time of expiration, but no longer than for one year; it may be extended for the period of validity of the alien's temporary residence period but not beyond two years. A temporary residence permit with one-year validity is issued to a family member of an alien holding a permanent residence permit in the Republic of Slovenia and may be extended for periods of up to two years. Unmarried minors of an alien or his or her spouse, registered civil partner or a person with whom the alien lives in long-term cohabitation and parents of a minor alien are issued a temporary residence permit for the purpose of family reunion with a validity not extending beyond the child's age of majority.

The family member of an alien referred to in the first paragraph of this Article may also have his or her residence permit extended by a competent authority, i.e. an administrative unit, if the alien dies or where marriage, registered civil partnership or long-term cohabitation of at least three years' duration terminates. The aforementioned permit may only be extended once with a validity of up to one year.

Article 19 - The right of migrant workers and their families to protection and assistance

Paragraph 7 - Equality regarding legal proceedings

As required by the Committee, Slovenia herein describes the situation in the area of the equal treatment of migrant workers and their family members in judicial proceedings.

a) Mandatory defence

As a rule, migrant workers in criminal proceedings are subject to the same rules as others. Free legal aid and also exemption from the obligation to reimburse the costs of criminal proceedings is envisaged (if payment of these costs would jeopardise the sustenance of the accused or of persons he or she is bound to support – Article 95(4) of the Criminal Procedure Act). Pursuant to the Constitution of the Republic of Slovenia, anyone charged with a criminal offence has the right to be defended by a legal representative (the second indent of Article 29 of the Constitution). The Criminal Procedure Act also provides for a mandatory defence (Article 70). The aforementioned Article lays down that the accused must have a defence counsel if he or she is mute, deaf, or otherwise incapable of defending him- or herself successfully, or if criminal proceedings are conducted against the accused for a criminal offence punishable by thirty years of imprisonment or life imprisonment, or if he or she is brought before an investigating judge for examination related to a remand order. The accused must have the defence counsel for the entire duration of remand custody. The accused is also entitled to a defence counsel at the time the charge is served on him or her if the law prescribes a sentence of eight years' imprisonment or a more severe punishment for the criminal offence with which he or she is charged. The aforementioned Act also lists other cases of mandatory defence (e.g. a minor in criminal proceedings for a criminal offence punishable by more than three years imprisonment; in case of offences subject to less severe punishment, a minor has a defence counsel if so determined by the juvenile judge – Article 454(2) of the Criminal Procedure Act). A migrant worker may use a mandatory defence on the grounds of being "otherwise incapable of defending successfully." This fact is established within the relevant proceedings.

If in cases of a mandatory defence the accused fails to retain a defence counsel by him- or herself, the president of the court appoints a defence counsel *ex officio* for the further course of criminal proceedings until the finality of the judgement; if the accused has been sentenced to thirty years in prison or if he or she is deaf, mute or otherwise incapable of defending him- or herself successfully, he or she has a defence counsel appointed for an extraordinary judicial review as well. If a defence

counsel is appointed *ex officio* after a charge has been filed, the accused must be informed thereof when the charge is served on him or her. If in cases where defence is mandatory, the accused remains without a defence counsel and fails to retain one by him- or herself, the president of the court before which the proceedings are being conducted appoints a defence counsel *ex officio*. Only a lawyer may be appointed defence counsel.

A mandatory defence is also stipulated in cases of pre-trial detention. If an apprehended suspect does not have the means to provide for counsel for him- or herself, the Police must, at the request of the suspect, appoint a counsel for him or her at the expense of the state if this is in the interests of justice (Article 4(4) of the Criminal Procedure Act).

Otherwise, any person deprived of freedom must be advised immediately, in his or her mother tongue or in a language he or she understands, of the reasons for the loss of freedom (also determined by Article 19(3) of the Constitution). The person must be immediately instructed that he or she is not bound to make any statements, that he or she is entitled to the legal assistance of a defence counsel of his or her own choice and that the competent body is bound to inform, at his or her request, his or her immediate family of his or her being deprived of freedom (Article 4(1) of the Criminal Procedure Act).

b) The language used in the proceedings

The Constitution of the Republic of Slovenia lays down that everyone has the right to use his or her language and script in a manner provided by law in the exercise of his or her rights and duties and in procedures before state and other authorities performing a public function (Article 62). As a rule, criminal proceedings are conducted in the Slovenian language or in the Italian or Hungarian language. The latter applies to areas in which the autochthonous national communities reside; they are afforded special status by the Constitution of the Republic of Slovenia (Articles 6 and 7 of the Criminal Procedure Act).

Parties, witnesses and other participants in the proceedings have the right to use their own languages in investigative (this also includes examination in the pre-trial proceedings) and other judicial actions and at the main hearing. If a judicial action or the main hearing is not conducted in the languages of such persons, an oral translation of their statements and of the statements of others, and a translation of documents and other written evidence, must be provided. The aforementioned persons must be informed of their right to have oral statements and written documents and evidence translated for them; they may waive translation rights if they know the language in which the proceedings are conducted. The fact that they have been informed of this right, as well as their statements in this regard, should be noted in the record. The translation is done by a court interpreter (Article 8 of the Criminal Procedure Act). The costs of translation are not borne by an accused person who does not understand or speak the language in which the criminal proceedings are being conducted (Article 92(5) of the Criminal Procedure Act). The costs of translation related to the rights of the autochthonous national communities are covered by the state budget (Article 92(4) of the Criminal Procedure Act).

Act amending the Criminal Procedure Act (ZKP-M) was passed in the National Assembly on 21st November 2014 and published on 5th December 2014 in the Official Journal of Republic of Slovenia. The Act transposes into Slovenian legislation Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings and Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings. It will come into force on 20th March 2015. The currently applicable Criminal Procedure Act already includes many requirements of the aforementioned Directives; therefore, only few relevant amendments are envisaged:

- general rules concerning translation and interpretation in pre-trial and criminal proceedings and specific arrangements related to the communication confidentiality of a suspect and defence counsel;
- legal instructions given to a suspect and/or accused at various stages of the proceedings;
- an appeal against police detention exceeding six hours and the obligation of the Police to deliver to a suspect an official note indicating the reasons for detention and the rights of a detained person;
- the obligation of the court to provide a confidential interpretation for a suspect's confidential interview with a counsel related to fair trial guarantees;

- grounds for appeal regarding the language used in proceedings.

c) Rights in civil proceedings

Rights in civil proceedings in the Republic of Slovenia are guaranteed to its citizens and migrant workers. Article 102 of the Civil Procedure Act lays down that the parties and other participants in the proceedings have the right to use their own language in all procedural acts they perform in court. If the proceedings are not conducted in the language of a party or of other participants in the proceedings, they are afforded, upon a motion filed to this effect or when the court finds that they do not understand the Slovenian language, an oral translation of the statements made at the main hearing and an oral translation of the documents used as evidence at the main hearing.

The aforementioned Act provides that the costs of proceedings also include the costs of translation and interpretation (Article 151). As a rule, the party losing the litigation must bear the costs incurred by the winning party and their intervener; nevertheless, the court may decide differently with respect to the outcome of a specific procedural act (Article 154). The court may exempt from payment of the costs of proceedings a party who is not able, given their financial circumstances, to cover these costs without detriment to the maintenance of themselves and their family (Article 168(1)). The exemption from payment of the costs of proceedings is decided by the court of first instance upon a motion by the party concerned (Article 169(1)).

Article 19 - The right of migrant workers and their families to protection and assistance

Paragraph 8 - Guarantees concerning deportation

The Aliens Act (*Uradni list RS*, nos. 50/11 and 57/11 – popr.) provided for adequate guarantees concerning deportation, residence termination and voluntary return of foreigners, with consistent use of the principle of *non-refoulement*. In 2014, outside the reference period, the Aliens Act was amended in order to provide adequate protection to all foreigners (not only to workers) by ensuring adequate, transparent and fair procedure as described below.

Article 55 of the new Aliens Act (*Uradni list RS*, no. 45/14, hereinafter referred to as the ZTuj-2A) specifies the reasons for refusing the granting of a residence permit, which include a failure to fulfil the requirement of sufficient means of subsistence. It is important to note here that only the aforementioned failure is not reason enough to refuse the granting; non-observance of other legal requirements for issuing a temporary residence permit for the purpose of employment or work – e.g. invalid work permit, disrupted health insurance, etc. – must also be established.

Pursuant to Article 56 of the ZTuj-2A a residence permit may be annulled if it is determined subsequently that an alien no longer fulfils the requirements for the granting of a residence permit. The second paragraph of the aforementioned Article specifies that an expired work permit does not constitute grounds for a residence permit issued for the purpose of employment or work to be annulled in the first three months after the work permit expiration date if the alien's employment in the Republic of Slovenia lasted at least one year, was not terminated by their own will or through their own fault and provided the alien is a registered job seeker which is evidenced by a document issued by the competent employment office.

Upon the expiration of the above-mentioned time limit, an alien may apply for a subsequent permit (issued for purposes other than employment or work) and need not depart from the country just because their employment was terminated, provided that the general and specific requirements for issuing a temporary residence permit for purposes other than employment or work are fulfilled.

Article 61 of the ZTuj-2A determines that residence may be revoked if the alien concerned is left without any means of subsistence or has no guaranteed access to means of subsistence. In such cases the authority deciding on the termination of residence must take into account the length of stay of the alien in the country, their personal, family, economic and other ties linking them to the Republic of Slovenia, and the effect that the termination of residence would have on them and their family.

Where reasons to refuse a permit extension exist, the competent authority must, in the procedure for the granting and renewal of a temporary residence permit for a family member, take into account the

nature and stability of the family relationship, the duration of the alien's residence in the Republic of Slovenia and the existence of family, cultural and social ties with the country of origin provided that there are reasons for non-renewal.

A decision of the competent authority refusing to grant a temporary residence permit must give the reasons thereof; any such decision must also contain instruction on legal remedies³ specifying the authority and time limit for lodging the appeal against the first instance decision. As a rule, appeals against the decisions to refuse the granting of residence permit are decided by the Ministry of the Interior of the Republic of Slovenia; there is no appeal against the decision of the Ministry; however, administrative dispute is allowed so the case may be decided by a court. The same applies to a decision by first instance authority annulling a residence permit. Where no appeal is allowed against a decision of first instance authority, an administrative dispute may be initiated and the case be directly decided by a court.

A decision of the competent authority refusing to grant a residence permit or annulling a residence permit must specify a deadline by which an alien must depart the country, except when refusing to issue the first temporary residence permit, which must be granted prior to the entry into the country. The alien must leave the country within the set deadline.

A decision to terminate residence must include grounds for termination, specify a deadline by which an alien must depart the country and the period of time during which the alien will not be permitted to re-enter the country; an appeal may be lodged against this decision. When taking such decision, the authority concerned must take into account the type and gravity of the circumstances wherefore the alien's stay in Slovenia is undesirable.

In setting a deadline by which an alien must depart the country, the time allowing the alien to depart must be considered by the competent authority issuing a decision on the annulment of a long-stay visa, a decision on the annulment of a residence permit, a decision on the termination of residence, a decision or decree on the refusal or dismissal of an application for extending or issuing subsequent temporary residence permit or a decision on the staying of the procedure; this period must not be shorter than seven or longer than 30 days (Article 60 of the Ztuj-2A).

The police issue a return decision to an alien who fails to depart the country by a deadline specified in a decision refusing the granting of a permit, annulling a permit or terminating residence. The alien may lodge an appeal against the return decision; the appeal is decided on by the Ministry of the Interior. In the procedure for issuing the return decision, the alien has the right to free legal aid provided by other state authorities, international or non-governmental organisations and is also entitled to an interpreter where necessary (Article 64 of the Ztuj-2A).

A deadline for departing the country specified in a decision refusing the granting of a residence permit, a decision annulling a permit, a decision terminating residence and a return decision is considered a deadline for voluntary departure from the country. An alien who fails to depart from the country by the deadline set for voluntary return, or whose deadline for voluntary return has not been extended, may be deported from the country. The alien may be deported from the country only if the return decision is enforceable (Article 69), given that the principle of non-refoulement must be established and respected (Article 72 of the Ztuj-2A).

Family members of migrant workers are afforded equal scope of rights as family members of other aliens residing in the Republic of Slovenia for reasons other than employment or work. The requirements for issuing a permit for family reunion are specified in Article 47 and fully comply with Council Directive 2003/86/EC on the right to family reunification. In the procedures where granting a residence permit is refused, the permit is annulled or residence is terminated, family members may apply the same remedies as their sponsors; we reiterate that the Act explicitly states that in these cases the competent authority must take into account the nature and stability of the family relationship, the residence period in the Republic of Slovenia and the existence of family, cultural and social ties with the country of origin.

³The right of appeal is regulated by the General Administrative Procedure Act which is the basic regulation governing the protection of individuals in relation to the state. The right to appeal is regulated in Article 229.

Article 19 - The right of migrant workers and their families to protection and assistance

Paragraph 9 – The transfer of earnings and savings

The Republic of Slovenia confirms that no changes have been made in respect of the arrangements that the Committee found to be in accordance with Article 19§9 of the Charter.

Article 19 - The right of migrant workers and their families to protection and assistance

Paragraph 10 - Equal treatment for the self-employed

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 19§4 of the Charter on the same ground for which it is not in conformity with paragraphs 1, 4 and 11 of the same Article.

In view of the fact that the Committee adopted its conclusion concerning the implementation of Article 19§10 of the Charter on the same grounds as the conclusions concerning paragraphs 1, 4 and 11 of Article 19, the Republic of Slovenia relies on the answers given in relation to the aforementioned paragraphs of Article 19 of the Charter.

Article 19 - The right of migrant workers and their families to protection and assistance

Paragraph 11 – The teaching language of the host State

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 19§11 of the Charter on the grounds that a two year residence requirement for access to free Slovenian language classes is excessive.

In 2012, the Government of the Republic of Slovenia adopted a Decree on the means and scope of providing programmes supporting the integration of third country nationals (*Uradni list RS*, no. 70/12), which replaced the Decree on the Integration of Aliens. The Decree entered into force on 1 January 2013; its essential new features refer to the conditions for participation in the free Slovenian language courses and introduction to Slovenian society programmes. The aforementioned conditions are specified in detail and enable third country nationals to enter these programmes before entry into the Republic of Slovenia or immediately upon their arrival.

Slovenia emphasizes that the two year residence requirement for access to free language classes and different programmes was abolished by introduction of the Aliens Act (*Uradni list RS*, nos. 50/11 and 57/11 – popr.) and the Decree on the means and scope of providing programmes supporting the integration of third country nationals (*Uradni list RS*, no. 70/12).

Pursuant to the Decree, the persons entitled to free inclusion in Slovenian language courses and/or in the combined programme are as follows:

- third country nationals living in the Republic of Slovenia on the basis of a permanent residence permit and their family members residing in the Republic of Slovenia on the basis of a temporary residence permit for the purpose of family reunion; they are entitled to attend a Slovenian language course or a combined programme of 180 hours.
- third country nationals living in the Republic of Slovenia on the basis of a temporary residence permit issued for a period of validity of at least one year, whereby the one-year period starts to run at the time of the submission of the application for the permit, are entitled to attend a Slovenian language course or a combined programme of 60 hours.
- third country nationals who are family members of Slovenian citizens or of EU citizens and reside in the Republic of Slovenia on the basis of a family member residence permit are entitled to attend a Slovenian language course or a combined programme of 180 hours.
- third country nationals living in the Republic of Slovenia on the basis of a temporary residence permit, on the condition that this permit and the previous temporary residence permits are valid for an uninterrupted period of at least 24 months, and their family members holding a temporary residence permit granted for the purpose of family reunion, are entitled to attend a Slovenian

language course or a combined programme of 180 hours. The 24-month validity of the temporary residence permit also includes the period of residence on the basis of a certificate on the filed application for the extension of the temporary residence permit or for the issuance of a further temporary residence permit.

Third country nationals holding a temporary residence permit who have already attended a Slovenian language course or a combined programme lasting 60 hours and fulfil the condition of 24 months of continuous residence on the basis of a temporary residence permit (referred to in the previous indent) are entitled to re-attend a Slovenian language course or a combined programme of 120 hours.

The free *Initial Integration of Immigrants* programme has been implemented since 2012 and the analyses show that participants consider language knowledge to be more important than knowledge of history; difficulties in attending the programmes on Slovenian history, culture and the constitutional order can partly be attributed to work and family obligations.

To address the shortcomings, the Ministry of the Interior launched the Initial Integration of Immigrants programme in 2012. The programme was designed by the Slovenian Institute for Adult Education, approved by the Expert Council for Adult Education and adopted by the Minister of Education and Sport. It is a state-approved Slovenian language education programme for immigrants; it also includes content related to life and work that facilitates the integration of immigrants into Slovenian society. The programme is co-funded by the European Fund for the Integration of Non-EU Immigrants.

The Decree on the means and scope of providing programmes supporting the integration of third country nationals complies with the objective pursued, i.e. earlier or immediate inclusion of third country nationals in Initial Integration of Immigrants programmes. This also applies to the family members of third country nationals, Slovenian citizens or EU citizens who are third country nationals. Regardless of the length of their residence in Slovenia, they are entitled to participate in the most extensive Slovenian language courses and programmes intended to familiarise them with Slovenian society.

Courses in the official language of the host state in educational institutions in Slovenia

Upon entry into primary and secondary school and for the first two years, Slovenian language and culture lessons are organised and provided to children residing in the Republic of Slovenia whose mother tongue is not Slovenian.

According to the data of the Ministry of Education, Science and Sport the following numbers of immigrant pupils and students residing in Slovenia in the reference period were recorded.

Table: Data for primary schools and the provision of additional classes, 2010-2013

Number of pupils/School year	2010/2011	2011/2012	2012/2013	2013/2014
Number of pupils in the first year of schooling in the Republic of Slovenia	809	1.015	992	994
Number of pupils in the second year of schooling in the Republic of Slovenia	535	592	815	803
TOTAL	1.344	1.607	1.807	1.797

Source: The Ministry of Education, Science and Sport.

The obligation to organise the aforementioned courses for immigrant secondary school students with permanent or temporary residence in Slovenia is regulated in Article 16 of the *Rules on criteria and standards for the delivery of education programs in secondary education*⁴. The courses for students who need and want assistance because of their lack or poor knowledge of the Slovenian language are organised by taking into account the teachers' assessment of their Slovenian language knowledge and understanding and the number of registered students.

- up to 6 students regardless of their knowledge: heterogeneous group – 35-hour intensive course;
- 7 to 12 students regardless of their knowledge: heterogeneous group – 70-hour intensive course;
- up to 16 students with equal (prior) knowledge: homogeneous group – 70-hour course.

There are approximately 1,800 immigrants children attending preschool institutions; more than 1,000 have a permanent residence permit. Nearly 1,300 come from Bosnia and Herzegovina. Preschool institutions are also bound to apply the principle of an “inclusive approach in exercising the rights of immigrant children to education for their efficient integration and creation of an intercultural society” and must follow the *Guidelines for the integration of immigrant children into preschool institutions and schools*⁵. The guidelines indicate that preschool institutions are expected to support Slovenian language learning but do not elaborate the issue in such detail as for primary and secondary schools and student residence halls.

Article 19 - The right of migrant workers and their families to protection and assistance *Paragraph 12 - Teaching the mother tongue of the migrant*

With regard to the Committee's request, the Republic of Slovenia hereinafter provides data on the inclusion of immigrant children into supplementary lessons in their mother tongue and culture.

These lessons are supported and co-funded by the Ministry of Education, Science and Sport. The legal basis is provided in an annual decision by the Minister on co-funding lessons in the mother tongue and culture of immigrant children. In 2012, the Ministry and the National Education Institute of the Republic of Slovenia drafted a *Plan/guidelines for supplementary lessons in mother tongues and cultures for members of other language and cultural communities in Slovenia*. Some of the languages spoken by immigrants are also included in the list of elective subjects pupils can choose from (Croatian, Serbian, Russian, German, etc.).

Table: Supplementary lessons in a mother tongue and culture in the school years 2010/11, 2011/12 and 2012/13

language	2010/11	2011/12	2012/13	2013/14
	no. of pupils	no. of pupils	no. of pupils	no. of pupils
Dutch	10		9	8
German	46	46	60	59
Albanian	39	50	18	11
Macedonian	16	31	61	64
Russian	29	45	60	55
Bosnian			32	7
Serbian			34	5
Chinese			23	23
Croatian*		72	72	66
Ukrainian				7
	140	244	369	305

Source: The Ministry of Education, Science and Sport.

*No co-funding from the Ministry of Education, Science and Sport was requested for the provision of Croatian lessons

⁴ <http://www.uradni-list.si/1/objava.jsp?urlid=201062&stevilka=3507>

⁵ http://eportal.mss.edus.si/msswww/programi2013/programi/media/pdf/smerice/cistopis_Smerice_vkljucevanje_otrok_priseljencev.pdf

Article 27 - The right of workers with family responsibilities to equal opportunity and treatment
Paragraph 1 - Participation in working life

Employment, vocational guidance and training

With respect to the Committee's question, the Republic of Slovenia notes that migrant workers with family responsibilities are guaranteed equal treatment in vocational training. Pursuant to Article 170 of the ZDR-1, a worker has the right and obligation to pursue continuous education and training in accordance with the requirements of the working process in order to maintain and/or improve his or her skills to perform the work under the employment contract, to keep employment and to increase employability. An employer is obliged to provide for the education and training of workers if the needs of the working process so require or if education or training may prevent the termination of the employment contract for reasons of incompetence or for business reasons. In accordance with the needs of education and training of workers, the employer has the right to refer the worker for education and training, and the worker has the right to apply for education and training him- or herself. If the employer refers the worker for education or training for the aforementioned reasons, the costs of such education and training are borne by the employer.

The explanation relating to a return to the labour market after absence due to family responsibilities (e.g. childcare leave) relies on the answer provided under Article 27§3 of the Charter.

Working conditions, social security

With reference to the question about reconciling one's family and work life, the Republic of Slovenia explains that Article 182 of the ZDR-1 lays down that the employer must enable workers to reconcile their family and employment responsibilities more easily.

The aforementioned Act envisages the following options: home working, teleworking, a different distribution of working time, and part-time work in accordance with other regulations (e.g. the Parental Protection and Family Benefits Act).

Home working is regulated by Article 68 of the ZDR-1. The employer and the worker may agree in the employment contract that the worker will perform work at home that falls within the scope of the activities of the employer or is required for the performance of the employer's activities for the entire duration or part of the worker's working time. Home working is deemed to be work carried out by the worker in his or her home or on other premises of his or her own choosing other than the employer's premises. **Teleworking**, which is performed by a worker by means of information technology, is also deemed to be home working.

Article 148 of the aforementioned Act further stipulates that if a worker proposes a **different distribution of working time** during his or her employment relationship for the purposes of reconciling his or her professional and family life, the employer must communicate his or her reasoned decision in writing, taking into consideration the needs of the working process. Attention should be drawn to the provisions of Article 185(1) and (3) of the ZDR-1, under which a worker taking care of a child under the age of three may be ordered to work overtime or at night only upon his or her written consent. Moreover, an employed parent taking care of a child under the age of seven or a child who is severely ill or a child who is in need of special care in accordance with the regulations governing family benefits, and who lives alone with the child, may be required to work overtime or at night only upon his or her prior written consent.

We conclude by adding that, pursuant to Article 163 of the ZDR-1, parents of school children have the right to take at least one week of their annual leave during school holidays. The employer may refuse to allow the worker to take annual leave under the second and third paragraphs of this Article if the worker's absence would be seriously detrimental to the work process.

We draw attention to the fact that the Article regulating part-time work pursuant to special regulations has been renumbered (the former Article 66 has been renumbered as Article 67 of the ZDR-1), but no amendments in terms of content have been made.

One of the aforementioned special regulations is the Parental Protection and Family Benefits Act, which regulates the right to part-time work due to parenthood. It grants the right to part-time work to parents who are caring for two or more children. One of the parents caring for at least two children has the right to part-time work until the younger child is six years old. If there is one child, one of the parents is entitled to work part-time until the child reaches three years of age.

The employer must ensure the employee working part-time due to parenthood the right to a salary on the basis of actual working hours, while the Republic of Slovenia ensures payment of social security contributions for the difference between actual working hours and full-time work on the basis of a proportional share of the minimum wage. The Republic of Slovenia also pays employer and employee contributions for compulsory pension and disability insurance, insurance against unemployment, parental protection insurance, and contributions for health insurance covering disease or injury outside work, rights to health services and travel expense reimbursement.

With reference to the Committee's question about crediting childcare leave to the pension period, the Republic of Slovenia notes that equal treatment of men and women is ensured.

Child day care services and other childcare arrangements

The Republic of Slovenia provides the Committee data on preschool institution enrolment; inclusion in preschool is not obligatory and is decided on by parents. At the end of the reference period (school year 2013/2014) preschool education was provided by **960 preschool institutions** and their units. The majority of preschool institutions are public (93%); only 7% are privately-owned. Enrolment in public and private preschool institutions in Slovenia has recorded an increasing trend in recent years. In school year 2005/2006, the percentage of children enrolled in preschool institutions was 63.6%; the percentage increased each subsequent year and reached 75.6%, or 83,700 children enrolled in preschool institutions and day care, in school year 2013/2014. It must be noted that the percentage of 5-year-old children enrolled in preschool institutions is 94.3%.

Table: Share of children in preschool institutions in Slovenia, 2009-2013

School year	Share of children in preschool institutions
2009/2010	73.9%
2010/2011	75.3%
2011/2012	75.4%
2012/2013	76.7%
2013/2014	75.6%

Source: The Ministry of Education, Science and Sport.

Table: Preschool institutions, groups and children in preschool education in Slovenia in school year 2013/2014

	Preschool institutions and the units thereof	Groups	Total children	1 st age group	2 nd age group
Total	960	4,920	83,700	23,967	59,733
Public preschool institutions	895	4,721	80,626	22,887	57,739
Private preschool institutions	65	199	3,074	1,080	1,994

Source: Statistical Office of the Republic of Slovenia

Table: Enrolment in preschool institutions by age, Slovenia, school year 2013/2014

	Children aged						
	total	1 year	2 years	3 years	4 years	5 years	6 or older
	%						
Total	75.6	42.1	65.4	83.8	87.8	94.3	5.4
Boys	76.3	42.5	65.5	83.9	88.8	94.9	7.0
Girls	74.8	41.7	65.3	83.7	86.8	93.8	3.8

Source: Statistical Office of the Republic of Slovenia

With reference to the Committee's question about the inadequate number of places in preschool institutions, mainly in the capital, the Republic of Slovenia notes that owing to an increase in the population of children (due to the higher birth rate) and the state's endeavours to have more children enrolled in preschool education, the **Preschool Institutions Act** (*Uradni list RS*, no. 36/10) was amended and a new provision was inserted which makes it possible to set up two units in a building that was not built for this particular purpose but has an operating permit. It has enabled municipalities to resolve the space shortage quickly and at relatively low cost.

If the number of children whose parents wish to enrol them in preschool persists at a high level, municipalities can grant a concession to a private preschool. The granting of a concession entails that the private preschool provides a public service and offers a programme identical to that of a public preschool; the scope of funding provided by the municipality is specified in the concession contract. A private preschool without a concession can obtain funding from a local community budget subject to the following conditions: it provides at least a half-day programme, includes at least one preschool group, employs or otherwise enables preschool teachers and their assistants to carry out the programme in accordance with the law and other regulations, and if it is open to all children.

Persons not qualified to carry out a preschool programme can only offer care services. The aforementioned caretakers must be registered with the ministry responsible for education and may provide services at their home for no more than six children. The number of registered caretakers offering preschool childcare at home has been increasing. The Fiscal Balance Act (*Uradni list RS*, nos. 40/12, 96/12 - ZPIZ-2, 104/12 - ZIPRS1314, 105/12, 25/13 - odl. US, 46/13 - ZIPRS1314-A, 56/13 - ZŠtip-1, 63/13 - ZOsn-I, 63/13 - ZJAKRS-A, 99/13 - ZUPJS-C, 99/13 - ZSVarPre-C, 101/13 - ZIPRS1415 in 101/13 - ZDavNepr) also introduced partial subsidies for the work of caretakers looking after children not able to attend preschool institutions due to the lack of capacity. The municipality of permanent residence must subsidise the preschool programme of the aforementioned children in the amount of 20% of the full price of the programme that the child would have attended if it had not been full.

The Republic of Slovenia hereinafter informs the Committee about new arrangements for preschool programme payments. In May 2012, the Fiscal Balance Act was adopted which lays down that parents with two or more children in a **preschool institution** pay maximum 77 % (depending on the family income) of the full amount of the payment for the programme for the first child and only 30% of the amount defined under regulations for the second child. The difference compared to the full price is covered from the state budget. Preschool programmes for the third and any subsequent child from the same family who attends a preschool institution simultaneously with his or her older siblings is free of charge.

Referring to the Committee's question about the occupied and insufficient capacities in preschool institutions in the capital of the Republic of Slovenia, the following data are presented:

Table: Data on the number of places occupied and lacking at the preschool institutions in the Municipality of Ljubljana

School year	Children enrolled in public preschool institutions in the Municipality of Ljubljana (Data as per 1 May)		Children waiting to enrol in public preschool institutions in the Municipality of Ljubljana (Data from the waiting list as of 1 October)	
	1st age group	2nd age group and combined groups	1st age group	2nd age group
2009/10	4,213	8,461	1,247 (no separate data available)	
2010/11	4,237	8,653	1,471	12
2011/12	4,186	9,016	1,561	27
2012/13	4,128	9,080	1,734	23

Source: Municipality of Ljubljana.

Article 27 - The right of workers with family responsibilities to equal opportunity and treatment
Paragraph 2 - Parental leave

In response to the Committee's question about childcare leave and allowance, the Republic of Slovenia notes that the right to the childcare leave and allowance may be exercised by both parents and, subject to statutory requirements, also by another person.

Childcare leave starts immediately after the maternity leave and is aimed at insuring further care of a child. In exceptional cases (twins, premature babies, children in need of special care, etc.) childcare leave of 260 days may be extended. A part of childcare leave not exceeding 75 days can be postponed but must be taken before the child reaches eight years of age.

Adoption leave is intended for one or both adoptive parents and enables them to devote full attention to the child after the adoption. The right to adoption leave pertains to an adoptive parent or a person to whom the child is entrusted into the care of for the purpose of adoption. Adoption leave may be taken uninterruptedly in the form of full or partial absence from work. Adoption leave periods are as follows:

- 150 days for a child aged between 1 and 4;
- 120 days for a child aged between 4 and 10.

The right to **parental compensation** pertains to a person entitled to parental leave who was insured on the day prior to taking parental leave.

Parental compensations (including the maternity allowance) are calculated on the average basis on which parental protection contributions were paid in the 12 months preceding the submission of the first parental leave application.

The Fiscal Balance Act (*Uradni list RS*, nos. 40/12, 96/12 - ZPIZ-2, 104/12 – ZIPRS1314, 105/12, 25/13 – odl. US, 46/13 – ZIPRS1314-A, 56/13 – ZŠtip-1, 63/13 – ZOsn-I, 63/13 – ZJAKRS-A, 99/13 – ZUPJS-C, 99/13 – ZSVarPre-C, 101/13 – ZIPRS1415 in 101/13 – ZDavNepr) entered into force on 31 May 2012; it provides that the parental compensation disbursement, except the maternity allowance, must not exceed twice the amount of the average monthly salary in the Republic of Slovenia (net EUR 1,888), calculated on the basis of the most recent official data on monthly salaries. Parental compensation, except the maternity allowance, for full-time absence from work amounts to 90% of the basis. When the basis does not exceed the minimum wage, parental compensation amounts to 100% of the basis.

Article 27 - The right of workers with family responsibilities to equal opportunity and treatment
Paragraph 3 – The illegality of dismissal on the grounds of family responsibilities

Regarding the termination of an employment contract, the Republic of Slovenia informs the Committee that the ZDR-1 introduced some amendments.

Article 115 thereof provides that the employer may not cancel an employment contract with a female worker during her pregnancy or with a female worker who is breastfeeding a child of up to one year of age, nor may the employer cancel the employment contract of parents in the period when they are on parental leave uninterruptedly in the form of full absence from work and for one month after the end of such leave. The ZDR-1 also lays down that at the time and in the cases referred to in the preceding paragraph (pregnancy, breastfeeding up to one year and parental leave), the employer may not undertake any action that would otherwise be required for the termination of the employment contract or for the employment of a new worker. The ZDR-1 retained the provision that an employer may not terminate an employment contract in the abovementioned cases (pregnancy, breastfeeding up to one year and parental leave).

The provisions of Article 118 have been amended by the ZDR-1 as follows: Where a court establishes that the termination of an employment contract was illegal but – given all circumstances and the interests of both contracting parties – the continuation of the employment relationship would not be possible, the worker or the employer may make a motion to the court to decide on the duration of the employment relationship (whereas this period may only last until a decision is made by the court of first instance), to recognise the worker's years of service and other rights under the employment relationship, and to grant the worker adequate compensation in the maximum amount of 18 monthly wages of the worker as paid in the three months prior to the termination of the employment contract. The court determines the amount of compensation with regard to the duration of the worker's employment, the worker's chances for new employment and the circumstances that led to the illegality of the termination of the employment contract, taking into consideration the rights exercised by the worker related to the time up to the termination of the employment relationship. In its judgment in VDSS Pdp 572/2012 the Supreme Court explained that compensation under Article 118 of the ZDR (now the ZDR-1) should have been interpreted as compensation for future estimated damages in the amount of one of 18 wages; the criteria for determining its amount had been established by the case law by taking into account the total years of service of the worker concerned, his or her period of employment with the employer in question, the worker's chances of finding new employment, with an emphasis on the worker's age, education or profession, health, the situation on the labour market, the worker's activities in seeking new employment, etc. In its judgment (VIII Ips 114/2012), the Supreme Court explained that compensation under Article 118 of the ZDR (financial redress under Article 118 of the ZDR-1) does not entail compensation for damage suffered by a worker at work or in relation to work. This compensation is paid for the worker's reintegration with the employer or the loss of employment despite a previously established illegal termination of the employment contract by the employer and the establishment of the employment relationship up to but no later than the issuance of a decision by the first-instance court. This compensation is paid for the future estimated damage resulting from the unsuccessful reintegration of the worker; it is not meant as compensation for the loss of income or compensation for any other pecuniary damage caused by the illegal termination of the employment contract during the period pending the termination of the employment contract by a court ruling, or for non-pecuniary damage due to potential unlawful action by the employer upon the termination of the employment contract.

The right to **compensation in general** is governed by Article 179 of the ZDR-1; pursuant to this Article, the employer is liable to compensate, under the general rules of civil law, to a worker who suffers damage at work or in relation to work; the employer is also liable for damage inflicted by him or her on the worker when the rights under the employment relationship are violated. In connection with the right to compensation for non-pecuniary damage, Slovenia points to the Supreme Court Judgment (VIII Ips 97/2011) establishing that the employer's liability for damages in the event of the illegal termination of an employment contract must be judged from the standpoint of an event causing damage, which means that the person causing damage is liable in tort and there is no doubt that in such case the person causing damage is also liable for non-pecuniary damage.

Slovenia notes that, pursuant to Article 6 of the ZDR-1, the less favourable treatment of workers in connection with pregnancy or parental leave is considered discriminatory. In the event of a violation of the prohibition of discrimination and pursuant to Article 8 of the ZDR-1, the employer is liable to compensate the worker under the general rules of civil law. Non-pecuniary damage incurred by a candidate or worker also covers mental distress suffered due to unequal treatment of the worker and/or the discriminatory conduct of the employer. When determining the amount of non-pecuniary damage compensation, the following must be taken into account: the compensation must be effective and proportionate to the damage suffered by the candidate or worker and must discourage the employer from repeating the violation.

Workers claim the aforementioned compensation at the competent labour court.

Provisions on sanctions have not been changed by the ZDR-1, only the Articles have been renumbered (the provisions of the former Article 229 can now be found in Article 217 of the ZDR-1).

Article 31 - The right to housing

Paragraph 1 - Adequate housing

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 31§1 of the Charter on the grounds that:

- the criteria for adequate housing concerning size do not apply to housing available for rent on the free market resulting in substandard housing conditions for some migrant workers;*
- insufficient measures were taken by public authorities to improve the substandard housing conditions of a considerable number of Roma in Slovenia;*
- the inadequate legal solutions for tenants of denationalised flats prevent them from effectively exercising their right to housing.*

Following the judgement finding that Slovenia had violated the ECHR, the Government of the Republic of Slovenia has envisaged a number of measures. Some of the measures have already been implemented while others are to be adopted within a new National Housing Programme, which will chart the housing policy over the medium-term period.

The Government appointed an inter-service working group at the level of state secretaries (the Ministry of Infrastructure and Spatial Planning, the Ministry of Justice, the Ministry of Finance, the Ministry of Labour, Family and Social Affairs, the Ministry of Foreign Affairs) which was informed of the problems of tenants in denationalised dwellings.

The Minister responsible for housing appointed a new Housing Council in 2013; the Council is an advisory working body that also includes representatives of the Association of Tenants of Slovenia; it has held two meetings to date. The Housing Council, *inter alia*, actively participates in drafting and adopting the national housing programme, monitors the implementation of the national and local housing policies, assesses the efficiency of instruments and drafts proposals of measures under the competency of the ministry responsible for housing issues. The Association of Tenants of Slovenia actively participates in drafting a new National Housing Programme.

The Rules on the Rental of Non-Profit Dwellings (*Uradni list RS*, nos 14/04, 34/04, 62/06, 11/09, 81/11 and 47/14) have been amended to allow the tenants in denationalised dwellings to obtain other rental

homes considerably faster if they so wish (for whatever reason). Pursuant to these Rules they are awarded status that places them high on the priority list of applicants expecting to be allocated non-profit rental housing. Non-profit rental housing owned by municipalities, housing funds, non-profit housing organisations and the state are to be provided much faster than before.

Criteria for adequate housing

Adequate housing criteria are defined in numerous laws and regulations generally applicable to all residential buildings, including emergency accommodation, and must be considered horizontally. The legislation defines the criteria for adequate housing in terms of construction, technical, health and sanitary features as well as regarding adequate housing size.

Criteria defining appropriate housing are determined in the Housing Act (primarily in Article 10, the second paragraph of Article 91 and Articles 92, 93, 97, 99) and the following implementing regulations:

- The Rules on Minimum Technical Requirements for the Construction of Residential Buildings and Dwellings (*Uradni list RS*, nos 125/03 and 110/05);
- The Rules on Minimum Technical Requirements for Living Units Intended as Temporary Solution to Housing Needs of Economically Deprived People (*Uradni list RS*, no. 123/04).
- The Rules on Minimum Technical Requirements for the Construction of Sheltered Housing for the Elderly and on Ensuring Conditions for their Operation (*Uradni list RS*, nos 110/04, 81/09, 17/11);
- The Rules on Standards for Maintenance of Residential Buildings and Dwellings (*Uradni list RS*, nos 20/04, 18/11);

In addition to the provisions of the housing legislation, this area is also governed by regulations in the area of construction of buildings, namely:

1. The Construction Act (*Uradni list RS*, nos 102/04 – official consolidated text¹ (14/05 as amended), 92/05– ZJC-B, 93/05 – ZVMS, 111/05 – Constitutional Court Decision, 120/06 – Constitutional Court Decision, 126/07, 57/09 – Constitutional Court Order, 108/09, 61/10 – ZRud-1 (62/10 – as amended), 20/11 – Constitutional Court Decision, 57/12, 101/13 – ZDavNepr and 110/13);
2. the Construction Products Act (*Uradni list RS*, no. 82/13).

Article 9 of the Construction Act specifies technical properties for buildings, including multi-dwelling buildings, to ensure their compliance with the essential requirements. These essential requirements include mechanical resistance and stability; fire safety; hygiene, health protection and environmental protection; safety of use; noise protection; and energy efficiency and heat retention. This Article also provides that only construction products which are placed on the market in accordance with regulations on construction products may be built into structures.

In order to ensure the essential requirements, the competent ministries adopted the following basic regulations pursuant to Article 10 of the aforementioned Act:

- the Decree on Classification of Constructions with regard to their Complexity (*Uradni list RS*, nos 18/13, 21/13, 14/13);
- the Rules on Design Documents (*Uradni list RS*, no. 55/08);
- the Rules on Fire Safety in Buildings (*Uradni list RS*, nos 31/04, 10/05, 83/05, 14/07, 12/13) and the Technical Guideline for Construction TSG-01-001:2010 – Fire safety in buildings;
- the Rules on Efficient Use of Energy in Buildings (*Uradni list RS*, no. 52/10; hereinafter the PURES-2) and the Technical Guideline for Construction TSG-1-004 – Energy efficiency;
- the Rules on the Requirements for Installing Combustion Units (*Uradni list RS*, no. 100/13) and the Guideline SZPV 407:2012 – Fire safety in design, installation and use of combustion units and flues;

- the Rules on the Ventilation and Air-Conditioning of Buildings (*Uradni list RS*, nos 42/02, 105/42);
 - the Rules on Minimum Technical Requirements for the Construction of Residential Buildings and Dwellings (*Uradni list RS*, no. 1/11);
 - the Rules on Acoustic Protection of Buildings (*Uradni list RS*, no. 14/99);
 - the Rules on Damp Protection of Buildings (*Uradni list RS*, no. 29/04);
 - the Rules on Requirements for Free Access to, Entry to and Use of Public Buildings and Facilities and Multi-Dwelling Buildings (*Uradni list RS*, nos 97/03, 77/09 – Constitutional Court Decision);
 - the Rules on Evidence of Reliability of Works (*Uradni list RS*, no. 55/08).
3. The Energy Act (*Uradni list RS*, no. 17/14) determines requirements relating to the energy performance of buildings. The following regulations were adopted on its basis:
- the Rules on Dividing and Billing Heat Costs in Multi-Dwelling and other Buildings with Several Units (*Uradni list RS*, no. 7/10);
 - the Rules on Methodology for Production and Issuance of Energy Performance Certificates for Buildings (*Uradni list RS*, no. 77/2009);
4. the Environment Protection Act (*Uradni list RS*, nos 39/06– official consolidated text 1, 49/06 – ZMetD, 66/06 Constitutional Court Decision: U-I-51/06-10, 112/06 Constitutional Court Decision: U-I-40/06-10, 33/07 – ZPNačrt, 57/08 – ZFO-1A, 70/08, 108/09, 108/09 – ZPNačrt-A, 48/12, 57/12, 97/12 Constitutional Court Decision: U-I-88/10-11, 92/13).

With a view to ensuring compliance with the essential requirements for environmental protection and energy efficiency, human health protection and fire safety in newly constructed and reconstructed buildings and in their maintenance the following regulations were adopted:

- the Decree on Method, Subject and Conditions for Performing Compulsory Public Utility Service of Measurement, Inspection and Cleaning of Combustion Installations, Flue Ducts and Ventilation Shafts for the Purpose of Environmental Protection and Efficient Use of Energy, Health Protection and Fire Protection (*Uradni list RS*, nos 129/04, 57/06, 105/07, 102/08, 94/13);
- the Rules on Maintenance of Small Combustion Installations, Flue Ducts and Ventilation Shafts in Performing Compulsory Public Utility Service of Measurement, Inspection and Cleaning of Combustion Installations, Flues and Ventilation Shafts (*Uradni list RS*, nos 128/04, 18/05 – as amended);

Pursuant to the provisions of the Employment and Work of Aliens Act (*Uradni list RS*, no. 26/11) and with a view to regulating the accommodation of aliens, the following Rules were adopted:

- the Rules Laying Down Minimum Standards for Accommodation of Aliens Employed and Working in the Republic of Slovenia (*Uradni list RS*, no. 71/11).

All laws and implementing regulations start to apply as of their respective enforcement dates; hence, they apply to housing built or rented after their entry into force and are binding for investors in any reconstruction or maintenance work on dwellings, residential buildings or living units.

The housing legislation does not allow for a sub-standard dwelling to be rented as Article 92 of the Housing Act (which also applies when dwellings are rented on the market) explicitly binds a lessor to hand over to a tenant a dwelling that “enables the tenant of the housing its normal use in accordance with applicable norms and standards”; the lessor must also maintain the housing and shared parts for the entire renting period and is also held accountable for legal and material faults in the rented housing. If the owner of the housing fails to comply with the obligations, the tenant may propose that the housing inspectorate should order the owner to carry out the necessary work. If the owner does not carry out the work ordered in the time limit specified, the tenant may carry out such work at the owner’s expense by offsetting the incurred costs (interest included) against the owner’s claims for rent.

If the owner fails to comply with the inspection's order, the tenant may require the owner to supply other suitable housing (Article 93 of the Housing Act).

Supervision of the implementation of the aforementioned laws and regulations is carried out by the competent inspection services (the construction inspection, the energy inspection, the housing inspection, the environmental inspection, the labour inspection, the health inspection).

It is, however, impossible to prevent the tenants from concluding tenancy agreements of their own free will for dwellings or premises not fully complying with prescribed standards or from agreeing to rent dwellings of inadequate size. But these situations have become increasingly rare as a relatively high availability of housing is recorded. The provisions governing the tenancy relationships are also applicable to renting housing on the free market; hence, in this regard the market and public housing tenants are afforded the same level of protection. The housing inspection service has the power to take action in this area.

With a view to ensuring the best and safest possible housing, all the aforementioned regulations must be complied with in the construction of new buildings, reconstruction and maintenance of existing buildings.

This is why substandard housing has not been specifically defined. In general, dwellings with no water distribution and sewage systems, electricity or bathroom and toilet can be deemed substandard housing. There are only few housing units lacking basic facilities. Statistical data show that 99% of housing facilities in Slovenia have water distribution and sewage systems and electricity. Approximately 7% of units lack a bathroom and toilet.

Supervision of adequate housing

The pursuance of the public interest in the housing sphere is monitored by the Housing Inspection Service which operates within the framework of the Transport, Energy and Spatial Planning Inspectorate. The time-limit for a decision by the inspection service ranges from 60 to 90 days. The inspection service deals with between 700 and 800 reports per year, of which tenants' submissions only represent a smaller part. The share of the tenants reports related to inappropriate maintenance of rented housing and shared parts hindering their normal use ranges from between 9% to 17% per year. Detailed data per year are presented in the table below.

Year	Number of reports submitted by tenants under Article 126*	Number of reports submitted by tenants under Article 125**	Total number of measures (decisions)	% of reports by tenants relative to all reports	Total number of cases/reports managed
2009	36	61	97	12.5%	771
2010	57	66	123	17.1%	718
2011	37	48	85	10.8%	787
2012	36	30	66	12.6%	521
2013	45	28	73	9.4%	775

Source: the Annual report by the Transport, Energy and Spatial Planning Inspectorate of the Republic of Slovenia.

Note*: Article 126 of the Housing Act provides the legal basis for the inspection service to take measures where an owner fails to maintain rented housing in accordance with the prescribed norms and standards consequently hindering or preventing normal use of housing.

Note**: Article 125 of the Housing Act provides the legal basis for the inspection service to take measures where the shared parts are not suitable for normal use.

The allegations of the Tenants' Association about a period of three years elapsing between a report's submission and a deficiency remediation by the owners are too general. The inspection services consider all reports and decide on each in accordance with the General Administrative Procedure Act. Pursuant to this Act, the owners or managers must be afforded an opportunity to appeal. The appeal may first be submitted to the Ministry of Infrastructure and Spatial Planning and then to the

Administrative Court. If all legal remedies are exhausted, it may take more than three years to reach a final decision.

Legal protection

Pursuant to the provisions of the housing legislation, the following legal options are available to the users of the dwellings:

- an appeal against a decision, an administrative dispute – in the case of a non-profit dwelling allocation, a living unit allocation, a rent amount review, etc.;
- a report to the housing inspection – in the case of inappropriate maintenance of rented housing and shared parts, improper use of shared parts, unauthorised interventions on shared parts, a dwelling rented without a legal basis, etc.;
- a judicial proceeding – the courts have the power to terminate a tenancy agreement in a dispute, to adjudicate in the case of no-fault grounds for termination of tenancy relationship, to decide on a tenancy relationship following a divorce if the partners fail to reach an agreement, to decide on the conclusion of a tenancy agreement after the death of a tenant if immediate family members fail to reach an agreement, etc.

There are no specific legal remedies available to redress long waiting periods, but every applicant who meets the requirements to rent a non-profit dwelling has the right to rent one at the market rate. In this case, the tenant is entitled to a subsidy for market rent in accordance with the Housing Act. Funds for subsidies are ensured by the municipalities and the government.

The Ministry of Infrastructure and Spatial Planning does not have any data on court cases related to the access to adequate housing available; the data related to the housing inspection procedures are shown above.

Measures in favour of vulnerable groups

As regards the housing conditions of the Roma, the Republic of Slovenia clarifies that spatial planning falls within the exclusive competence of municipalities. A precondition for legalising Roma settlements is to site these settlements in the municipal spatial plans, which, in most cases, have not been finalised. The majority of municipalities, including those with a Roma population, are currently conducting relevant drafting and adoption procedures. Within the drafting of the municipal spatial plans, all municipalities have engaged in improving Roma settlements; the responsible ministry monitors their work and offers technical assistance.

In 2006-2011, the Expert Group for Resolving the Spatial Issues of Roma Settlements drafted an analysis of the status of Roma settlements and based thereon proposed further measures to improve the situation. The state cooperated with local and Roma communities.

Basic public utility infrastructure projects in Roma settlements are co-funded by the state through public tenders (between 2008 and 2013, subsidies in the amount of approximately EUR 8,891,000.00 were available).

The living conditions of the Roma have improved at a slow pace given that progress depends on various factors, mainly on the disposition of self-governing local communities, the local Roma communities, and also on the response of the local community majority population.

The National Programme of Measures for the Roma 2010-2015 is aimed at improving the living conditions of the Roma community and identifies three relevant measures:

- (1) Setting up a comprehensive strategic framework as the basis for specific programmes and projects for the arrangement of Roma settlements. Identification of areas with Roma settlements and the delineation of their rehabilitation within the drafting of municipal spatial plans (the legalisation of Roma settlements)

The competent ministry has already implemented the aforementioned measure. The Expert Group for Resolving the Spatial Issues of Roma Settlements, appointed by the Minister of the Environment and

Spatial Planning, has drafted a study entitled "Spatial Planning Problems of Roma Settlements in Slovenia", which includes the analytical aspect as well as the operational scenario and thus provides a basis for specific measures and projects for the arrangement of Roma settlements. It is, nevertheless, important to note here that such measure may only be implemented by self-governing local communities (municipalities). The measure is aimed at identifying areas with Roma settlements in municipal spatial plans (the delineation of development areas and the "legalisation" of existing illegal settlements). Spatial management and spatial planning, which also include the arrangement of Roma settlements, lie within the original competence of self-governing local communities, i.e. municipalities. Regrettably, practice shows that municipalities with a Roma population lack interest in accelerating the resolution of Roma settlement spatial planning issues in their respective territories, which is also indicated by the pace of the adoption of municipal spatial plans in municipalities with a Roma population.

- (2) The implementation of solutions, goals and tasks to deal with spatial issues related to Roma settlements identified by the aforementioned Expert Group in the process of drafting detailed municipal spatial plans for individual Roma settlements

The measure is aimed at ensuring the comprehensive urban planning of Roma settlements in close cooperation with the Roma and the neighbouring population, resulting in improved living conditions for the Roma. The Expert Group has drafted the "Concept of Roma Settlement Modernisation and Principles of Good Practice" as support for municipalities in resolving spatial planning issues regarding Roma settlements. The goal to be achieved through the resolution of such spatial issues is to enable the comprehensive integration of the Roma into Slovenian society, i.e. gradual formal, infrastructural and social inclusion of Roma settlements into Slovenian settlement patterns while the remediation of these areas is underway. This process can only be successful if municipalities, the Roma people and state institutions form partnerships within which each partner carries out the commitments falling within its competence.

On the basis of the results of the Expert Group for Resolving the Spatial Issues of Roma Settlements, the Ministry submitted a proposal to the Government Commission for the Protection of the Roma Ethnic Community suggesting that the partnership of municipalities, the Roma and state institutions be implemented with a view to contributing towards comprehensive and harmonised solutions to Roma issues.

- (3) The implementation of financial measures aimed at the development of areas with Roma communities in the Republic of Slovenia

In 2007-2012 period, the Government Office for Local Self-Government and Regional Policy and the Ministry of Economic Development and Technology carried out three tenders for co-financing basic public utility infrastructure projects in Roma settlements. Calls for applications were intended for municipalities with Roma settlements that fulfil the requirement regarding representatives of the Roma community being elected to the municipal council and/or the establishment of a special working body to monitor the status of the Roma community whose members include representatives of the Roma community. By means of public calls for applications in 2007, projects for the years 2007, 2008 and 2009 were co-funded in the amount of EUR 2,725,302.50 EUR; by means of public calls for applications in 2008, projects for the years 2008, 2009 and 2010 were co-funded in the amount of EUR 1,478,847.33; in 2012 the call for applications was intended for 2012 only (EUR 2,598,900.65 was available to municipalities, EUR 2,441,316.13 was allocated). No funding for these purposes was granted in 2011.

Within the 2013 call for applications, the Ministry earmarked EUR 3,000,000.00 for co-funding of municipal Roma community projects for the following purposes:

- the construction, renovation or modernisation of water distribution systems;
- the construction, renovation or modernisation of sewage networks;
- the electrification of Roma settlements;
- the construction or reconstruction of local roads and paths;
- the purchase of land to develop and consolidate settlements; and
- project document elaboration.

The Ministry will co-fund 18 projects in 11 municipalities:

- sewage system construction in 10 settlements;

- land purchase in 1 settlement;
- water distribution system construction in 7 settlements;
- road system construction in 8 settlements.

In period 2014-2020, the Ministry intends to replace the current practice of distributing funds by means of calls for applications with a programmatic approach. In the future, programmes for equipping Roma settlements with the basic utility infrastructure will be drawn up by municipalities. They will cover all the needs of Roma settlements, which will be evaluated from the financial as well as substantive aspects. Municipalities will list these programmes among regional development programmes.

Follow-up to European Federation of National Organisations Working with the Homeless (FEANTSA) v. Slovenia, Complaint No. 53/2008, decision on the merits of 8 September 2009

With reference to the Committee's conclusion that the criteria for dwelling size do not apply to housing rented on the free market, the Republic of Slovenia clarifies that the provisions of the Housing Act referring to tenancy relationships apply generally and not only to rented dwellings. Article 91 of the aforementioned Act determines that an owner must conclude an annex to a tenancy agreement (free market tenancy agreement included) at a tenant's request if the number of persons using the dwelling and dependant on the tenant increases; in all other cases the owner is only obliged to conclude an annex if the housing size remains adequate. This way overcrowding of dwellings is prevented.

As mentioned above, the criteria for the size of dwellings and/or accommodation of migrant workers is included in the Rules Laying Down Minimum Standards for Accommodation of Aliens Employed and Working in the Republic of Slovenia (*Uradni list RS*, no. 71/11); the Rules also apply to renting on the free market. Implementation of the Rules is supervised by the inspection service. The situations where people would be forced to live in sub-standard dwellings are thus prevented.

With reference to the conclusion that no appropriate protection or solutions for the tenants in denationalised dwellings have been provided, the Republic of Slovenia notes that the tenants lodged an application against the Republic of Slovenia with the European Court of Human Rights; in the case of Berger–Krall and others versus Slovenia, the Court rejected all the tenants claims and issued its judgment of 12 June 2014 finding that the rights of the tenants of denationalised dwellings were not violated. The judgment is final.

Article 31 - The right to housing

Paragraph 2 - Reduction of homelessness

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 31§2 on the ground that the measures currently in place to reduce the number of homeless persons are inadequate in quantitative terms.

Preventing homelessness

With reference to the Committee's conclusion, the Republic of Slovenia clarifies that in the reference period it increased its homeless accommodation capacities, strengthened the implementation of programmes, introduced a new programme – housing support, and increased the funding earmarked to address homelessness issues.

Table: Homeless people in Slovenia, 2010-2013

Year	Number of homeless people*	Number of shelters	Number of beds	Number of shelter programmes	Number of other programmes
2010	800	12	223	12	8
2011	1,100	14	247	14	9

2012	1,400	8	213	8	6
2013	1,600	11	252	11	5

Source: The Ministry of Labour, Family and Social Affairs.

*Note: Ministry of Labour, Family and Social Affairs estimate.

In 2013, the Ministry of Labour, Family and Social Affairs co-funded 16 programmes provided by non-governmental organisations and social work centres. These also included 11 shelter and housing support programmes that offered a total of 252 beds – 216 in shelters and 36 in two housing support programmes. In 2013, four programmes of homeless reception centres, day centres and outpatient clinics were carried out. Some shelter programmes also include homeless day centres.

In 2013, the Ministry of Labour, Family and Social Affairs allocated EUR 917,496.00 to these programmes. (In 2010, the Ministry distributed EUR 547,484.46 on these programmes) The funding primarily covers the costs of professional staff, e.g. social workers primarily engaged in work with the homeless. In 2013, total expenditure on these programmes amounted to EUR 2,072,819.00. Funds were granted not only by the Ministry of Labour, Family and Social Affairs, but also by the local communities, the Foundation for Financing Disability and Humanitarian Organisations of Slovenia and other fund providers. There were 85 persons employed in these programmes, of which 65 were in permanent employment and 20 were engaged through public works. In 2013, various services offered by reception centre and day centre programmes were used by 1991 users; 516 users used overnight accommodation in shelters.

Day and reception centres carry out street work with the homeless, provide them individual counselling and planning, information, accompaniment and advocacy services and refer them to appropriate professional services; they are also engaged in community service and community field work. These programmes also include the distribution of food and enable homeless people to maintain personal hygiene.

Shelter programmes offer accommodation, personal assistance and advocacy, counselling, individual planning, personal relationships management, active leisure time, workshops and courses, self-help groups and also provide clothing and footwear.

Within the framework of two (new) programmes of housing support, the homeless are offered comprehensive individual assistance in supported dwellings with a view to enabling an individual to live independently after having participated in an 18-month housing support programme. The following services are included: help in moving in, personal monitoring and the drafting of an individualised plan, counselling, advocacy, activation and support in the development of competencies.

In addition, two programmes for homeless drug users, which offered 31 beds, were carried out in 2013.

Year	No. of shelters for homeless drug users	Number of beds	No. of programmes providing shelters for homeless drug users
2010	2	28	2
2011	2	28	2
2012	2	31	2
2013	2	31	2

62 social work centres offer first social aid and personal counselling services that also include support for persons facing forced eviction.

In the reference period, one of the measures to alleviate the distress of vulnerable people was the EU food aid scheme. This has been carried out since 2006 by the Ministry of Agriculture and the Environment, i.e. its Agency for Agricultural Markets and Rural Development, and the Ministry of Labour, Family and Social Affairs in cooperation with two largest humanitarian organisations in this area: the Red Cross and Caritas Slovenia. Food products were received by the aforementioned organisations to be distributed to people in need at more than 300 distribution points by their volunteers.

The annual reports on the implementation of the “EU food aid scheme” of two organisations show that homeless people were an important group receiving food packages; both organisations reported that between 1,000 and 1,300 homeless people received food aid per year. The biggest group receiving food aid were people entitled to a social assistance benefit in cash.

The Republic of Slovenia informs the Committee that the Resolution on the National Social Assistance Programme 2013-2020 was adopted in 2013; as regards the network of programmes for the homeless, it defines the following objectives:

- 20 day centres offering preventive and counselling work programmes;
- 18 shelters with a capacity of 350 places;
- 150 places in housing support programmes;
- 10 programmes for the organisation and provision of assistance, support and self-help.

Forced eviction

With reference to the Committee’s question about forced evictions from shelters and crisis centres, the Republic of Slovenia notes that the Slovenian legislation does not include any explicit prohibition of forced evictions from shelters and crisis centres; according to the information from the Ministry of Labour, Family, Social Affairs and Equal Opportunities, no forced evictions actually occurred, except where individual shelter or crisis centre users perpetrated violent behaviour against others and/or intentionally destroyed the equipment. The detailed rules are determined by each institution.

The **Housing Act** contributes significantly towards the prevention of homelessness; its Article 104 lays down as follows:

“(1) A non-profit housing tenancy agreement may not be terminated if a tenant and other persons using the housing are faced with exceptional circumstances which could not have been anticipated and/or influenced by the tenant (death in the family, loss of employment, serious illness, natural disasters and similar) and which led to a failure to settle the full rent and other costs paid in addition to the rent, provided that not later than 30 days after the occurrence of the circumstances the tenant initiates a procedure for obtaining subsidised rent and the procedure for claiming assistance in the use of housing and informs the owner of the housing thereon in the aforementioned time limit.

(2) If there are justified reasons for the tenant’s failure to inform the owner of the occurrence of circumstances referred to in the preceding paragraph within the time limit referred to in the preceding paragraph, they must do so not later than within 30 days of the cessation of these reasons.

(3) The municipal authority responsible for housing matters may grant temporary extraordinary assistance in the use of housing due to the exceptional circumstances to a tenant referred to in the preceding paragraph who is not entitled to subsidised rent or who cannot settle rent and other costs paid in addition to rent despite a subsidy.

(4) Should circumstances indicate long-term inability to pay rent and other costs paid in addition to rent, a municipality may move a tenant to other suitable non-profit dwelling in view of the changed circumstances or to another non-profit dwelling that may be smaller in size than a suitable dwelling, or to a residential building intended for temporary solution of the housing needs of persons at social risk.”

With reference to the Committee's question about the suitability of shelters and crisis centres, the Republic of Slovenia relies on the reply referring to the first paragraph of this Article provided above.

Article 31 - The right to housing

Paragraph 3 - Affordable housing

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 31§3 of the Charter on the grounds that:

- nationals of other Parties to the Charter and to the 1961 Charter lawfully residing or working regularly in Slovenia are not entitled to equal treatment regarding eligibility for non-profit housing;*
- the supply of non-profit housing is inadequate and the remedies in case of excessive length of waiting period are not effective;*
- the specific situation of tenants living in resituated denationalised flats is not sufficiently taken into account, thus hindering their effective access to affordable housing.*

The Republic of Slovenia relies on the reply provided to the first paragraph of this Article.

Non-profit housing

With reference to the Committee's question about the average waiting period for obtaining non-profit dwelling, the Republic of Slovenia provides the data for a number of urban municipalities and municipalities of urban importance. The processed data show that the waiting period is one to five years; given the trends to date, this waiting period is tolerable. The waiting period is slightly longer in the Municipality of Ljubljana – up to seven years. Ljubljana has by far the largest number of applicants, which can be attributed to extensive migration to the city because of better employment opportunities.

Table: Data for urban and some other larger municipalities

NO.	URBAN OR LARGER MUNICIPALITY	No. of applicants qualified for non-profit housing	Qualified applicants NOT required to pay their own participation	Qualified applicants REQUIRED to pay their own participation	Number of dwellings PROVIDED under the last call for applications	Average waiting period in years	Paid rent amount in %
1	AJDOVŠČINA	33	32	1	11	5	4,68
2	GORNJA RADGONA	15	14	1	5	1	1,92 - 4,68
3	CELJE	429	398	31	55	5,5	4,68
4	ČRNOMELJ	17	17	0	14	1,5	3,81
5	IZOLA	304	252	52	56	4,5	4,68
6	JESENICE	149	138	11	81	1,5	4,46
7	KOČEVJE	82	75	6	8	4,5	4,25
8	KOPER	443	380	63	149	3,5	4,68
9	KRANJ	253	240	14	15	5	4,68
10	LAŠKO	51	45	6	17	3	4,68
11	LJUBLJANA	3348	2839	509	456	7	4,68
12	LJUTOMER	19	19	0	8	1	4,44
13	MARIBOR	497	473	24	81	3	0
14	MURSKA SOBOTA	26			17	1	2,60-4,35
15	NOVA GORICA	144	119	17	45	5	4,68
16	PTUJ	63	63	0	34	2,5	4,68
17	RAVNE NA KOROŠKEM	55	55	0	16	1,5	4,68
18	ROGAŠKA SLATINA	37	37	0	5	2	3,81-4,25
19	SEVNICA	18	18	0	9	1,5	3,95
20	SLOVENJ GRADEC	77	74	3	20	2	3,93-4,68
21	SLOVENSKA BISTRICA	82	82	0	25	2	3,81
22	ŠKOFJA LOKA	67	67	0	55	1,5	4,68
23	TRBOVLJE	65	55	10	8	2	2,54-4,68
24	VELENJE	296	268	28	132	2	3,21-4,68
25	ŽALEC	92	82	10	32	2	2,64-4,68
		6662	5842	786	1354		

Housing benefits

The Republic of Slovenia informs the Committee that the power to decide on subsidised rent was transferred to social work centres on 1 January 2012 when the Exercise of Rights to Public Funds Act (*Uradni list RS*, nos 62/10, 40/11, 110/11 – ZDIU12) entered into application. In contrast to previous legislation, the more precise material situation of a tenant and relevant persons (partners, children and other persons listed in the lease contract) is determined by a single procedure, given that some other social transfers are also taken into account (the child benefit, the social assistance benefit in cash, the supplementary benefit and state scholarships). Legal conditions for obtaining subsidised rent and the income threshold have not been amended, only the method of establishing the material situation has been changed.

The Exercise of Rights to Public Funds Act also introduced a new provision laying down that tenants renting dwellings at market prices are entitled to a “non-profit part” of the subsidy (previously only the difference between the market-level and non-profit rent was subsidised; new arrangements provide that nearly the entire market rent payment can be subsidised, only 20% of non-profit rent is exempt as all tenants of non-profit housing eligible for a rent subsidy must pay it).

Follow-up to Complaint FEANTSA v. Slovenia, No. 53/2008, decision on the merits of 8 September 2009

With reference to the conclusion that no appropriate protection or solutions for the tenants in denationalised dwellings have been provided, the Republic of Slovenia notes that the tenants lodged an application against the Republic of Slovenia with the European Court of Human Rights; in the case of Berger–Krall and others versus Slovenia, the Court rejected all the tenants claims and issued judgment of 12 June 2014 finding that the rights of the tenants of denationalised dwellings were not violated. This judgment is final.