



Ref: CommHR/EB/sf 020-2011

Mr Borut PAHOR

Prime Minister of the Republic of Slovenia

Strasbourg, 10 May 2011

Dear Prime Minister,

I would like to express my gratitude to the Slovenian government for the invitation to the celebration of the International Day of Roma on 8 April 2011 in the Roma settlement Kamenci, in northeast Slovenia. On this occasion I had the pleasure of participating, together with the Slovenian Human Rights Ombudsman Ms Zdenka Čebašek-Travnik, in the inauguration of a cultural and information centre in this settlement which was opened with the support of the Council of Europe.

The purpose of this letter is to follow up on the useful dialogue that I had with the Slovenian government during my visit on 7-8 April on the protection of the human rights of Roma and the situation of 'erased' persons.

Regarding the protection of the human rights of Roma, I welcome the positive measures aimed at improving their access to housing, education and employment as outlined in the 2010-2015 National Strategy for Roma and the 2004 Strategy for Education of Roma. The adoption in 2007 of the Law on the Roma Community has promoted the inclusion of Roma in society, not least by providing for their political participation in local assemblies. The model of elected Roma councillors is an example of good practice whose positive effects I saw in Kamenci where there appears to be good co-operation between the Roma community and the local authorities. This co-operation has facilitated a harmonious relationship in this settlement between Roma and non-Roma residents.

I noted with satisfaction the progress achieved in improving Roma access to quality education, in particular through the two education projects implemented in co-operation with Roma associations. The work of Roma education assistants appears to have been very useful in facilitating the integration of Roma children in schools. The continuation of these kinds of projects is important and will hopefully continue to be supported by the government.

Another positive initiative on which I was informed is the work of the "Expert Group for Resolving the Spatial Issues of Roma Settlements". Through counselling and strategic activities it aims at improving housing conditions in Roma settlements, including through clarifying their legal right to remain on the land they occupy.

I welcome the employment programmes that your government developed and implemented in 2009 and 2010 that targeted, among other marginalised groups, unemployed Roma. I was informed that the programmes were aimed *inter alia* at developing working abilities. I think that this aspect is very important for those Roma who have low levels of formal education and as such have no prospects of finding a job. Given the high rate of unemployment among Roma, the continuation of such pro-active employment programmes is of great importance.

Notwithstanding the progress that has been made in the protection of the human rights of Roma, some serious problems remain. I have received and been concerned at reports on the housing situation of some Roma communities, in particular in the region of southeast Slovenia, referring *inter alia* to the lack of access to running water, sanitation and electricity. Lack of ownership and building permits have been listed as primary reasons by some municipalities to deny access to water to Roma settlements. Some municipalities have found a solution to this problem by resolving the ownership and building permit obstacles. Urgent measures at the local level are needed in order to resolve these problems and to enable all Roma to enjoy their right to adequate housing in non-discriminated way. Co-operation and exchanges of good practices between different municipalities ought to be encouraged. Relevant action and local authority policies should also be closely and effectively monitored by the national authorities.

Low rates of school attendance of Roma children in some parts of Slovenia remain a problem. While the implementation of the above-mentioned education projects will give tangible results in a longer perspective, immediate measures are needed to decrease the drop-out rate of Roma pupils. Pre-school education is considered by the Roma as an important step in the integration of Roma children in schools. The increased inclusion in pre-school education is therefore a good initial step towards resolving this problem.

I have noted that the issue of the composition of the Roma Community Council, as provided by the Article 10 of the Law on the Roma Community, has created a polarisation between the various Roma organisations and representatives. Whilst I understand that an agreement should be achieved within the Roma community with regard to this issue, I encourage the authorities to facilitate this process.

Regarding the issue of the 'erased' persons, I would like to express my appreciation for the determination of your Government in finding a solution for the situation of the Slovenian residents whose names were taken off the Register of Permanent Residents in 1992. While I welcome the adoption in March 2010 of the amendments to the Legal Status Act ('the amended Law') that should enable the 'erased' persons to submit requests for restoration of their permanent residence status, I am concerned that this law does not fully remedy the negative impact that the 1992 'erasure' has had on the enjoyment of human rights by the 'erased' persons. A number of those who left or had to leave Slovenia appear to be in a more difficult situation.

I am concerned by information indicating that only 120 'erased' persons have so far submitted their requests under the amended Law, and that 32 of these were rejected. The provision in the amended law that 'erased' persons absent from Slovenia for more than ten years after they had left Slovenia need to show proof that they have attempted to return to Slovenia appears to be a major obstacle. Less restrictive requirements in the amended Law should be considered in order to enable those who wish to return and live in Slovenia to do so. I was encouraged to hear about the work of the inter-governmental commission which is tasked with developing integration measures for the 'erased' persons who return to Slovenia. I encourage your government to provide all necessary support to the work of this commission.

I am also concerned by the non-existence of any reparation mechanism at national level that would provide redress for those 'erased' persons who have endured injustices. This raises an issue of incompatibility with Council of Europe human rights standards. I suggest that your government initiates discussions aimed at creating the reparation mechanisms for the 'erased' persons that would fully take into account the circumstances of each individual case.

A number of 'erased' persons became stateless. In this context, I would like to recall the Committee of Ministers' Recommendation R(99)18 on the avoidance and reduction of statelessness and highlight the need to ratify two major Council of Europe treaties, the 1997 Convention on Nationality and the 2006 Convention on the Avoidance of Statelessness in relation to State Succession.

I have noted concerns that the current administration fees may discourage some of the 'erased' persons who live abroad from applying for a permanent residence permit under the amended Law. Exemption from paying the administrative fees should therefore be considered in my opinion.

Lastly, I welcome the publication in the Slovenian language in July 2010 of the information brochure that aims to help the 'erased' persons become fully aware of the procedure that may lead to permanent residence under the amended Law. In order to enable as many 'erased' persons as possible to be adequately informed about the relevant procedures under the amended Law the brochure ought to be translated into Serbian, Croatian or Bosnian and disseminated in the region.

Enclosed please find two appendices related to the protection of the human rights of Roma and the 'erased' persons which contain detailed conclusions from my visit and recommendations to your Government in that regard.

I look forward to a continuing constructive dialogue with you and your Government.

Yours sincerely,

Thomas Hammarberg

Appendix I

The protection of the human rights of Roma in Slovenia

I. The Roma community in Slovenia

1. During the 2002 census in Slovenia 3 246 persons identified themselves as Roma and 3 834 gave Romani as their mother tongue. The actual number of Roma living in Slovenia ranges from 7 000 to 10 000.¹ Roma in Slovenia live in approximately 105 settlements, mainly in the north-eastern and south-eastern parts of the country. Roma are not recognised as a national minority in Slovenia. The Roma are recognised as a special community with special ethnic characteristics (its own language, culture and other ethnic specificities) expressly protected by Article 65 of the Constitution, the 2007 Law on the Roma community and other relevant legislation.
2. The Commissioner welcomes the adoption and entry into force in 2007 of the Law on the Roma Community in Slovenia. The Commissioner has noted that this law represents a more solid legal basis for the development of long-term programmes to improve the situation of the Roma. The Commissioner also welcomes the adoption in March 2010 by the Slovenian government of the National Strategy for Roma 2010-2015. The Strategy provides for various measures aimed at improving the outstanding problems of Roma in relation to housing, education and employment.
3. In 2002 the Slovenian government established the Office for National Minorities to monitor the implementation of legislation relating to the rights of national minorities and the Roma community. This Office does not have a unique competence in this field as other ministries, such as the Ministry for Culture, are also tasked with issues relating to the protection of national minorities. During his visit to Slovenia in April 2011 the Commissioner met the Slovenian Minister of Culture, Ms Majda Širca, who informed him of the initiatives and actions that her ministry has undertaken in order to promote and protect the human rights of Roma.

II. Participation in political life

4. Members of the Roma Community have the right, in 20 municipalities where *autochthonous*² Roma live, to vote for a Roma representative (councillor) for municipal councils. The 2007 Law on the Roma Community sets out the conditions for the participation of members of the Roma community in political life in Slovenia. Under Article 10 of this Law the Roma Community Council was established, mandated to submit proposals, opinions and initiatives to the National Assembly of Slovenia and the executive authorities on issues related to the status, interests and rights of the Roma community. The Commissioner has noted that the Roma Community Council represents a relevant factor in the decision-making process relating to the human rights of Roma in Slovenia. The 2007 Law stipulates that an opinion from the Council must be obtained prior to adopting any regulations related to the Roma community. The Commissioner encourages the authorities to share this model of political participation of Roma, with other member states of the Council of Europe as an example of good practice. He also encourages the authorities to continue supporting the work of the Roma councillors, not least by providing additional training to enable councillors to be able to carry out their tasks more effectively.
5. Roma interlocutors raised the issue of Article 10 of the Law on the Roma Community. The Commissioner was made aware of concerns that this Article represents an obstacle for the participation of different Roma groups in the decision-making process as two-thirds of the seats are

¹ European Commission, EU Languages and Language Policies, Multilingualism - Romani in Slovenia, http://ec.europa.eu/education/languages/euromosaic/doc4654_en.htm, accessed on 21 March 2011.

² A community is considered *autochthonous* when its members have resided in a specific area traditionally or historically and it is only to the communities residing in these areas that special rights can, as a rule, be granted. There are 20 *autochthonous* Roma communities in Slovenia.

reserved for one organisation, the Union of Roma of Slovenia.³ The Slovenian Minister of Education, Mr Igor Lukšič, who is also head of the Government Commission for the Protection of Roma Community, expressed the position that this issue is an internal matter for the Roma Community, and that an agreement within the Roma Community must be reached with regard to this issue.

III. Access to adequate housing

6. Whilst he commends the progress that has been made with regard to improving the housing situation of Roma in Slovenia, the Commissioner has noted that there remain problems in this field that require additional efforts to be made. Housing conditions of Roma in Slovenia still differ depending on the region where they live. The most problematic issues in this regard are related to the lack of access to public infrastructure, unresolved property issues and illegal construction, where local authorities play the major role. In certain villages, reportedly, the process of privatisation of land has led to forced evictions of Roma, without providing them with alternative accommodation.⁴
7. In April 2011 the Commissioner visited two Roma settlements in the region of Prekmurje, Kamenci and Gomilica, which are situated in two different municipalities. The Commissioner met the mayors of both municipalities to discuss the living conditions of Roma. He also met the representatives of the local Roma associations from the settlements. He noted that while there are no major differences between the houses in the two settlements, the Gomilica settlement is fenced, reportedly in order to prevent the enlargement of the settlement. The Commissioner was informed by the representatives of a local Roma association that the population of this settlement is faced with social exclusion and high poverty. Only one person out of 50 (35 of them adults) in this settlement is employed.
8. The most difficult situation is in a number of Roma settlements in the region of Dolenjska, where there is still no access to running water and electricity and where inhabitants continue to live in isolated settlements in sub-standard conditions. Lack of ownership and building permits are also listed as primary reasons for some municipalities denying access to water to Roma settlements. Other municipalities have waived these requirements and have provided access to piped water to settlements (for example in Trebinje and Krsko). Reportedly, some of the settlements which have access to piped water do not have adequate sanitation facilities, as they are not connected to the public sewage and garbage collection system.⁵
9. The Commissioner has noted that the resolution of outstanding housing problems of Roma is a priority for the National Programme of Measures for Roma covering the 2010–2015 period. The Commissioner was informed that the National Programme included a plan for the regularisation of Roma settlements.
10. Following her visit to Slovenia in 2010, the UN Independent Expert on Human Rights, Water and Sanitation reported that in 21 out of the 105 settlements where Roma people live in Slovenia there is no access to water, and many of them also have no access to sanitation. She noted that the consequences of the lack of access to water and sanitation are devastating for these communities. The UN Expert added that some municipalities, like Trebnje, have found positive solutions and significant efforts have been made to ensure that the Roma are connected to water and sanitation. However, she noted that the neighbouring municipalities failed to find similar solutions to these problems. She called on the national authorities to initiate swift and decisive action against any form of discrimination, including on ethnic grounds. The Commissioner had discussions with the Slovenian authorities about the above findings, and there is a clear understanding on their side that these problems need to be solved as a matter of priority.
11. The Commissioner has noted that the Slovenian authorities are fully aware of the fact that there is still a need to improve the housing conditions of Roma. The Commissioner was informed about the work of the Expert Group for Resolving the Spatial Issues of Roma Settlements, which was

³ This provision of the Act on the Roma Community was challenged by the Ombudsman's Office in the Constitutional Court, which confirmed that it is not unconstitutional.

⁴ Amnesty International, Parallel lives: Roma denied rights to housing and water in Slovenia, 16 March 2011, <http://www.amnesty.org/en/library/info/EUR68/005/2011/en>.

⁵ See, Amnesty International report, above cited.

established in 2006 within the Ministry of Environment and Spatial Planning. The Expert Group has been tasked with providing counselling and planning strategic activities aimed at improving housing conditions in Roma settlements.⁶ The Commissioner met Mr Jernej Zupančič, the head of the Expert group, who presented a document on good practices in relation to improving housing conditions in Roma settlements, including through clarifying their legal right to remain on the land they occupy.

IV. Access to employment

12. Only 2 per cent of Roma are employed and approximately 98 per cent are unemployed and receive social assistance from the state. Many occupy themselves in the so-called grey economy (collecting scrap, gathering wild berries, etc.). The Commissioner has noted that the conditions that need to be fulfilled in order to remain on social assistance are quite strict and include regular visits to employment offices, proof of active employment seeking, regularly sending children to school, and using child benefits for the purpose for which they have been granted. Many Roma do not manage to remain on social assistance, not being able to fulfil these conditions.⁷
13. Against this background the Commissioner welcomes the adoption in 2006 of the Active Employment Policy Programme 2007–2013, that aims at improving the employment situation of Roma.⁸
14. In September 2008 the government adopted the programme of Public Works for 2009 and 2010 which aimed at activating unemployed persons, fostering their social inclusion, preserving or developing working abilities and promoting the creation of new jobs. The target groups of the programme were long-term unemployed people, unemployed persons with disabilities and unemployed Roma. In 2009, three national programmes of public works for Roma were carried out (unemployed Roma participate in these programmes), that included 161 people. The government allocated EUR 1 015 950 for the implementation of these programmes. The Commissioner encourages the authorities to continue the implementation of these kinds of programmes in order to enable as many Roma as possible to become employed.

V. Access to quality education

15. In 2004 the Strategy for Education of Roma in the Republic of Slovenia was adopted. The Strategy provides specific and co-ordinated measures to be taken in the field of the education of Roma. The Commissioner was informed by the NGOs working in this field that significant progress has been achieved in the education system as a result of the implementation of the Strategy.
16. The Commissioner has noted that, notwithstanding the progress that has been made in relation to improving access of Roma to quality education, there remain problems in this field, in particular in the region of Dolenjska. The Commissioner was informed about a low rate of school attendance and the fact that the majority of Roma pupils do not continue on to secondary education. This results in persistently high rates of illiteracy. The Commissioner was informed that, for example, in the primary school Leskovec pri Krskem, 12 out of 23 Roma first grade pupils failed to advance to the second grade in the 2009/2010 school year. Only one pupil made it to the 9th grade, but failed to finish in the normal time.
17. The Commissioner was informed by the authorities and the NGOs active in this field about two important projects that are being implemented in co-operation with Roma associations. The first is focused on the successful integration of Roma in education and the second on improving cultural and social life in the Roma communities. The projects focus on three crucial areas to lift the difficulties facing Roma pupils: the training of Roma assistants as mediators between schools and Roma communities/families; teaching assistants to provide tutorship to Roma pupils at school; and

⁶ National Report (Slovenia) submitted for the Universal Period review, November 2009.

⁷ Republic of Slovenia, Office for National Minorities, http://www.uvn.gov.si/en/minorities/roma_community/, accessed in April 2011.

⁸ National Report (Slovenia) submitted for the Universal Period review, November 2009, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4bd16b992>.

an outreach programme to improve the enrolment of Roma children in pre-school education. The Commissioner was informed by the Roma representatives that the work of the Roma assistants has been very useful, and that this programme should be continued. In the discussion with the Roma representatives, emphasis was placed by them on the importance of pre-school education as an opportunity for Roma and non-Roma children to play and work together already in kindergartens. The Commissioner agrees that this would facilitate better socialisation of Roma children in school. The Commissioner was made aware of concerns by the Roma representative of the Kamenci settlement that separate kindergartens for Roma children should never be considered as an option. As a matter of principle Roma children should attend kindergartens together with non-Roma children as this would make their integration in schools easier. The Commissioner calls on the authorities to take these concerns into account when developing pre-school education programmes.

18. In May 2008, young Roma intellectuals and students established the Roma Academic Club (RAK) society. Its statute includes the aim of raising awareness of members of the Roma and Sinti communities of the significance of knowledge and education. During his visit to Slovenia the Commissioner met with representatives of the Roma Academic Club, and had a fruitful discussion on various issues relating to the situation of Roma in Slovenia. The Commissioner was impressed by the determination of these young, educated people to effectively contribute to improving the situation of Roma. Some of the representatives work as Roma education assistants in local schools, and in that capacity they shared their opinion that this programme has had very a positive impact on the education of Roma children.

VI. Conclusions

19. The Commissioner commends the efforts undertaken so far by the authorities of Slovenia to improve the situation of Roma, in particular in relation to access to quality education, and political representation. However, there are serious remaining problems that need to be addressed and to which adequate solutions should be found. The Commissioner urges the authorities to step up their efforts in resolving particularly the outstanding problems in housing and access to water for Roma.
20. The Commissioner welcomes the positive measures that have been taken by some local authorities in Slovenia in legalising Roma settlements and providing access to public utilities. The Commissioner encourages the local authorities that have not done it so far, to take similar positive actions in order to resolve the outstanding housing problems of Roma in their municipalities. Co-operation between local authorities and the exchange of good practices aimed at resolving these important issues is highly encouraged.
21. The Commissioner welcomes the adoption in 2004 of the Strategy for Education of Roma in the Republic of Slovenia as well as the authorities' close co-operation with civil society in the implementation of the Strategy. This co-operation resulted in the implementation of the two above-mentioned education projects that should give tangible results in the future. The Commissioner encourages the authorities to introduce immediate measures to ensure a decrease in the high drop-out rate of Roma pupils, in particular in the Dolenjska region. The increased inclusion of Roma children in pre-school education appears to be a good initial step towards resolving this problem.
22. Whilst he understands that the issue of the composition of the Roma Community Council, as provided by Article 10 of the Law on the Roma Community, calls for agreement within the Roma community, the Commissioner is concerned at the fact that this process is hampered by polarisation between the various Roma organisations and representatives. In this regard, the Commissioner encourages the authorities to facilitate this process by providing all necessary assistance, to enable different voices to be heard in the decision-making process relating to the situation of Roma.

Appendix II The 'erased' in Slovenia

I. The 'erasure' and its impact on the enjoyment of human rights by the 'erased' persons

1. On 24 February 1992 the Slovenian government erased 25 671 citizens of the former Yugoslavia from the register of permanent residents of the Republic of Slovenia. This measure was a result of the application of the 1991 Aliens Act which provided that citizens of the former Yugoslav republics who were not citizens of Slovenia could acquire Slovenian citizenship if they met three requirements: they had acquired permanent resident status in Slovenia by 23 December 1990 (the date of the plebiscite on independence); they were in fact residing in Slovenia; and they applied for citizenship within six months after the 1991 Citizenship Act entered into force. All those who failed to submit their requests for citizenship pursuant to the 1991 Alien Act within the three months' time-limit were erased from the register of permanent residents.
2. According to the official statistics of the Slovenian government on 24 January 2009, of the 25 671 erased persons, 13 426 have not settled their status in the Republic of Slovenia and their current residence is unknown.⁹
3. The 'erasure' rendered illegal the residence in Slovenia of all those 'erased' persons who did not manage to regularise their status. Though there are no reliable statistics as to how many 'erased' persons became stateless the number is likely to be high as many of the 'erased' persons were not able to acquire citizenship in other successor countries of the former Yugoslavia due to the legal requirement of permanent residence. Four of the 11 applicants in the case of *Kuric v Slovenia* before the European Court of Human Rights declared themselves as stateless persons.
4. In its 2010 judgment, ECtHR found a violation of Article 8 of the Convention (respect for private and family life) noting, *inter alia*, that in spite of several legislative and administrative endeavours, the legal situation of the majority of the 11 'erased' applicants remained unsettled. Furthermore, the Court found a violation of Article 13 of the Convention (right to an effective remedy) saying that in spite of the legislative and administrative endeavours made in order to comply with the Constitutional Court's leading decisions of 1999 and 2003, those had not yet been fully implemented. Consequently, Slovenia had failed to establish that the remedies at the applicants' disposal could be regarded as effective. The Court noted that on 8 March 2010 the amendments to the Legal Status Act were passed by the Slovenian Parliament, but had not entered into force at the time of the consideration of the judgement.
5. The Commissioner has noted that the 'erasure' has had a serious negative impact on the enjoyment of basic human rights by the 'erased' persons, including the right to respect for private and family life, and economic and social rights. Many families became divided, with some of their members in Slovenia and others in one of the other successor countries of the former Yugoslavia. Reportedly, a certain number of minors were among those 'erased'. Some of the 'erased' persons who remained in Slovenia have been pushed to the margins of social life. They have not been able to leave the country because they cannot re-enter without valid documents. Difficulties in keeping their jobs, driving licenses and obtaining retirement pensions are some of the problems that the 'erased' persons faced after the 'erasure'. The Commissioner has noted reports about various physical and mental health problems that the 'erased' persons have endured due to the lack of health insurance, but also because of the social marginalisation that they are faced with as a result of the 'erasure'.
6. Some of the 'erased' persons voluntarily left Slovenia, but some others were served with removal orders and deported from Slovenia. There are no reliable statistics as to how many 'erased' persons live in Slovenia and how many reside abroad.

⁹ *Kuric and others v Slovenia*, judgment of 13 July 2010, paragraph 65. The case is now pending before the Grand Chamber of the Court.

II. The legislative developments

7. The Commissioner has noted that several legislative attempts have been made in Slovenia since 1999 to resolve the situation of 'erased' persons, primarily focusing on restoring the permanent residence permits.
8. In 1999 the Constitutional Court of Slovenia ('the Constitutional Court') issued its first decision on the issue, finding the erasure unlawful and the pertinent provisions of the 1991 Aliens Act unconstitutional. As a consequence of this decision, in July 1999 the Parliament adopted the Act Regulating the Legal Status of Nationals of Other Successor States of the former Yugoslavia in the Republic of Slovenia (Legal Status Act). Under this Law, residence permits were granted *ex nunc* to those fulfilling the conditions. In 2002, the Citizenship Act was also amended in order to enable the acquisition of Slovenian citizenship under more favourable conditions by all aliens who had permanent residence in Slovenia on 23 December 1990 and had since lived uninterruptedly in Slovenia. The deadline for the filing of applications expired on 29 November 2003.
9. In 2003 the Constitutional Court issued its second decision on this matter. It found that the Legal Status Act was unconstitutional on various grounds, one of which was that it did not ensure that the statuses that the 'erased' persons would acquire in accordance with this law would have a retroactive effect. Secondly, it failed to regulate the acquisition of permanent residence for citizens of former Yugoslav republics who had been forcibly removed from Slovenia. This Constitutional Court decision remained unimplemented for seven years.
10. In March 2010 the Slovenian Parliament adopted amendments to the Legal Status Act ('the amended Law'), in order to fully implement the decisions of the Constitutional Court. However, on 12 March 2010 a group of 31 National Assembly deputies called for a legislative referendum. On 18 March 2010 the National Assembly considered that the referendum would have had unconstitutional consequences, and requested that the Constitutional Court decide on the matter.
11. On 10 June 2010 the Constitutional Court decided that the call for a referendum was not justified, and that if the Law were rejected at the referendum there would be unconstitutional consequences. The Commissioner has noted that the Slovenian Parliament's Speaker, Pavel Gantar, welcomed the decision of the Constitutional Court and publicly apologised to the 'erased' persons during a Slovenian Parliament session.

III. Shortcomings in the amended law and in its implementation

12. Whilst he welcomes the adoption in March 2010 and entry into force in July 2010 of the amended Law, the Commissioner has noted that there are some remaining problems in the legislation and in its implementation.
13. The Commissioner was informed that only 120 'erased' persons have so far submitted their requests under the amended Law. Of this number 32 requests were rejected. The reasons for the low number of applications appear to be related to the substantive provisions of the amended Law and certain shortcomings in its implementation. The Commissioner is particularly concerned at the provision in the amended Law according to which the 'erased' persons who have been absent from Slovenia for longer than ten years after they had left Slovenia and who are not able to prove that they have tried to return to Slovenia with the aim to live there permanently shall not be qualified to receive permanent residence. This provision is discouraging for many of the 'erased' persons who may wish to apply for the residence permit. NGOs argue that many of the requests are bound to be rejected, as the persons concerned will not be able to prove that they have tried to return to Slovenia. Reportedly, some of the 'erased' persons have tried to return, but have not been allowed to enter the country at the borders. However, they have no proof of this.
14. The Commissioner has also noted concerns that some categories of 'erased' persons have not been included in the law, such as children of the 'erased' persons who were born abroad and whose 'erased' parent/s are deceased.

15. The amended Law provides only for the restoration of permanent residence status for the 'erased' persons. No measures for re-unification of families or any other integration measures for the 'erased' have been provided by this or any other law. The Commissioner was informed by the Minister of Interior, Ms Kristina Kresal, that an inter-governmental commission established in 2010 is tasked with working on these issues. The Commissioner encourages the authorities to provide all necessary support for the work of this commission.
16. The 'erased' persons have to pay an administrative fee amounting to eighty Euros in order to initiate proceedings under the amended Law. Those who fulfil certain social status criteria can request an exemption from paying the administrative fees as in all other administrative proceedings. The Commissioner has noted concerns that generally few people succeed in being exempted. The Commissioner is concerned that the above administrative fee is very high by regional standards and may discourage the 'erased' persons who live in the countries of the former Yugoslavia from applying.
17. The Commissioner welcomes the publication in July 2010, by the Slovenian Ministry of Interior, of a brochure in the Slovenian language that contains information as to how to regulate the permanent resident status as provided by the amended Law. While he understands that many of the 'erased' speak Slovenian, the Commissioner believes that there are those who have not had an opportunity to learn it or to use it to the extent of understanding the quite legal and technical language used in the brochure. The translation of the brochure into Serbian, Croatian or Bosnian would be very useful and should be accompanied by the dissemination of relevant information on the amended law and its application to neighbouring countries where 'erased' persons now reside.
18. The amended Law does not provide for any form of reparation, including compensation, to the 'erased' persons; this issue has remained fully in the competence of the local judiciary. The Commissioner was informed that in 2010 the Supreme Court of Slovenia dismissed a compensation claim of an 'erased' person in a civil law suit due to the statute of limitations. He was made aware of concerns by NGOs active in this field that if this judgment is used as a precedent, this could mean that the 'erased' persons cannot successfully claim compensation before domestic courts.

IV. Conclusions and recommendations

19. Whilst he welcomes the adoption in March 2010 and entry into force in July 2010 of the amended Law, the Commissioner is concerned that the law does not fully remedy the negative impact that the 1992 'erasure' has had on the enjoyment of human rights by the 'erased' persons, in particular those who left or were forced to leave Slovenia. The provision in the amended Law that the 'erased' persons absent from the country for more than ten years after they had left Slovenia need to show proof that they have attempted to return to Slovenia appears to be a major obstacle. The Commissioner calls on the authorities to reconsider the relevant provision of the amended Law, in order to make less restrictive requirements so as to enable all of the 'erased' persons who wish to return to Slovenia and live there to do so.
20. The Commissioner welcomes the publication in the Slovenian language in July 2010 of the information brochure that aims to help the 'erased' persons become fully aware of the procedure that may lead to permanent residence under the amended Law. Whilst he understands that the publication of the information brochure in the Slovenian language would be sufficient for those who live in Slovenia, he is concerned that many of the 'erased' persons who live outside will not understand the language. The Commissioner calls on the authorities to translate the informative brochure into Serbian, Croatian or Bosnian and to disseminate it in the region through diplomatic networks. The network of national human rights structures in the region could also be useful in this regard.
21. The Commissioner remains concerned by the fact that a number of 'erased' persons have become stateless as a result of their 'erasure'. In this context the Commissioner recalls the Committee of Ministers' Recommendation R(99) 18 on avoidance and reduction of statelessness and highlights the need for Slovenia to ratify two major relevant Council of Europe treaties: the 1997 Convention on Nationality and the 2006 Convention on Avoidance of Statelessness in relation to State Succession.

22. The Commissioner is worried that the current high administrative fees may discourage some of the 'erased' persons living abroad from applying for permanent residence permits under the amended Law. He calls on the authorities to consider exempting the 'erased' persons from paying the administrative fees.
23. Lastly, the Commissioner notes that the amended Law does not provide for any reparation, including in the form of compensation, to the 'erased' persons. Furthermore, the cases of compensation brought before the domestic courts all appear to have resulted in negative decisions. Difficult access to justice and to effective remedies makes reparation to the 'erased' persons impossible, which raises an issue of incompatibility with Council of Europe human rights standards. The Commissioner is concerned by the non-existence of any reparation mechanism at national level that would provide redress for those 'erased' persons who have endured injustices. In this regard the Commissioner calls on the authorities to initiate discussions aimed at creating reparation mechanisms that would fully take into account the circumstances of each individual case.