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## **EUROPEAN SOCIAL CHARTER**

Comments submitted by  
the Human Rights Ombudsman of the Republic Slovenia  
concerning the 22nd National Report on the implementation  
of the European Social Charter

submitted by  
**THE GOVERNMENT OF SLOVENIA**  
Articles 7, 8, 16, 17, 19, 27, and 31  
for the period 01/01/2018 – 31/12/2021

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**CYCLE 2023**



REPUBLIC OF  
SLOVENIA



HUMAN  
RIGHTS  
OMBUDSMAN

## Comments to the 22nd National Report on the Implementation of the European Social Charter

September 2023

The Human Rights Ombudsman of the Republic Slovenia (the Ombudsman) is an independent institution, which contributes to the protection and promotion of human rights and fundamental freedoms in Slovenia. Its work is conducted through examination of complaints submitted by affected individuals, submission of its opinions and recommendations to the authorities, publicly addressing pressing human rights issues, conducting on-site inspections, human rights education and research, cooperation with civil society and other stakeholders and providing statements on legislative proposals. It is a national human rights institution accredited with Status A under the Principles relating to the Status of National Institutions (the Paris Principles).

Having examined the 22nd National Report on the Implementation of the European Social Charter, submitted by the Government of the Republic of Slovenia, the Ombudsman acknowledges the progress achieved so far in the respect for social and economic rights and would like to draw attention to some of the still unresolved issues detected through its work. This submission reflects the topics where the Ombudsman can provide input on the grounds of received complaints and concluded research and is therefore not an exhaustive list of issues concerning protection of social and economic rights in the Republic of Slovenia.

### 1. The situation and rights of the Roma community and its members

The Ombudsman would like to direct attention to its **submission to the Advisory Committee on the Framework Convention for the Protection of National Minorities from October 2021**, which detailed the Ombudsman's views and recommendations on this issue. As presented there, despite some welcome initiatives and activities by the Government and other stakeholders, in view of the Ombudsman, unfortunately, no tangible progress can be observed concerning the situation and rights of members of the Roma community in Slovenia in the period of 2018–2021.

Apart from referring to the aforementioned submission, the Ombudsman would like to provide the following comments to the 22nd National Report's sections concerning the Roma community and its members.

Referring to **section 17§1, b), ii)** of the National Report, the Ombudsman would like to point out that the Government and municipalities have so far not sufficiently implemented any “specific measures to ensure equality” (i.e. positive actions), as set out in Article 17 of the Protection Against Discrimination Act,<sup>1</sup> with the aim to improve the situation of the Roma community.

Concerning the regulation of living conditions, no such measures have been implemented so far. There are no priority criteria for access to rental apartments for families from Roma settlements. Instead, the authorities insist on the legalization of existing Roma settlements, which are ghettoised, and often without access to water, sanitation and electricity. On page 146 of the National Report, the Government states that Roma are treated equally to other eligible persons, as regards access to non-profit apartments. The Ombudsman would like to stress that this is not enough to achieve real progress and that implementation of specific measures to ensure equality (e.g. incentives, priority criteria) is necessary.

In the field of education, certain specific measures have been adopted (multi-purpose centres, Roma assistants); however, the results are unsatisfactory. The analysis "Performance of Roma students in primary schools in Slovenia in the period of 2016/17–2021/22",<sup>2</sup> produced by the Institute for Ethnic Studies,<sup>3</sup> shows that the share of Roma students from South-eastern Slovenia who successfully complete the entire primary school is a modest 11 percent on average.<sup>4</sup>

Referring to **section 31§1, d), 2) (ECSR 2015 Conclusions of non-conformity)** of the National Report, concerning the development of the Žabjak–Brezje settlement, it should be noted that in 2021, due to this project, all other projects for spatial planning of Roma settlements in the entire country were stopped for the fourth year in a row. Furthermore, the Ombudsman has expressed criticism of the authorities' approach of investing funds into the improvement of living conditions, while the more fundamental issue of legal ownership and status of real estate in the Žabjak–Brezje settlement is not being resolved.

In this context, the Ombudsman would also like to note it has been repeatedly recommending to the Government in its annual reports<sup>5</sup> and other communications to adopt a law that would provide the legal basis for the authorities to provide water, electricity and sanitation in Roma settlements. In view of the Ombudsman, this is a crucial step needed to achieve actual progress concerning their living conditions and enjoyment of other rights.

The Ombudsman would also like to comment on the section of the National Report highlighting the **activities of the Housing Fund of the Republic of Slovenia**, namely the promotion of co-financing of municipalities based on the Co-financing programme for public rental housing for the 2016–2020 period (also) for temporary housing (housing units) to resolve housing

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<sup>1</sup> Official Gazette of the Republic of Slovenia No. 33/16 with further amendments.

<sup>2</sup> Available in Slovenian at:

[https://www.gov.si/assets/ministrstva/MIZS/SRI/Uspesnost-romskih-ucencev-v-OS-v-Sloveniji-2021\\_22INV.pdf](https://www.gov.si/assets/ministrstva/MIZS/SRI/Uspesnost-romskih-ucencev-v-OS-v-Sloveniji-2021_22INV.pdf).

<sup>3</sup> Organization's webpage: <http://www.inv.si/domov.aspx?lang=eng>.

<sup>4</sup> See page 32 of the report.

<sup>5</sup> Available in Slovenian at:

<https://www.varuh-rs.si/porocila-projekti/publikacije-gradiva/letna-porocila-priporocila-dz-odzivna-porocila-vlade/>;

abbreviated English versions available at:

<https://www.varuh-rs.si/en/publications-events/publications-documents/annual-reports-test/>.

problems of members of the Roma community in environments with poor conditions. While the initiative itself is welcome, unfortunately, as reported in the sixth, seventh, eighth, ninth and tenth governmental reports on the situation of the Roma community in Slovenia,<sup>6</sup> no application or accompanying documentation received by the Housing Fund in the period of 2018–2022 explicitly stated, that housing units (apartments or housing units) are intended for the needs of members of the Roma community. It is therefore questionable whether the measure has had any effect at all.

On page 121 of the National Report, the Government notes that Since 2021 “the Government Office for National Minorities has provided **additional funding to municipalities with registered Roma settlements**” and goes on to explain the details of the distribution of these funds. Since the adoption of this measure, the Ombudsman has been critical of the fact that these additional funds are not earmarked for a particular purpose. Consequently, the municipalities are not obliged to report on their usage, nor is the Government obliged to supervise it. This raises questions of how the funds will be used and how the effects of the measure can be monitored. The explanation provided on page 31 of the tenth governmental report on the situation of the Roma community in Slovenia from September 2023<sup>7</sup> shows that the Housing Fund nevertheless decided to monitor the usage of these funds and that the Ombudsman’s concerns regarding their allocation have been justified. The report states that: “Although the municipalities are not obliged to do so, they also reported on the purposes of spending of these funds in 2022 at the request of the Housing Fund. From the comparison between the funds paid out on the basis of Article 20.a of the Financing of Municipalities Act<sup>8</sup> and the reports of the municipalities on the amount of funds allocated to various measures and activities related to the Roma community, it can be seen that the municipalities mostly received significantly more funds than they in fact allocated towards co-financing of their obligations with the permanently settled Roma community. Unfortunately, very few municipalities also reported on the funds that they would provide themselves in their budgets for the needs of regulating the situation of members of the Roma community in the municipality.”

Lastly, the Ombudsman would like to draw additional attention to the section of its submission to the Advisory Committee on the Framework Convention for the Protection of National Minorities from October 2021, concerning the **lack of collecting of disaggregated equality data in Slovenia**. In view of the Ombudsman, the absence of data on the actual situation and social circumstances of members of the Roma community is likely one of the main reasons for insufficient progress concerning their standards of living and protection of their human rights.

## 2. Schooling of Roma children during the Covid-19 pandemic

In addition to the comments under Section 1, the Ombudsman would like to present its research on the situation of Roma children during the Covid-19 pandemic, carried out in 2020.

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<sup>6</sup> Periodic reports, prepared on the grounds of the Roma Community in the Republic of Slovenia Act (Official Gazette of the Republic of Slovenia No. 33/07) and the National Programme of Measures of the Government of the Republic of Slovenia for Roma for the period of 2017–2021. Available in Slovenian at:

<https://www.gov.si/teme/romska-skupnost/>.

<sup>7</sup> Ibid.

<sup>8</sup> Official Gazette of the Republic of Slovenia No. 123/06 with further amendments.

The Ombudsman's findings, presented below, are meant to supplement the information presented by the Government under section 17§2, c) of the National Report.

Due to the epidemiological situation, the Ombudsman was unable to investigate the situation via conversations with Roma children or their parents. The Ombudsman therefore reached out to the **principals of 34 elementary schools with Roma students**. In his inquiry from April 2020 he asked them how remote learning is conducted; how instructions, tasks, etc. are sent to students or parents; whether children and parents require access to electricity, internet, computer/tablet/smartphone/printer for lessons from home; do the schools know, whether all students have the necessary resources at their disposal; what unmet requirements or other specific challenges have they observed regarding Roma children; are they aware of situations, where the parents cannot help younger children with lessons at home, because they are illiterate, although their help would be necessary; and whether the schools have ensured in any way that children who lack any of the above still have equal access to education. The Ombudsman received answers from 31 schools.

In June, the Ombudsman also addressed questions to **Roma assistants** who were available to Roma children in 33 schools as part of the Together for Knowledge project. The Ombudsman asked them what unmet requirements or other specific challenges they might see in Roma children in general; what specific problems or challenges they perceived in remote learning; in what way was it ensured that Roma children had equal access to education at that time; and what other gaps in learning have they observed.

The answers of the schools show that remote learning took place in online classrooms, with the help of the eAsistent platform and via the school's website, where students and parents received all the instructions. Students communicated with teachers via phone, e-mail, social networks (Skype, Messenger, Viber, Facebook) and online tools for video communication (Zoom). In all schools, students required access to electricity, internet and a computer or tablet. The answers show that schools usually checked whether Roma children have these resources and found that they mostly do not have the electronic devices needed to work from home via online classrooms and other online tools. Many schools told the Ombudsman that they provided computers to children with the help of the Ministry of Education, the municipality, and also donors, but at the same time pointed out, that they observed a lack of knowledge in the use of information technology. Many reported that in cases, when students did not have a computer or the internet, materials were delivered personally or sent by post. It appears that in the implementation of remote learning Roma assistants were of great help as they were actively involved in the process – helping students to understand tasks, assisting with communication with Roma parents and with copying and delivering materials to the students. In some schools, teachers adapted materials for Roma children; in view of the Ombudsman, it is worrying that some stated they had prepared materials for Roma in accordance with "minimum standards".

In all the answers received, particular problems and challenges faced by Roma children were highlighted. Principals and Roma assistants pointed out that Children do not have access to technology or do not know how to use it, living conditions make school work difficult, some children lack even basic conditions: their own desk, chair, work materials (paper, glue, crayons, pens ...), and that the motivation to learn is often low. They also pointed out that some students do not have a supportive environment at home, that their parents often do not know how to help (sometimes due to poor understanding of the Slovenian language), and that some parents

do not cooperate well with the school. Some principals also noted a lack of awareness among parents that school is important.

Based on the answers, the Ombudsman assesses that, in principle, the primary schools were paying attention to the special circumstances of Roma students and that additional effort and activities were invested in their support – through communication, printing and delivery of teaching materials and the provision of computers. On the other hand, the Ombudsman notices that not all children were effectively included in schooling during this time (the schools failed to reach them or they were educated according to lower standards). Generally speaking, the answers show that many Roma children even in normal times face lack of resources and other challenges related to schooling (and even more so during the period of remote learning) and therefore find themselves in a significantly worse situation compared to other students.

### **3. Lack of legal experts in family disputes**

The Ombudsman would like to draw attention to the long-standing problem of an insufficient number of legal experts (clinical psychologists, psychiatrists and pedopsychiatrists) participating in court procedures in Slovenia concerning family matters (such as arrangement of child custody and contact rights following a divorce). This is causing considerable delays in court procedures, which can seriously affect the wellbeing of children. The Ombudsman warns that lengthy procedures, usually carrying on for several years, can subject children to considerable psychological stress, alienation from one of the parents and risk of harm from negligence, violence or exploitation.

According to an **analysis,<sup>9</sup> carried out by the Supreme Court of the Republic of Slovenia**, between 2016 and 2019 the courts appointed an expert in approximately five percent of all cases regarding child custody and contacts, which corresponds to approximately 300 cases annually. In the following two years, this number decreased noticeably, as only 216 (2020) and 156 (2021) experts were appointed, mainly due to a severe lack of court experts, as a result of which judges additionally considered the decision to appoint an expert in each individual case. The analysis therefore concludes that the courts cannot alleviate the problem any further by reducing the number of expert appointments.

The findings of the analysis show that the lack of experts is indeed the cause of serious delays in the procedures. The biggest problem in this regard was observed at the Ljubljana District Court, where they handle the largest number of family cases. As of 2022, there were only seven experts available in the whole of Slovenia, which is why the preparation of an expert opinion in each family proceeding took approximately one year.<sup>10</sup> Court proceedings in all analysed cases lasted on average from 14 months to two years, and in the higher courts a maximum of two months. The Supreme Court additionally noted that the situation at first-instance courts significantly worsened in 2022.

In response to the Ombudsman's recommendation from its Annual Report of 2020, the Ministry of Justice stated it has been actively working on measures that would help to improve the

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<sup>9</sup> Summary available in Slovenian at:

[https://sodisce.si/sodni\\_postopki/objave/2022093012343773/zaradi-pomanjkanja-sodnih-izvedencev-v-druzinskih-sporih-prihaja-do-resnih-zastojev-v-postopkih/](https://sodisce.si/sodni_postopki/objave/2022093012343773/zaradi-pomanjkanja-sodnih-izvedencev-v-druzinskih-sporih-prihaja-do-resnih-zastojev-v-postopkih/).

<sup>10</sup> The Ombudsman notes that preparation of an opinion in some of its examined cases took even longer (up to two years and more).

situation since 2013. The Ombudsman notes that despite the fact that many measures, especially since 2017, have already been implemented, they have unfortunately not yet resulted in an increase in the number of available experts.

In view of the Ombudsman, one of the fundamental measures to increase the pool of experts is adoption and funding of new specializations for clinical psychology. The Ombudsman therefore welcomes the fact that pursuant to Article 23 of the Healthcare Intervention Measures Act,<sup>11</sup> enacted in July 2021, budget funds have been provided for additional 30 specializations in clinical psychology. However, considering that the effects of the provision will only be visible several years down the line, the authorities should also continue to seek other solutions to remedy the problem.

#### 4. Children with disabilities

The Ombudsman remarks on several issues concerning the situation of children with disabilities, which affect their rights and the rights of their families to social, legal and economic protection.

The Ombudsman has been recommending to the Government to introduce **personal assistance in families caring for children with special needs under the age of 18**. The absence of personal assistance for families caring for children with special needs results in parents more often sending children to institutional care, contrary to the right of disabled people to family life. In view of the Ombudsman, other assistance provided to families with children with special needs (such as financial assistance and additional annual leave days) is not enough to prevent institutionalisation.

On 22 February 2020, the amendment of the State Employees Act<sup>12</sup> came into force, according to which five **additional annual leave days** are now granted to workers with children who require special care and nursing in accordance with the regulations governing family income. Carers are entitled to this additional annual leave until the child's 18th birthday or until the 26th if the child is enrolled into a school. The Ombudsman welcomed this measure, but also pointed out that people with the most severe intellectual and physical disabilities, who are not placed in full-time institutional care, also require a lot of attention, nursing, and care from their parents in their adulthood. Thus, parents who care for adult children with the most severe intellectual and physical disabilities should in view of the Ombudsman also be entitled to additional days of annual leave. The Ombudsman therefore recommended in its Annual Report of 2020 that the Government looks into the possibility for prescribing additional leave days for such parents employed both by the state and in the private sector. Unfortunately, the Government disagreed with the Ombudsman's recommendation.

The Ombudsman also advocates for an amendment of the Placement of Children with Special Needs Act<sup>13</sup> in such a way that children with special needs will have the **right to a permanent companion** for assistance in attending kindergartens and schools.

The Ombudsman furthermore strives for proper regulation of the **transport of children with special needs to and from their place of education**. In some cases, the Ombudsman found

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<sup>11</sup> Official Gazette of the Republic of Slovenia No. 112/21 with further amendments.

<sup>12</sup> Official Gazette of the Republic of Slovenia No. 15/90 with further amendments.

<sup>13</sup> Official Gazette of the Republic of Slovenia No. 96/12 with further amendments.

that municipalities only reimburse transport costs rather than organizing transport as required by law.

In 2021, the Ombudsman recommended that the Government regulates the care of **persons with autism** systematically so that all of them are adequately supported as a public service. The Ombudsman also recommended that the authorities ensure that all those who care for children or adults with autism are adequately supported in their work, as this affects the fundamental human rights of children, adolescents, and adults with autism and their families. Both recommendations remain unfulfilled. In 2023, the Ombudsman estimates that, once again, nothing has happened in the past year in the area of care for people with autism. Services for them are still dispersed, and cooperation between ministries is poor, while civil society knocks on ministries' doors in vain. The Ombudsman called on the authorities to follow the principles of an inclusive society and to listen to the needs of people with autism for the establishment of day centres, appropriate non-institutional forms of supported living communities and appropriate health care, and to pay attention to other outstanding issues. The Ombudsman also called on the authorities to pay due attention to the employment of people with autism and to develop, in dialogue with employers, possibilities that include not only adapted jobs but also suitably trained mentors to help employees with autism and other support services.

For eight years, the Ombudsman has been drawing attention to the **problems of blind and partially sighted children**. However, there are still problems in the educational process regarding the systemic unavailability of adapted learning materials for them, as well as a lack of appropriate adaptations in the participation of children in various knowledge competitions. The authorities recently clarified to the Ombudsman that additional funding has been granted for new posts to prepare materials for learning materials for blind and partially sighted children.

In 2019, the Ombudsman dealt with a complaint asking why only blind children are entitled to the allowance for assistance and care under the Pension and Disability Insurance Act,<sup>14</sup> while other children with disabilities who have similar or even greater difficulties are not. The Ministry of Labour, Family, Social Affairs and Equal Opportunities replied that the aforementioned law is only one of six acts that grant an allowance to different categories of beneficiaries who require permanent assistance and care from a third party. The Ombudsman pointed out that the needs of people who fall into these different categories are comparable, as they all arise from the need for assistance from a third party to carry out basic or supporting daily tasks. Still, the criteria, conditions, and amount of assistance or allowance are regulated very differently. The Ombudsman has considered the above issue in the context of Article 14 of the Constitution of the Republic of Slovenia, which obliges the legislator to regulate situations that are similar in a similar way. Taking into account the fact that no comparable right is provided for children with disabilities who are not blind but who also require the assistance of a third person to perform basic or supporting daily tasks, the Ombudsman found a violation of the principle of equality in connection with Article 52(1) of the Constitution (Rights of persons with disabilities). In 2020, the Ombudsman recommended to the relevant ministries that children with disabilities who are not blind but who also require assistance in performing basic or supporting daily tasks should be assisted by a third party. This recommendation was not implemented.

The Ombudsman has also persistently, over many years, raised concerns over the **general shortage of experts in clinical psychology of children and adolescents, psychiatry and**

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<sup>14</sup> Official Gazette of the Republic of Slovenia No. 58/11 with further amendments.



**child psychiatry in Slovenia.** Currently, children with mental health issues usually have to wait for several month and up to one year or longer for a first appointment to a specialist, even in cases that are deemed urgent. In 2022, the Ombudsman recommended that the Ministry of Health and the Ministry of Labour, Family, Social Affairs and Equal Opportunities ensure prompt and quality health care for children and adolescents with mental health problems.

Urgent systemic action is also needed in **institutional care for children with severe mental health disorders.** Primarily, the Ombudsman persistently calls for deinstitutionalization. The Ombudsman also notices that children and adolescents with these problems are routinely placed into wards of special social care institutions intended for adults, which are not adapted to children in terms of space, staffing, or services and programmes.

In 2021, the Ombudsman recommended that the Ministry of Labour, Family, Social Affairs and Equal Opportunities develops systemic measures to ensure that children with special needs and disabilities are appropriately treated and integrated into society. The Ministry replied that it is strongly committed to reforming services for children with special needs and agrees with the Ombudsman that systemic measures should be taken comprehensively and in cooperation with the other ministries to enable a more efficient provision of services in the public network. The Ministry also reported that a National Implementation Plan in the field of social protection for 2022–2025 is under preparation, based on the Resolution on the national social assistance programme 2022–2030,<sup>15</sup> adopted in March 2022, which will identify key actions to achieve the objectives of the Resolution by defining indicators and financial resources. The Ombudsman repeated his recommendation in 2022, as many measures have been planned but not yet implemented.

## 5. Lack of access to long-term resident status

The Ombudsman finds that the **Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents is not fully implemented into Slovenian legal order.** Pursuant to the directive, EU member states grant long-term resident status to third-country nationals who have legally and continuously resided on their territory for five years. According to its provisions, citizens of a third country who are granted a long-term resident status by a member state obtain the right to reside in other member states and exercise their economic and social rights, including access to employment and self-employment, education and social welfare.

The Slovenian Foreigners Act<sup>16</sup> regulates the acquisition of a long-term resident status for various groups of foreigners in Articles 52 and 53. However, **the law lacks such provisions for foreigners who reside in Slovenia with a permanent residence permit issued on the grounds of family ties with a Slovenian citizen or an EU citizen** (Article 130). The Ombudsman notes that the EU directive does not provide grounds for such an exception.

The Ombudsman encountered two specific cases, one from 2017 and one from 2021, in which the complainants were directly affected by this deficiency of the Slovenian legislation. In the latter case, the complainant, who had resided in Slovenia for longer than five years and should had been able to acquire the long-term resident status, was rejected by the competent

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<sup>15</sup> Official Gazette of the Republic of Slovenia No. 49/22.

<sup>16</sup> Official Gazette of the Republic of Slovenia No. 50/11 with further amendments.

authorities of the Kingdom of Sweden, when he tried to gain access to their labour market, on the grounds that the Slovenian residence permit, which he submitted (and which did not have the marking "long-term resident"), does not allow employment in Sweden.

Through examination of the cases, the Ombudsman became familiar with the written guidelines of the Ministry of Internal Affairs no. 214-341/2017/2 of 29 September 2017, which the Ministry forwarded to all administrative units. The guidelines contained a clear position of the Ministry that a foreigner with a permanent residence permit on the grounds of Article 130 of the Foreigners Act cannot acquire the long-term resident status. The guidelines also clearly show that these were not rare cases, stating that the administrative units were often approached by foreigners who have a permanent residence permit as family members of a Slovenian citizen or an EU citizen and who want to obtain a long-term resident status.

When confronting the Ministry with the issue in 2021, the Ombudsman received a positive response, in which the Ministry agreed with the Ombudsman's position and announced that they would provide an appropriate legal basis for granting long-term resident statuses to foreigners residing under Article 130 in the framework of the next amendments to the Foreigners Act. Nevertheless, such provisions were regrettably not included in the amendments to the Foreigners Act that followed in April 2023, and the issue therefore remains unresolved.

## 6. Rights of unaccompanied children

Slovenian legislation (International Protection Act<sup>17</sup> and Foreigners Act) contains a number of provisions regulating the special protection of asylum seekers and other migrants who are unaccompanied children. The Ombudsman, however, notes with concern that their rights, including the principle of the best interests of the child, are often not respected in practice.

Firstly, despite the long-standing advocacy of the Ombudsman and other human rights advocates, a system of **adequate accommodation of unaccompanied children** has not yet been established in Slovenia. During the procedures under the International Protection Act, unaccompanied children are accommodated either in the asylum reception centre in Logatec or in the premises of the student dormitory in Postojna. However, in the opinion of the Ombudsman, neither of them meets the requirements for the special care that needs to be provided to unaccompanied children, including protection against exploitation and trafficking. Even more concerning is the fact that during procedures under the Foreigners Act unaccompanied children are commonly detained in the Centre for Foreigners in Postojna. During 2021, altogether 387 children were detained in this closed facility, namely 238 unaccompanied and 149 accompanied children.

The Ombudsman further notes that the authorities do not carry out **age assessment procedures** from Article 82 of the Foreigners Act and Article 17 of the International Protection Act, which can be problematic from the viewpoint of children's rights. The concern is that this may in practice lead to situations where the authorities assess an individual's age informally, bypassing the prescribed procedures. Another danger is that, without adequate assessment, adults may be accommodated together with children, putting the latter at risk.

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<sup>17</sup> Official Gazette of the Republic of Slovenia No. 22/16 with further amendments.

In 2020, the Ombudsman recommended that the Police and the Association of Centres for Social Work prepare a revised version of the **Protocol on mutual cooperation in the treatment of unaccompanied children**, which was adopted in 2012. This is a document that outlines the procedure for the treatment of unaccompanied children upon arrest by the police for illegally crossing the border. To date, the document has not been revised. The Ombudsman advocates that the obligations, responsibilities and cooperation between the various stakeholders be defined even more clearly in the new text. Among other improvements, it should be defined when an individual who appears in a procedure with the police is considered to be an unaccompanied child, as they usually do not possess personal documents and it is sometimes not clear whether the person accompanying them is their rightful legal guardian.

In the period of 2018–2021, the Ombudsman detected **numerous violations of the rights of unaccompanied children in police procedures at the border**, as also documented in reports of many international institutions and organizations (see e.g. The Black Book of Pushbacks, Border Violence Monitoring Network, December 2020).<sup>18</sup> Violations included lack of individual treatment, disregard of the rules on special treatment of children, violation of their right to asylum, violation of the prohibition of collective expulsion and the principle of non-refoulement, and improper implementation of detention.

The Ombudsman also notes shortcomings in ensuring the **right of child refugees to be reunited with their families**. Firstly, the fact that international protection procedures are very lengthy (taking several months, even years) contributes to delayed family reunification. Secondly, in the case of children who were granted subsidiary protection and file a legal remedy because they believe that they are entitled to a (more favourable) refugee status, it is considered by the authorities that they cannot be reunited with their family until a final decision on the status has been made. This can also discourage the use of a legal remedy that could secure them a more favourable status.

## **7. Lengthy procedures for acquisition of residence permits in front of administrative units**

This issue negatively affects foreigners already living in or attempting to immigrate to Slovenia, including migrants trying to obtain residence permits on the grounds of work and those trying to obtain residence permits for their family members on the grounds of family ties.

In 2022, the Ombudsman received 39 complaints related to lengthy procedures for foreigners in front of administrative units, 29 of which related to procedures in front of the Administrative Unit of Ljubljana, seven in front of the Administrative Unit of Maribor and one each in front of the Administrative Unit of Ptuj, Administrative Unit of Koper and the Administrative Unit of Velenje. Upon reviewing the complaints, the Ombudsman found most of them to be justified.

In many of the cases, the administrative unit asked the client to supplement an incomplete application only several months after its receipt. This is despite the fact that pursuant to Article 67 of the General Administrative Procedure Act,<sup>19</sup> the administrative unit has to react in this way within five working days of the receipt of the application. Furthermore, in accordance with

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<sup>18</sup> Available at:

<https://left.eu/issues/publications/black-book-of-pushbacks-volumes-i-ii/>.

<sup>19</sup> Official Gazette of the Republic of Slovenia No. 80/99 with further amendments.

Article 222 of the General Administrative Procedure Act, the administrative unit has to decide on the foreigner's application within two months from the receipt of the application (or its supplementation). This deadline was also commonly exceeded in the examined cases, with procedures oftentimes taking over a year to complete and in some cases even considerably longer.

In response to the Ombudsman's communications in the examined cases, the administrative units most often referred to **systemic reasons for the delays**: a large number of applications and insufficient human resources (number of employees and their work experience). Considering that this problem persists for many years, the Ombudsman routinely communicates to the administrative units that such systemic reasons may justify delays in the short run, however they can no longer be referred to after a reasonable period required for an organizational and/or staffing adaptation of the authority has passed.

In 2022, the Ombudsman managed to obtain some clarifications from the Ministry of Public Administration in relation to the issue. The Ministry explained that the problem exists especially in those administrative units that operate in regional, urban, economic and university centres. In 2021, the Ministry together with some other relevant ministries and the Government, started to increase the number of staff of administrative units, however they are faced with problems in acquiring suitable personnel. Every new employee must be properly trained for independent work, which is a longer process in the field of administrative affairs for foreigners due to the complexity of the applicable law. According to the Ministry, these personnel reinforcements, when fully implemented, will help to resolve administrative matters more quickly and prevent or reduce delays. The Ministry also explained that the cause for delays is not only the increased volume of administrative matters, but also absence of civil servants in past periods due to the Covid-19 pandemic and an increased workload due to the arrival of Ukrainian refugees and scheduled renewal of identity documents, which took place during the last year. The Ministry is also providing additional financial, technical and educational assistance to help alleviate the backlogs.

Despite the Ministry's explanation, the Ombudsman is concerned, that current measures may not be enough to make a substantial improvement regarding the described issue.