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REPORT BY NILS MUIŽNIEKS

**COMMISSIONER FOR HUMAN RIGHTS
OF THE COUNCIL OF EUROPE**

**FOLLOWING HIS VISIT TO SLOVENIA
FROM 20 TO 23 MARCH 2017**

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SUMMARY

Commissioner Nils Muižnieks and his team visited Slovenia from 20 to 23 March 2017. During the visit, the Commissioner held discussions with state and local authorities, national human rights institutions, international organisations, civil society organisations and individual persons.

The present report draws upon the themes of the visit and focuses on the following major issues:

The human rights of migrants, asylum seekers and refugees

Nearly 500 000 migrants and asylum seekers passed through Slovenia in 2015 and 2016, which was a major challenge for the country. The Commissioner observed that the current numbers of persons with international protection status (458) and asylum seekers (259) who are present in Slovenia are limited and manageable. The Commissioner welcomed the readiness of Slovenia to receive 567 asylum seekers from Italy and Greece in the context of the EU emergency relocation scheme, as well as to resettle 60 asylum seekers from Syria's neighbouring countries. The Commissioner encouraged the Slovenian authorities to consider some systemic adjustments to the asylum system so that it can handle higher numbers of asylum seekers than in the past, while providing quality service, notably with regard to the length of asylum procedures.

The Commissioner regretted the adoption in January 2017 of legislative amendments to the Aliens Act which lack appropriate guarantees against *refoulement* – including chain *refoulement* – and safeguards for the rights of everyone to seek and enjoy asylum. He urged the authorities not to activate those amendments and will follow closely the decision of the Constitutional Court, which the Ombudsperson seized on the matter. The Commissioner also noted that further progress is required in the handling of unaccompanied minor migrants and asylum seekers, who are particularly vulnerable and in need of tailored support. He urged the Slovenian authorities to end the detention of unaccompanied minor migrants in an irregular situation, to ensure that fully trained and qualified staff are deployed to support unaccompanied minor asylum seekers who live in student dormitories, and to reform the legal guardianship system.

The Commissioner encouraged the Slovenian authorities to accord particular attention and political commitment to the social integration of asylum seekers and migrants. While welcoming some positive measures, including the recent creation of an Office for Migrant Care and Integration, the Commissioner noted that improvements are needed in this field. Having discussed the matter with migrants, asylum seekers and refugees at the Rog factory social centre, the Commissioner encouraged the authorities to consider pre-integration measures for asylum seekers, including language courses and earlier access to the labour market, notably for those coming from countries with high recognition rates. The authorities should improve the consultation with and involvement of refugees in designing integration programmes. The Commissioner also urged the Slovenian authorities to step up their efforts to combat hostility against migrants and asylum seekers from some parts of the population. This should be done through increased outreach at the local level, as well as leadership on the part of political figures, who have a responsibility to avoid language that fuels fear and intolerance.

Finally, the Commissioner noted that, given the current Slovenian legislation, there is a risk of statelessness for children of migrants, asylum seekers and refugees born *en route* or in Slovenia. Recalling that all children have a right to a nationality as soon as possible after birth, the Commissioner urged the Slovenian authorities to accede to the relevant international and European treaties on statelessness which the country has not yet ratified, and to amend its legislation as appropriate.

The human rights of Roma

Slovenia has a solid legislative and policy framework for promoting Roma rights. The Commissioner welcomed the recent adoption of a revised National Programme of Measures for Roma 2017-2021 and urged the authorities to reform, as a matter of priority, the 2007 Roma Community Act, which has shown shortcomings in practice. The Slovenian authorities have implemented numerous projects in the past years to strengthen Roma rights and integration, notably in the field of education. However, the Commissioner was concerned to see that long-standing problems in the area of housing, particularly in the Dolenjska region, have still not been resolved. He visited the Roma settlement of Dobruška vas in the municipality of Škocjan where some families live in insalubrious conditions, with no access to drinking water, electricity or sanitation. The Commissioner stressed that inadequate housing conditions constitute a serious impediment to the inclusion of Roma in society and the realisation of other rights. He recommended that the central authorities urgently work with local municipalities to resolve the situation of settlements with substandard living conditions, in consultation with their inhabitants. The Commissioner further encouraged the Slovenian authorities to be alert about situations of possible *de facto* segregation of Roma children in pre-schools and schools, a situation which must be remedied. He expressed concern about a reported growing phenomenon of early marriage and pregnancies among Roma and encouraged the Slovenian authorities to take measures to curb this trend, including by clearly specifying a minimum age for marriage in the legislation and implementing prevention strategies. Overall, the Commissioner noted that the collection of data on the situation of Roma is critical to better target policies, and can be done while respecting the confidentiality of personal data.

The situation of the “erased” persons

The “erasure” of nearly 26 000 persons from the official residence registry in February 1992 resulted in serious human rights violations. Without legal status, the “erased” were deprived of their economic, social, civil and political rights, and many found themselves living at the margins of society. The Commissioner welcomed the steps taken by the Slovenian authorities to implement the judgments of the European Court of Human Rights on the “erased”. However, he took note of the remaining concerns expressed by representatives of the “erased” and civil society organisations as regards the 2010 Act on the regularisation of the status of Erased persons and the compensation scheme implemented by the authorities. The Commissioner urged the Slovenian authorities to enable the regularisation of the remaining “erased” persons who wish to reintegrate into the Slovenian society, particularly the approximately 10 persons who still live in Slovenia without legal status. He also recommended that the authorities include the “erasure” in the core education curriculum.

Poverty and its impact on the enjoyment of human rights

The Commissioner also examined the situation of people living under the poverty threshold in Slovenia. While acknowledging that Slovenia’s poverty rate is within the EU average, the Commissioner noted with concern that the number of poor people in the country has grown

since the 2008 economic crisis and represents 14.5% of the population, after social assistance transfers.

The Commissioner underscored that poverty is a serious human rights problem in itself. Poverty is both a consequence and a cause of violations of human rights protected under international and national law, such as the right to work, the right to adequate food, the right to education, the right to health, to housing and the right to an adequate standard of living. The Commissioner invited the Slovenian authorities to consider the fight against poverty not only as a social policy issue but in the context of a human rights-based approach, which would also include consultation with the groups concerned on policy measures and a qualitative assessment of the outcomes of anti-poverty policies. The Commissioner noted that most of the above-mentioned rights are protected in the Slovenian constitution. He also noted that Slovenia is a well-developed welfare state with a solid policy framework on combating poverty, including for example the Resolution on the National Assistance Programme 2013-2020.

At the same time, the Commissioner learned that the groups at greatest risk of poverty are children growing up in vulnerable families, older persons – particularly older women – and the long-term unemployed and working poor. Austerity measures adopted in 2012 have had a negative impact, and the Commissioner recommended that any remaining measures be lifted as soon as the economic growth target is reached. He also recommended that the authorities take concrete steps to prevent inter-generational poverty resulting from child poverty, and to refrain from pension reforms that would result in increased poverty among older persons. Finally, the Commissioner invited the authorities to develop specific strategies to fight poverty among the long-term unemployed and the working poor.

The report contains the Commissioner's conclusions and recommendations addressed to the Slovenian authorities and is published on the Commissioner's website along with the comments by the authorities.

INTRODUCTION

1. The present report follows a visit by the Council of Europe Commissioner for Human Rights, Nils Muižnieks (the Commissioner), to Slovenia from 20 to 23 March 2017.¹ The main topics of the visit were the human rights of migrants, asylum seekers and refugees (section I), the human rights of Roma (section II) and the impact of economic deprivation and poverty on the enjoyment of human rights (section IV). The Commissioner also raised the situation of persons who had been erased from population registers in February 1992 after the independence of Slovenia in 1991, known as “the erased” (section III).
2. In the course of the visit, the Commissioner held discussions with the President of the Republic, Borut Pahor, the Prime Minister, Miro Cerar, the President of the National Assembly, Milan Brglez, the Minister of Education, Maja Makovec Brenčič, the Minister of the Environment and Spatial Planning, Irena Majcen, the Minister of

¹ The Commissioner was accompanied by Ms Bojana Urumova, Deputy to the Director of his Office, and Ms Géraldine Mattioli-Zeltner, Adviser.

Health, Milojka Kolar Celarc, the Minister of Justice, Goran Klemenčič, the Minister of Labour, Family, Social Affairs and Equal Opportunities, Anja Kopač Mrak, the State Secretary at the Ministry of Foreign Affairs, Sanja Štiglic and the State Secretary at the Ministry of Interior, Boštjan Šefic. The Commissioner also met with the Director of the Office of the Government of the Republic of Slovenia for National Minorities, Stanko Baluh, and a delegation of parliamentarians, including members of the Slovenian delegation to the Parliamentary Assembly of the Council of Europe.

3. The Commissioner met with the Ombudsperson, Vlasta Nussdorfer, and two of her deputies, as well as with the Advocate of the Principle of Equality, Miha Lobnik. He also met representatives of UNHCR and various non-governmental organisations.
4. The Commissioner visited a community centre located in the former Rog bicycle factory in Ljubljana, where migrants and asylum seekers receive various forms of assistance and support. In addition, he visited two Roma settlements in the Dolenjska region, including a pre-school in the municipality of Krško and the settlement of Dobruška vas in Škocjan, where he also met the mayor of that municipality.
5. In addition to the key themes mentioned above, several developments as regards the national human rights system were discussed during the Commissioner's visit to Slovenia. Amendments to the Human Rights Ombudsman Act are currently being prepared aimed at obtaining A status for the institution, based on full compliance with the United Nations Paris Principles relating to the Status of National Institutions (the Paris Principles). The draft amendments would, inter alia, create a human rights centre within the Ombudsman's office to increase its capacity to conduct human rights research and education.² The Commissioner finds this to be a positive development, and underlines that it is indispensable to provide the funding and staffing to accompany any additional functions, in order to preserve the independence and effectiveness of the institution. He also recommends that the Slovenian authorities reinforce their efforts to ensure the systematic implementation of the Ombudsman's recommendations.
6. The equality body in charge of monitoring and addressing discrimination in both the public and private sector, called the Advocate of the Principle of Equality, has been strengthened following the adoption of amendments to the Protection Against Discrimination Act in 2016. Whereas the past weakness and ineffectiveness of that institution had been widely criticised, leading to the opening of infringement proceedings against Slovenia by the European Commission, the Advocate is now appointed by the National Assembly and institutionally independent, and staff has been increased from one position to four.
7. The Advocate of the Principle of Equality has a budget of 200,000 euros for 2017 and has recruited two full-time staff members and one consultant. However, the Advocate, Miha Lobnik, indicated to the Commissioner that those resources were not adequate given the mandate of the institution, which includes conducting independent research on discrimination in Slovenia, publishing independent reports, making recommendations to public and private sector institutions, providing individual legal counselling and legal representation to victims of discrimination, carrying out

² This approach follows the model of the Finnish national human rights institution, which the Commissioner documented in his country visit report on Finland in 2012, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806db6d1>.

inspections, conducting awareness raising campaigns on discrimination and measures to prevent it, and engaging in international cooperation with human rights monitoring mechanisms and other equality bodies.³ The Advocate stressed that the allocated resources are also not sufficient to rent his own office space – as a result, he currently uses premises located inside the building of the Ministry of Labour, Social Affairs, Family and Equal Opportunities - or to handle administrative support.

8. Referring to the opinion published by his predecessor on national structures for promoting equality, which offers guidance on the establishment of truly independent and effective equality bodies, the Commissioner encouraged the Slovenian authorities to provide the Advocate with additional resources so that he can carry out his mandate effectively. He also encouraged the Advocate to rapidly outline his priorities and work plan, as well as to raise public awareness about his mandate. The Commissioner also stressed the importance of effective coordination and cooperation between the Ombudsman and the Advocate of the Principle of Equality.
9. The Commissioner was informed that the Ministry of Justice had created a new directorate for criminal law and human rights, in charge of monitoring the human rights situation inside Slovenia (the Ministry of Foreign Affairs remains in charge of human rights in the framework of foreign policy). He welcomed the establishment of a task force in the Ministry of Justice to coordinate the execution of judgments by the European Court of Human Rights (ECtHR) relating to Slovenia, and noted that the Slovenian authorities have expressed their commitment to execute ECtHR judgments, including those that have entailed costly compensation schemes, such as the *Kurić vs Slovenia* case on the “erased” and the *Ališič vs Slovenia* case on repayment of foreign-currency savings deposited before the dissolution of the Socialist Federal Republic of Yugoslavia.
10. The Commissioner wishes to sincerely thank the Slovenian authorities in Strasbourg and Ljubljana for their assistance in organising the visit and facilitating its independent and smooth execution. He is grateful to all his interlocutors for sharing their knowledge and insights with him.

1 THE HUMAN RIGHTS OF MIGRANTS, ASYLUM SEEKERS AND REFUGEES

11. Slovenia is a country with a population of 2,000,000, about 5% of which are foreign nationals.⁴ The country has some experience dealing with migrants and refugees, as it hosted close to 70,000 refugees fleeing armed conflict in other parts of the former Yugoslavia in the 1990s, a majority of whom came from Bosnia and Herzegovina. Slovenia is a state party to the 1951 [Convention](#) Relating to the Status of Refugees and its 1967 Protocol. The Aliens [Act](#) and the International Protection [Act](#) are the legal

³ See article 21 of the Protection against Discrimination Act 2016.

⁴ “Common Core Document forming part of the reports of States Parties”, United Nations International Human Rights Instruments”, HRI/CORE/SVN/2014, published 27 January 2015, (accessed at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=HRI%2FCORE%2FSVN%2F2014&Lang=en).

instruments that regulate the legislative and procedural framework relating to migrants and asylum seekers.

12. Slovenia lies on the Balkan route, which is one of the routes used in recent years by migrants from other continents seeking to come to Europe. Between October 2015 and March 2016, close to 500,000 migrants and asylum seekers transited through its territory on their way to Italy, Austria and elsewhere in north-western Europe. To deal with that situation, which stretched Slovenia's migration and asylum capacities to a limit, the Slovenian authorities were obliged to set up emergency accommodation centres. The Commissioner took note that the 2015/2016 situation was experienced as a major crisis, with ramifications for the approach of the authorities towards migration.
13. The Commissioner notes that the increased numbers of arrivals of migrants and asylum seekers in 2015/2016 were all the more difficult to handle since Slovenia's asylum system was accustomed to dealing with rather low numbers of migrants in previous years. Slovenia also received low numbers of asylum claims; whereas there had been an average of only 35 asylum applications per year between 1994 and 1997, the average number of applications for international protection per year between 2010 and 2014 amounted to 300.⁵
14. In 2015, most asylum seekers reaching Slovenia used the "humanitarian corridor" provided to continue their journey towards northern European countries, and 277 people applied for asylum in the country itself. In his meeting with the Ministry of Interior, the Commissioner was informed that 1308 asylum seekers applied for protection in Slovenia in 2016. However, the Slovenian authorities indicated that the majority of those asylum seekers absconded before the conclusion of their asylum procedures. As of 8 May 2017, according to information provided by the Ministry of Interior, there were 259 asylum seekers in Slovenia and 458 people with international protection status, of which 374 were persons with refugee status under the UN Refugee Convention, 59 with subsidiary protection status and 25 benefiting from asylum for humanitarian reasons.
15. The Commissioner welcomes Slovenia's willingness to take part in the EU relocation programme and to accept the relocation of 567 persons from Italy and Greece.⁶ He also notes with satisfaction Slovenia's decision to resettle 60 refugees from third countries, including 40 Syrians from Turkey.⁷ According to information provided by the Ministry of Interior, as of 30 April 2017, 166 asylum seekers had arrived in Slovenia under the relocation programme, 122 of whom had been granted refugee status, 7 subsidiary status, 5 had been rejected, one returned voluntarily to his country of origin, and in one case, a decision to discontinue the procedure was issued after the applicant abandoned the Asylum Centre. In this regard, the Commissioner would like to recall the [communiqué](#) of the European Commission of 16 May 2017 in which it calls on EU member states to "significantly accelerate their relocation efforts in a spirit of mutual cooperation and trust". He stresses that providing for legal routes and

⁵ See Migration and Integration Directorate Statistical Reports, (accessed at http://www.mnz.gov.si/en/services/slovenia_your_new_country/).

⁶ "The government approves the plan to relocate 567 persons from Italy and Greece", Slovenian government press release, 10 March 2016, (accessed at http://www.vlada.si/en/helping_refugees/).

⁷ "Quota based acceptance of 40 Syrian citizens coming from Turkey", Slovenian government press release, 4 August 2016, accessed at http://www.vlada.si/en/media_room/government_press_releases/press_release/article/quota_based_acceptance_of_40_syrian_citizens_coming_from_turkey_58491/).

sharing responsibility among European states are critical aspects of dealing with migration in a manner compliant with human rights norms.

16. The Commissioner was concerned to learn about increasing delays in the decision-making process on asylum claims. The Ministry of Interior has indicated that asylum procedures lasted on average 148 days in first instance and a total of 171 days for a final decision in 2015 and 75 days in first instance and a total of 95 days until a final decision in 2016. However, according to representatives of NGOs and international organisations who met with the Commissioner, only 80 of the nearly 300 asylum seekers in Slovenia had received an asylum decision in the first instance within 6 months, as mandated in principle by EU asylum law.⁸ These delays create distress and anxiety for asylum seekers waiting for their decisions and lead many to leave Slovenia before the end of the procedure, with another consequence being that places for accommodating asylum seekers are occupied for longer than necessary, which has cost implications for the state.
17. The Ombudsman's office is currently conducting an assessment of the quality of the asylum process and of decisions on asylum claims. Indeed, according to representatives of NGOs, the issue is not only one of capacity but also one of quality of service, which may reflect a recent trend of making the country less attractive to asylum seekers and explain the high rates of absconding.

1.1 RESTRICTING ACCESS TO ASYLUM THROUGH LEGISLATIVE AMENDMENTS

18. At the beginning of 2017, the Slovenian authorities introduced changes to the legislative framework which restrict access to asylum, apparently as a reaction to the major increase in arrivals of migrants and asylum seekers in 2015/2016, since representatives of the Slovenian government have argued that international law is not "adapted" to the current migration situation. In January 2017, the Commissioner [regretted](#) the adoption of the relevant amendments to the Aliens Act by the Slovenian National Assembly, and discussed the matter further with the authorities during his visit.
19. Certain of the amendments to the Aliens Act create a set of measures that can be activated in exceptional circumstances by a simple majority vote in parliament for a renewable period of 6 months.⁹ When those measures are activated, the police shall deny entry to or return migrants to the country where they came from, unless they expressly mention their intention to apply for asylum in Slovenia. Even if they do so, the police register their identity but shall deny them the possibility to apply for asylum, unless they belong to certain vulnerable categories, i.e. the sick and their relatives, and unaccompanied minors. People whose expressed intention to apply for asylum is denied can appeal against the decision, but that appeal has no suspensive effect and the asylum seekers will be expelled from Slovenian territory.
20. As discussed with the authorities, the Commissioner considers that these amendments violate Slovenia's international legal obligations, including those under the 1951

⁸ EU Directive 2013/32/EU of the European Parliament and of the European Council on common procedures for the granting and withdrawing of international protection, 26 June 2013, (accessed at <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013L0032>).

⁹ "Zakon o spremembi in dopolnitvah Zakona o tujcih" (Law amending and supplementing the Aliens Act), art. 10(a) and 10(b), 26 January 2017, (accessed at <http://imss.dz-rs.si/imis/bf6e5f7b409e6c468944.pdf>).

Refugee Convention, EU legislation on returns, and the ECHR, notably because of the lack of individualised asylum procedure and the risk of onwards *refoulement* from Slovenia's neighbouring countries. NGO representatives also expressed concern that the conditions for activation of those amendments were not sufficiently clear in the law. They cautioned that the government could resort to this exceptional procedure as soon as the maximum accommodation capacity for asylum seekers in Slovenia is reached.

21. The Commissioner [welcomed](#) the initiative of the Ombudsman on 25 April to challenge the constitutionality of the amendments to the Aliens Act. The Ombudsman informed the Commissioner that issues to be reviewed included a violation of the *non-refoulement* principle, the lack of clarity of the new legislation, and the lack of access to an effective remedy, all of which are enshrined in the Slovenian Constitution.

1.2 UNACCOMPANIED MIGRANT CHILDREN

22. According to information provided by UNHCR, there were 37 unaccompanied migrant children in Slovenia as of March 2017. The Commissioner was pleased to receive information about several recent initiatives to improve the care of unaccompanied migrant children in Slovenia. For example, amendments were passed to the International Protection Act in 2016 that provide better guidance on how to interpret and implement the UN [Convention](#) on the Rights of the Child principle of “best interests of the child” in the context of asylum procedures.
23. Further, representatives of NGOs and the Ombudsman informed the Commissioner of a one-year pilot project launched in the summer of 2016 to ensure that unaccompanied migrant children who are asylum seekers can be accommodated separately from adults seeking asylum, in contrast with previous practice.¹⁰ As from July 2016, unaccompanied migrant children seeking asylum in Slovenia are being accommodated in two student dormitories, in Nova Gorica and Postojna.
24. While welcoming those improvements, the Commissioner noted that a number of serious concerns remain with regard to unaccompanied migrant children in Slovenia. According to the Ombudsman and representatives of NGOs, unaccompanied migrant children who find themselves in an irregular situation (in contrast to those seeking asylum) continue to be detained at the country's Aliens detention centre in Postojna. Unaccompanied minor asylum seekers are reportedly also detained routinely for 2-3 days before being sent to the above-mentioned dormitories. While the accommodation of unaccompanied minor asylum seekers at student dormitories, separated from adults, is a step in the right direction, the Commissioner was concerned to learn that the personnel deployed to support them lacked training and expertise in dealing with vulnerable - and possibly traumatised - children.
25. The Commissioner also received information about the need to improve the legal guardianship system for unaccompanied migrant children in Slovenia. At present, legal guardianship is regulated under two laws, the International Protection Act and the Marriage and Family Relations [Act](#). Representatives of NGOs and the Ombudsman informed the Commissioner that the framework for guardianship depends on the status of the unaccompanied child (irregular migrant, asylum seeker, refugee,

¹⁰ Report of the Ombudsman of the Republic of Slovenia on the Implementation of Duties and Powers on the National Preventive Mechanism in 2014, para. 131-133, Ljubljana, May 2015, (accessed at http://www.varuh-rs.si/fileadmin/user_upload/pdf/DPM/Porocila/Porocilo_DPM_-_Varuh_-2014_-_dvostranska_postavitev.pdf).

etc.), and that a child can change legal guardianship up to four times. Often, there is no effective communication between the successive guardians, which hampers development of trust between the children and their guardians. In addition, the Commissioner understands that the training for legal guardians, which only lasts for one day with refreshers every five years, is insufficient for them to effectively look after children who most probably face complicated problems, choices and administrative processes.

26. Representatives of NGOs informed the Commissioner that delays in the processing of asylum applications have particularly affected unaccompanied migrant children. Asylum decisions have sometimes been rendered after a child reaches majority, with consequences for their right to family reunification with their parents. The Commissioner would welcome additional information from the authorities on efforts to prioritise applications by unaccompanied migrant children, in accordance with the principle of the best interest of the child.

1.3 INTEGRATION OF ASYLUM SEEKERS, REFUGEES AND BENEFICIARIES OF SUBSIDIARY PROTECTION

27. The Commissioner notes that, in 2015, Slovenia ranked 27th out of 38 host countries analysed (which includes all of the EU 28) on the Migrant Integration Policy Index ([MIPEX](#)). During his visit, the Commissioner asked his interlocutors about strategies and plans to improve the successful social integration of refugees and beneficiaries of subsidiary protection into Slovenian society.
28. While Slovenia had some experience with integrating refugees from other former Yugoslav Republics in the 1990s, there are new challenges relating to integration of persons arriving in the more recent period, notably with regard to language and cultural differences. According to figures provided by the Ministry of Interior, the main nationalities among those who obtained refugee status or subsidiary protection over the past three years in Slovenia were: Syrian, Iraqi, Iranian, Afghan, Eritrean and Somali.
29. The Commissioner noted that Slovenia has started implementing a number of integration measures and has the “intention of developing a comprehensive and effective integration policy based on intercultural dialogue”, as it [reported](#) to the UN Human Rights Committee in 2014. Slovenia obtained a [grant](#) under the European Commission Asylum, Migration and Integration Fund (AMIF) (2014-2020) to finance integration projects.
30. According to information provided by the Ministry of Interior, under article 90 of the International Protection Act, persons who have been granted international protection enjoy the same rights as Slovenian citizens, notably the right to financial compensation for private accommodation, health care, social assistance, education, and employment and work. In addition, the Act specifies that such persons are entitled to assistance in integrating into society. In this regard, the Commissioner noted with interest that the fairly low number of refugees in the country allows for a personalised integration plan for each person who obtains international protection, as well as follow-up on that plan for three years.
31. The Commissioner further noted that the integration of children of asylum seekers and refugees into the education system appears to be proceeding smoothly. The process

starts with a short preparatory phase, during which children receive a basic introduction to the Slovenian language, followed by an introductory phase, during which children are integrated directly into regular classes and receive additional support. Training on the integration of migrant children is provided to teachers. Persons who obtain international protection are entitled to 300 hours of free Slovenian language courses, although representatives of NGOs and international organisations noted that this is not always sufficient and a more individualised approach may be desirable.

32. The Commissioner was interested to learn about the Council for Integration set up by the Slovenian authorities in 2012. According to information provided by the Ministry of Interior, the Council includes representatives from Ministries (Culture; Education, Science and Sport; Labour, Family, Social Affairs and Equal Opportunities; Interior), the Slovenian Institute for Adult Education, NGOs, cities, and migrants from various regions. The mandate of the Council includes giving opinions and recommendations on national programmes for the integration of migrants and monitoring the implementation of integration measures. The Commissioner also welcomed the recent establishment (2 March 2017) of the Government Office for Care and Integration of Migrants. According to information provided by the Ministry of Interior, the Office will have a staff of 34, a budget of some 4.3 million euros and start operating in June 2017. Its mandate will include the management of accommodation and care facilities as well as all aspects of migrants' integration into Slovenian society.
33. Notwithstanding these positive measures, the Commissioner's attention was drawn to a number of aspects that would still require improvement. During the visit, the Commissioner had the opportunity to hear from asylum seekers and refugees at the Rog social centre in Ljubljana. One concern related to the lack of pre-integration measures for asylum seekers, who are neither entitled to language classes nor to work in the first 9 months after filing their asylum applications. That was perceived as a significant shortcoming, notably having regard to asylum seekers coming from countries with high recognition rates.
34. The largest accommodation centre for asylum seekers in Slovenia is located in Logatec, a town with a population of approximately 9000 people, located about 30 km from the capital Ljubljana. Some of the persons whom the Commissioner met considered that its location was not conducive to contacts between them and the Slovenian population. In addition, asylum seekers complained about their meagre allowance of only 18 euros per month. A protest by asylum seekers had taken place at the Vič asylum centre (located in a south-west suburb of Ljubljana) in September 2016, during which they [demanded](#) the right to work, faster asylum decisions, free Slovenian language courses, a free transport card and assistance with enrolment in university.
35. At the Rog factory, the Commissioner was also informed about cuts in refugee benefits that jeopardise their integration. A one-off financial assistance of €288 that used to be paid when an asylum-seeker obtained refugee status was eliminated in 2016. According to refugees who spoke to the Commissioner, it takes two to three months for the administration to start paying them the normal social assistance, a gap that leaves many of them in complete destitution at the time when they are meant to find accommodation. When the Commissioner raised this matter with representatives of the

Ministry of Interior, they acknowledged that there was a small administrative delay that needed to be addressed.

36. Another key element to facilitate integration of refugees is family reunification, as family members can reinforce the social support system for refugees and help them start a new life in the country where they obtained refugee status.¹¹ The Commissioner received information from representatives of NGOs that the authorities are considering further amendments to the Aliens Act in order to impose stricter conditions on family reunification for persons with subsidiary protection. The Commissioner would appreciate receiving clarifications from the authorities in this respect.
37. One of the greatest challenges in Slovenia to integration of refugees and persons with subsidiary protection is hostility from parts of the population. The Ombudsman reported in her 2015 [report](#) receiving letters from citizens who complained about reception centres and the government's policy on migration. Asylum seekers and refugees at the Rog factory told the Commissioner that it was very difficult for them to find accommodation on the private market due to discrimination. Representatives of the Ministry of Interior informed the Commissioner that the authorities would like to build additional integration homes, notably in order to remedy problems of access to private accommodation, but that initiative has faced opposition by members of the local population.
38. The Commissioner was also concerned to hear about other displays of social resistance to integration – for instance, he was informed that the principal of a Maribor elementary school had his car vandalised after he accepted to integrate four refugee children in the school. Representatives of NGOs and parliamentarians whom the Commissioner met pointed out that some members of the government, parliamentarians and politicians have made public statements stoking fear, for example claiming that millions of migrants are waiting to come to Europe or that migrants pose a security and health threat to the Slovenian population.

1.4 MIGRANT AND REFUGEE CHILDREN AT RISK OF STATELESSNESS

39. The attention of the Commissioner was drawn to the fact that some children of migrants, asylum seekers and refugees arriving in Slovenia are at risk of statelessness. This is particularly true for children born *en route* or in Slovenia of parents who are not able to pass on their nationality, for example due to the fact that certain countries of origin are not likely to provide administrative documents to persons who fled the country. Other factors can prevent parents from passing on their nationality to children, such as citizenship laws prohibiting the transmission of nationality from mothers directly to their children. The Commissioner is aware that this is for example the case in Syria, which creates particular problems for mothers traveling alone with their children.
40. The Commissioner notes that Slovenia's Citizenship [Act](#) of 1991 (including subsequent modifications) does not ensure protection against statelessness for children born or residing in Slovenia whose parents are known, but whose foreign nationalities cannot be transmitted to their children. Moreover, while it is possible to obtain naturalisation in Slovenia, it is only possible to apply after having resided five years in

¹¹ See Commissioner for Human Rights' Issue Paper "Realising the right to family reunification of refugees in Europe", June 2017, <https://rm.coe.int/prems-052917-gbr-1700-realising-refugees-160x240-web/1680724ba0>.

the country. The Commissioner was also informed that Slovenia has not established a dedicated statelessness determination procedure which would allow the granting of stateless status and associated rights.¹²

41. In line with article 7 of the UN Convention on the Rights of the Child, the Commissioner stresses that every child has the right to a nationality shortly after birth and that an effective nationality is key for the realisation of many human rights. Statelessness may hinder children's access to health care or education. The Commissioner would welcome more information from the Slovenian authorities regarding measures, either envisaged or already taken, to combat statelessness among children of migrants and refugees as well as to avoid violations of the human rights of stateless children in Slovenia.

1.5 CONCLUSIONS AND RECOMMENDATIONS

42. The Commissioner notes that the numbers of asylum seekers and persons enjoying international protection in Slovenia are overall small. He finds that the asylum system in Slovenia generally functions well: the country is able to accommodate and care for migrants and asylum seekers arriving on its territory, and no migrants and asylum seekers are forced to live on the streets at present.
43. Nevertheless, the Commissioner urges the Slovenian authorities to make certain systemic adjustments to ensure that the country is prepared to handle increasing numbers of asylum applications. The quality of the services available to asylum seekers and refugees should be improved, and the length of asylum procedures should be shortened.
44. The Commissioner urges the Slovenian authorities not to activate the January 2017 amendments to the Aliens Act. He will be following closely the decision of the Constitutional Court on this matter. The Commissioner further calls on Slovenia to refrain from adopting any further legislation in breach of its international human rights and asylum obligations.
45. The Commissioner stresses that unaccompanied migrant children are extremely vulnerable and need tailored support. It is the Commissioner's strong conviction that detention is never in the best interest of children, in line with the [position](#) expressed in December 2016 by several UN experts on the matter.¹³ As such, the Commissioner urges the Slovenian authorities to develop a clear roadmap for the complete abolition of detention of minor migrants and asylum seekers, including unaccompanied migrant children.
46. The Commissioner further calls on the Slovenian authorities to pursue their efforts to ensure that unaccompanied migrant children are accommodated separately from adults. The Commissioner understands that the pilot project in student dormitories will most likely be renewed. If that is the case, the Commissioner encourages the authorities to deploy support staff with expertise in dealing with the issues faced by unaccompanied migrant children. The Commissioner further encourages the

¹² "Ending Childhood Statelessness: a Study on Slovenia", European Network on Statelessness, Working paper 08/15, June 2015, (accessed at <http://www.statelessness.eu/resources/ending-childhood-statelessness-study-slovenia>).

¹³ "High time for states to invest in alternatives to migrant detention", Human Rights Comment by the Council of Europe Commissioner for Human Rights, Nils Muižnieks, January 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21026&LangID=E>.

authorities to evaluate whether accommodation at the dormitories amounts to institutionalisation of unaccompanied migrant children, and to consider the feasibility of finding foster families for them as an alternative. Finally, the Commissioner urges the Slovenian authorities to ensure that asylum applications by unaccompanied migrant children are accorded priority and handled in a swift manner.

47. As discussed in his [issue paper](#) on migrant integration, the Commissioner believes that successful integration requires a clear strategy and combination of measures. The implementation of integration projects by NGOs, while important, cannot replace a national strategy and political commitment on the part of the authorities. In Slovenia, this will require a shift of mind-set, including the recognition that the country is no longer merely a transit country and that refugees should be given an opportunity to contribute to society to the best of their abilities.
48. The Commissioner underlines that an important component of Slovenia's integration strategy must be to engage the public to garner mainstream support for making integration a success. In this regard, it is imperative that political leaders maintain a responsible discourse about migration and the integration of refugees and asylum seekers. The Commissioner also encourages the government to continue to pursue and intensify outreach efforts with local communities.
49. The Commissioner recommends that Slovenian authorities draw from good practices in other countries regarding pre-integration programmes for asylum seekers, notably those coming from countries with high recognition rates, such as by providing free language courses and allowing faster access to the labour market.¹⁴ The Commissioner further urged the Slovenian authorities to refrain from enacting legislative changes that would render family reunification more difficult. The Commissioner hopes that the government will soon eliminate the gap in payment of social assistance so as to render such assistance effective upon reception of refugee status.
50. The Commissioner hopes that the establishment of the Government Office for Care and Integration of migrants will lead to positive contributions towards integration. He urges the new Office to involve asylum seekers and refugees in designing more effective integration strategies.
51. The Commissioner encourages the Slovenian authorities to refer to the work carried out by Council of Europe bodies, such as the Parliamentary Assembly and the Congress of Local and Regional Authorities, which provide guidance and good practices on integration, as well as to seek possible support from the Council of Europe Bank or such initiatives as the Intercultural Cities Network, for inspiration and guidance on how to strengthen its integration policy.
52. In the context of the increased arrivals of asylum seekers and refugees in Slovenia, the Commissioner is concerned about the risk of statelessness among migrant children born in transit who cannot derive citizenship from their parents. In view of the current legislative gaps in this area, the Commissioner calls on the Slovenian authorities to ratify the 1961 UN [Convention](#) on the Reduction of Statelessness, the European [Convention](#) on Nationality, as well as the 2006 Council of Europe [Convention](#) on the Avoidance of Statelessness in the Context of State Succession, and to amend the

¹⁴ "Making Integration Work: Refugees and Others in Need of Protection", OECD, 2016, (accessed at http://www.keepeek.com/Digital-Asset-Management/oecd/social-issues-migration-health/making-integration-work-humanitarian-migrants_9789264251236-en#.WR7h1GewdaQ#page3).

legislative framework as appropriate. In particular, he urges the authorities to ensure that children born *en route* to or in Slovenia of parents who cannot transmit their nationality can be granted Slovenian nationality shortly after birth, so as to prevent cases of statelessness among such children. The Commissioner further recommends that Slovenia develop an accessible, efficient and centralised statelessness determination procedure, in accordance with UNHCR [guidelines](#).

2 THE HUMAN RIGHTS OF ROMA

53. In the 2002 census in Slovenia 3246 persons identified themselves as Roma and 3834 indicated that Romani was their mother tongue. Despite those official figures, it is estimated that the actual number of Roma living in Slovenia ranges from 7000 to 12,000.¹⁵ Roma live mainly in the north-eastern region of Prekmurje and the south-eastern regions of Dolenjska, Bela Krajina and Posavje, as well as in cities such as Ljubljana, Maribor, Velenje and Celje.¹⁶ The Roma community represents about 0.5% of the overall Slovenian population of 2 million.
54. The Slovenian authorities have made considerable efforts over the past decade to improve the situation of Roma, as acknowledged by several monitoring bodies.¹⁷ Steps taken have included the adoption of a legislative and policy framework (see below), as well as the implementation of numerous projects in key areas such as education and employment. Slovenia also participated in several international campaigns promoting the rights of Roma, such as the Council of Europe “[Dosta!](#)” (“Enough!”) campaign against prejudices towards Roma, and has applied for and used funding from the European Union (EU) European Social Funds (ESF) to finance projects in favour of the Roma.
55. During his visit, the Commissioner was made aware of the fact that the situation of Roma varies greatly across different regions in Slovenia. The Commissioner understood that the Roma living in the Prekmurje region, as well as in the main cities, are better integrated into society, notably as concerns employment and housing.
56. Despite certain positive indicators, Roma continue to suffer the most prejudice and discrimination out of any group in Slovenia, as indicated in the relevant 2014 [report](#) of the European Commission against Racism and Intolerance (ECRI). For the purpose of his visit and the present report, the Commissioner chose to focus on a set of issues that remain of serious concern with regard to the Roma community in Slovenia, namely the living conditions of Roma in settlements in the south-east; the phenomenon of child marriage and pregnancies; and education.

¹⁵ Slovenian Office for National Minorities, statistical and basic data on the Roma community, (accessed at http://www.un.gov.si/en/minorities/roma_community/statistical_and_basic_data/).

¹⁶ National Programme of Measures for Roma of the Government of the Republic of Slovenia for the Period 2010-2015, Working translation, 11 March 2010, (accessed at http://ec.europa.eu/justice/discrimination/files/roma_slovenia_strategy_en.pdf).

¹⁷ See, for example, the European Commission Against Racism and Intolerance report on Slovenia, 2014, (accessed at <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Slovenia/SVN-CbC-IV-2014-038-ENG.pdf>), or the Council of Europe Committee of Ministers Resolution CM/ResCMN(2012)12 on the implementation of the Framework Convention on the Protection of National Minorities by Slovenia, 2012, (accessed at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805ca702).

2.1. LEGAL AND POLICY FRAMEWORK

57. Article 65 of the Slovenian Constitution provides the legal basis for special status and protection of the Roma community. The Roma are recognised as a minority community with particular ethnic and cultural characteristics (such as language, culture, history), that may enjoy special protection. The Roma, however, are not recognised as a national minority.
58. In March 2007, the National Assembly unanimously adopted the Roma Community Act, which provided a normative framework for the development of long-term policy and programmes to improve the situation of the Roma. The Act delineates the responsibilities of the state and local authorities for the realisation of Roma rights, organises the political representation of the Roma, notably through the establishment of a Roma Community Council, and provides for the financing of activities for their benefit.
59. The Commissioner notes that Slovenia was the first country to adopt such a law dedicated to advancing the rights of Roma and that the Act was hailed as a “giant step forward” in the realisation of those rights. During his visit, however, the Commissioner learned that some problems have emerged in practice in the implementation of the Act. Those notably concern the composition of the Roma Community Council, which is not considered by many civil society groups as representing the interests of all Roma living in Slovenia. In conversations with the Commissioner, several interlocutors commented that the authorities had been promising for several years to review the Roma Community Act, but little progress has been achieved so far.
60. Slovenia adopted an Action Plan on Roma, called the [National Programme of measures 2010-2015](#). The programme covered projects in the following fields: living conditions, education, employment, health, preservation of the Roma language and culture and combating discrimination. During his visit, the Commissioner was informed that a new national programme of measures for the period 2017-2021 was being finalised. NGOs and Roma organisations expressed frustration at the delays in preparing the new programme. The Office of the Government for National Minorities informed the Commissioner that special efforts had been made to ensure the participation and ownership of all concerned ministries; the earmarking of national funding in addition to international funding, and the inclusion of concrete projects. According to the authorities, the comprehensive nature of the enterprise explained, in part, delays in the preparation of the programme.
61. One challenge with regard to advancing Roma rights in Slovenia is the lack of data. The Slovenian authorities informed the Commissioner that they do not collect specific information on the situation of ethnic groups, including Roma, because of legislation in place on the protection of sensitive personal data. The Commissioner notes with concern that this lack of data makes it difficult to evaluate precisely the problems and needs of Roma and complicates targeted policy making.

2.2 ACCESS TO ADEQUATE HOUSING AND TO WATER

62. According to a 2009 RAXEN [study](#) of the EU Fundamental Rights Agency, the housing situation of Roma communities in Slovenia is unfavourable in general, but with marked variations across the different regions. Only a small number of Roma in

Slovenia live together with the majority population. Widespread discrimination in Slovenia often prevents Roma from buying or renting accommodation.¹⁸ Roma also experience difficulties in accessing social housing, which is generally in short supply in Slovenia.

2.2.1 SUBSTANDARD LIVING CONDITIONS IN SETTLEMENTS

63. The vast majority of Roma in Slovenia live in settlements that are isolated from the rest of the population, outside cities or at the peripheries of inhabited areas.¹⁹ It is estimated that there are around 130 Roma settlements in Slovenia.²⁰ Many of those settlements – which have existed for decades - were built illegally on municipal or private land, or sometimes on land that is not zoned for residential use. The illegal status of the settlements is at the heart of housing difficulties faced by Roma in Slovenia. First, it signifies a lack of security of tenure, exposing Roma communities living in those settlements to a perpetual risk of eviction. In addition, the illegality reportedly prevents access to essential public services, given that connection to water, sanitation and electricity, requires a property title or building permit under Slovenian law.
64. In 2006, the Slovenian Ministry of Environment and Spatial Planning appointed an expert group to deal with territorial issues related to Roma settlements. The Minister informed the Commissioner that the expert group’s mandate consists of looking into the legalisation and modernisation of settlements. Indeed, “improving the living conditions of the Roma community and arranging Roma settlements in an orderly manner” was one of the priorities identified in the 2010-2015 National Programme of Measures for the Roma. According to ECRI, 55% of settlements have been regularised to date, which has led to an improvement of the living conditions therein.
65. However, many Roma live in acutely substandard conditions in settlements in the south-east region of Dolenjska, sometimes lacking access to basic utilities such as water, electricity and sanitation. The Commissioner visited the settlement of Dobruška vas in the municipality of Škocjan and spoke to a number of its inhabitants, who indicated that the settlement had been constructed informally in 1954, and is home to a community of around 100-150 Roma people. However, there are now plans to establish a business area in its place, co-financed by state and EU funds, presenting a threat of eviction for the inhabitants, who have taken their case to the courts.
66. During his visit to Dobruška vas, the Commissioner observed that a few families lived in brick houses, but most lived in poorly constructed wooden houses with dirt floors, or in old trailers. It was evident that some of the families in the settlement were living in abject poverty. Only 5 out of the 50 houses in the settlement were connected to the electric grid, and only a handful of families had access to drinking water.

¹⁸ Amnesty International, “Slovenia: Parallel lives: Roma denied rights to housing and water”, 2011, (accessed at <https://www.amnesty.org/en/documents/EUR68/005/2011/en/>).

¹⁹ National Programme of Measures for Roma of the Government of the Republic of Slovenia for the Period 2010-2015, p. 7.

²⁰ National Programme of Measures for Roma of the Government of the Republic of Slovenia for the Period 2010-2015, p. 7; “Slovenia: FRANET National Focal Point Social Thematic Study, The Situation of Roma,” Mirovni Inštitut, 2012, (accessed at <http://fra.europa.eu/en/country-data/2013/country-thematic-studies-situation-roma>).

2.2.2 ACCESS TO DRINKING WATER

67. According to a report of the UN Special Rapporteur on the human right to safe drinking water and sanitation, there were at least 21 settlements in Slovenia in 2011 where Roma people had no access to drinking water and/or sanitation.²¹ Some Roma communities are forced to collect water from petrol stations, cemeteries or polluted streams, often far away from where they live.
68. While the national authorities had installed water cisterns in Dobruška vas at the end of 2016 as a short term solution to ensure access to drinking water, the inhabitants told the Commissioner that the cisterns were not filled regularly and the water did not keep in them. Most people obtained their water from a stream polluted with sewage and waste from a meat-processing plant nearby. The inhabitants described in detail the severe hardship they experienced because of lack of access to potable water. Drinking from or bathing in contaminated streams caused illnesses, such as diarrhoea and skin rashes, to which the children were particularly prone. The lack of water prevented the inhabitants from maintaining basic hygiene. As a result, children were mocked and avoided in school, and adults found it difficult to obtain or keep employment.
69. In discussions with the Commissioner, various interlocutors agreed that there was a lack of political will on the part of certain local municipalities in the Dolenjska region to resolve the legal status of Roma settlements and to improve the inhabitants' living conditions. They further noted that the state was not putting adequate pressure on the municipalities regarding the matter. In her 2015 [report](#), the Ombudsperson underscored that the state is responsible for making sure that municipalities take steps to remedy the above-mentioned deficiencies and ensure that Roma can enjoy their human rights.
70. The Commissioner notes that a case against Slovenia on access to water is pending at the European Court of Human Rights ([ECtHR](#)). In the *Hudorovič and Novak and others vs. Slovenia* case, the complainants allege that the failure of the state to ensure access to drinking water constitutes a violation of their right to private life, their right not to be subjected to inhumane or degrading treatment, and their right not to be discriminated against under the European Convention on Human Rights ([ECHR](#)).
71. The Commissioner welcomed the fact that the Slovenian parliament adopted a constitutional act in November 2016 enshrining the right to water in the constitution, but stressed that this right needs to be made effective in practice for Roma communities. In official meetings, the Slovenian authorities acknowledged that the living conditions of Roma communities in settlements in the south-east region was of serious concern and would remain a priority in the government's policies on improving the situation of Roma.

2.3 EARLY MARRIAGES AND PREGNANCIES

72. The Commissioner was concerned to learn about instances of forced and early marriages (also called child marriages) as well as early pregnancies, among the Roma population in Slovenia. According to UNICEF, there were at least 20 cases of forced marriages of Roma girls in Slovenia between 2009 and 2013, and 32 other cases in

²¹ UN Special Rapporteur on the human right to safe drinking water and sanitation, "Mission to Slovenia", 4 July 2011, A/HRC/18/33/Add.2, (accessed at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/143/19/PDF/G1114319.pdf?OpenElement>).

which forced marriages were prevented through timely intervention by social centres. In addition, in the same period, schools reported 62 cases of children dropping out of school because of early marriages or pregnancies. Early marriages and pregnancies are the consequences of several factors, including poverty, social or traditional norms and discrimination against girls. The Commissioner was informed that there have been cases of pregnancy among 12- and 13-year-old Roma girls.

73. During his visit, representatives of NGOs told the Commissioner that teenage girls and their families often do not want early marriages or pregnancies, but receive threats from boys' families or intermediaries who are paid to arrange those marriages. Other factors contributing to early pregnancies are the lack of information on sexual and reproductive health, as well as the prospect of receiving child benefits. In addition, the Commissioner learned that when some children start to marry or have children early in one settlement, others often tend to follow suit.
74. The Commissioner stresses that forced and early marriages and pregnancies have serious human rights implications for the girls concerned. He recalls that the right to marriage based on "full and free consent" of the spouses is recognised in several international instruments, including the ECHR (art. 12), the International Covenant on Civil and Political Rights (art. 23) and the International Covenant on Economic, Social and Cultural Rights (art. 10). Article 37 of the Council of Europe [Convention](#) on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) requires that member states adopt laws to criminalise the act of forcing or luring adults and children into marriage. Forced marriage is a crime under Slovenian law and the prohibition of trafficking in human beings for the purpose of forced marriage was introduced in the criminal legislation in 2015.
75. The Commissioner considers that child marriage can constitute a form of forced marriage given that children under 18 may lack the maturity to make a fully informed decision on the implications of marriage and thus may not be able to provide full, free and informed consent.²² Article 16, paragraph 2 of the [Convention](#) on the Elimination of All Forms of Discrimination against Women provides that "the betrothal and the marriage of a child shall have no legal effect." The Commissioner recalls that, in a joint recommendation, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child have recommended that states parties establish a minimum age of 18 for marriage, with alternate arrangements possible "only in exceptional circumstances and provided that the child is at least 16 years of age and that such decisions are made by a judge, based on legitimate exceptional grounds defined by law, evidence of maturity, without deference to culture and tradition."²³
76. The Commissioner understands that, under the Marriage and Family Relations [Act](#), individuals must be 18 years old to marry. However, the law foresees that a social centre may allow the marriage of individuals under 18, without mention of a minimum age.

²² "Joint General Recommendation No 31 of the Committee on the Elimination of Discrimination Against Women/General Comment No 18 of the Committee on the Rights of the Child on Harmful Practises," CEDAW/C/GC/31-CRC/C/GC/18, 14 November 2014, (accessed at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGC%2f31%2fCRC%2fC%2fGC%2f18&Lang=en).

²³ Ibid. para. 20.

77. The Commissioner underscores that child marriage and early pregnancies hinder the realisation of a wide range of human rights.²⁴ These include the right to education, the right to the highest attainable standard of health, and the right to be free from physical, mental and sexual violence. Child marriage is also linked to early and frequent pregnancies and childbirth, which can have negative consequences for girls' sexual and reproductive health.

2.4 ACCESS TO QUALITY EDUCATION

78. There is no data available on the total number or percentage of Roma children attending pre-school, elementary and secondary school in Slovenia. Over 60% of Roma in Slovenia have not completed elementary school. The Commissioner wishes to stress that improving access to education is key to combat marginalisation and poverty of Roma.²⁵
79. The Slovenian authorities have invested considerable efforts over the past two decades to improve Roma children's access to education. The authorities adopted an Education and Schooling [Strategy](#) for the Roma in the Republic of Slovenia in 2004 and updated it in 2011. Access to education was one of the priorities identified in the National Programme of Measures for Roma 2010-2015, and the authorities informed the Commissioner that it will remain so in the revised programme.
80. The Ministry of Education, Science and Sport, with the support of EU ESF funds, has financed numerous projects implemented by NGOs with the cooperation of Roma associations in the field of education.²⁶ These projects cover various activities, including the funding of meals, school material and books for Roma and poor children, free transportation to school, and extra financial support to schools with Roma children.²⁷ The Minister of Education informed the Commissioner that a Network of school directors and teachers with experience with Roma children has helped draw lessons and improve policies.
81. During his visit, the Commissioner visited an "incubator" in the Kerinov Grm Roma settlement in Krško. This is a pre-school (for children aged 3-6 years old) located inside the Roma settlement. The pre-school, one of eight such "incubators" in Slovenia, is part of an NGO-operated [project](#). The "incubators" are conceived as an initial step to prepare Roma children to enter schools in the wider community. Educational staff told the Commissioner that pre-school is critical to equip Roma children with the skills that later facilitate their integration into elementary school, including speaking the Slovenian language. Without the "incubators", Roma children

²⁴ See "Preventing and eliminating child, early and forced marriage", Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/26/22, 2 April 2014, (accessed at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/128/76/PDF/G1412876.pdf?OpenElement>); Report on forced marriages and child marriages, Parliamentary Assembly of the Council of Europe, Doc. 10590, 20 June 2005, (accessed at <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=10969&lang=EN>).

²⁵ FRANET National Focal Point, Social Thematic Study, The Situation of Roma, Mirovni Inštitut, 2012, (accessed at http://fra.europa.eu/en/publications-and-resources/country-data?title=&year%5Bmin%5D%5Byear%5D=&year%5Bmax%5D%5Byear%5D=&related_content=3508&country=430&Apply).

²⁶ For example "Acquiring knowledge together – achieving the objectives of the Strategy for Education of Roma in the Republic of Slovenia" project, signed in 2014 and amounting to EUR 1,5 million, implemented by the Ministry of Education and co-funded by the EU ESF in height of EUR 1,3 million, (accessed at http://www.mgrt.gov.si/en/media_room/news/browse/4/article/11987/9700/).

²⁷ See for example: "Successful Inclusion of the Roma in Education II", 2011-2014, (accessed at <http://www.ric-nm.si/en/completed-national-projects/successful-inclusion-of-the-roma-in-education-ii/>).

would often not attend the regular pre-schools, which are neither obligatory nor free in Slovenia, and may not be located in the immediate vicinity of Roma settlements.

82. The discussions the Commissioner and his team held with staff in the pre-school also included the Roma assistants, who play a key role in facilitating access to education of Roma children in Slovenia. They mediate relationships between parents and schools, support children and teachers in class, and help fight absenteeism.²⁸ In the communities concerned, families often need a holistic form of social assistance in order to be able to ensure school attendance of their children. For example, some Roma assistants in the incubators pick up the children at their homes in the morning, give advice on family matters, and help with administrative papers. At the same time, the Commissioner learned that the needs for social assistance among the Roma population are far from being met, which is made more difficult by a general shortage of social assistants in Slovenia. For example, in the Novo Mesto area, there are only 2 social assistants for the approximately 2000 Roma who live there. As a result, Roma children continue to be underrepresented in pre-schools.
83. Several interlocutors informed the Commissioner that a 20% bonus on child benefits, meant to compensate families that do not obtain a place in pre-school for their children, has acted as a disincentive for Roma families to enrol their children in pre-school. More generally, absenteeism from schools continues to be a problem, despite legislation foreseeing penalties, such as cuts in social benefits. Drop-out rates are still high in some regions. On average, only 50% of Roma children finish elementary school,²⁹ and only 5% in the Dolenjska region.³⁰ Education staff informed the Commissioner that the factors contributing to high drop-out rates are multiple, and include: discrimination against Roma children in schools, insufficient value placed on education by families, poor housing conditions that do not allow making school a priority, early marriages and pregnancies, and criminality among teenage boys induced by certain male figures from the community. Very few Roma children reach secondary and tertiary education in Slovenia.
84. While segregation has been prohibited since 2004 in Slovenia, some *de facto* segregation remains. This is the case in pre-schools, as mentioned above. In addition, the Commissioner understands that Roma children are sometimes sent to special needs classes in regular schools, in particular for additional learning sessions. According to official statistics, Roma children continue to be overrepresented in special needs schools with about 10% of Roma children attending such schools in 2015/2016, compared to 1.5% of other children.³¹

²⁸ "Slovenia: Promoting Social Inclusion of Roma, a Study of National Policies," Nada Stropnik, Institute for Economic Research of Ljubljana, on behalf of the European Commission DG Employment, Social Affairs and Inclusion, July 2011, (accessed at

<https://www.google.fr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwiuvKHRxsUUhVGVRoKHRfcB4cQFggkMAA&url=http%3A%2F%2Fec.europa.eu%2Fsocial%2FBlobServlet%3FdocId%3D8985%26langId%3Den&usg=AFQjCNGZ7QiFfXlsVNKUulvZjhjc1VvbNg&cad=rja>).

²⁹ FRANET National Focal Point, Social Thematic Study, The Situation of Roma, Mirovni Inštitut, 2012, p.11.

³⁰ "Progress? The vast majority of Roma children do not finish elementary school, although statistics show improvement in this area", Peter Petrovčič, Mladina, 4 September 2015, (accessed at <http://www.mladina.si/169183/napredek/>).

³¹ FRANET National Focal Point, Social Thematic Study, The Situation of Roma, Mirovni Inštitut, 2012, p.13; Social Protection Institute of the Republic of Slovenia, (accessed at <http://www.irssv.si/demografija-8/2013-01-11-18-12-72/stevilo-romskih-otrok-glede-na-vrsto-osnovnosolskega-izobrazevanja>).

2.5 CONCLUSIONS AND RECOMMENDATIONS

85. The Commissioner observes that Slovenia has a solid legislative and policy framework on Roma rights. However, he notes that the Roma Community Act needs revision in order to be more effective. The Commissioner welcomes the recent adoption on 25 May 2017 of the National Programme of Measures for Roma for the Period 2017-2021 and look forward to consulting the English translation when it is ready.³² It is essential to ensure that the new Programme contain concrete and measurable targets and be adequately funded. He calls on the Slovenian authorities to take action as a matter of priority to amend the Roma Community Act, in light of the remarks made in the foregoing section.
86. The Commissioner invites the Slovenian government to formulate a clear strategy for the improvement of the situation of Roma, including through the identification of concrete targets, either in the National Programme of Measures or in a separate document.
87. The Commissioner stresses that the collection of data on the situation of Roma is of critical importance to enable an accurate assessment of problems and needs as well as the setting of concrete objectives for the genuine realisation of Roma rights. In addition, such data is necessary to monitor the impact of measures implemented as part of the National Programme. The Commissioner recalls that it is possible to collect data in an anonymous manner that does not jeopardise the protection of confidentiality and privacy. The Commissioner believes that the authorities should collect accurate and updated information on the situation of Roma, disaggregated by gender and age, particularly in the areas of housing, education, employment and health care, with a view to increasing the effectiveness of existing and future policies.³³
88. The Commissioner considers that the substandard living conditions and lack of access to basic utilities, including water, in Roma settlements in the south east regions of Slovenia is one of the major challenges facing the Roma community, and should be addressed urgently. Inadequate housing conditions and the lack of access to basic utilities constitute a major impediment to the inclusion of Roma into society and the realisation of other rights, including the rights to health, education and work. Given that the Roma community in Slovenia is relatively small, the Commissioner considers that the above-mentioned problems could be solved with sufficient political will at the local and central government levels.
89. The Commissioner recommends that the Ministry of Environment and Spatial Planning urgently determine which of the settlements continue to pose problems and work with local authorities to find solutions, either in the form of regularisation of the settlements or relocation after consultation with the concerned communities, as foreseen in the Council of Europe Committee of Ministers' [Recommendation \(2005\)4](#) on improving the housing conditions of Roma and Travellers in Europe. The Commissioner stresses that, in this process, due consideration should be given to the fact that many of the families concerned have been living on the same plots of land for decades. In this regard, the ECtHR has stated that is necessary to “take into account the length of stay on and links developed by a community with a given location,

³² National Programme of Measures for Roma of the Government of the Republic of Slovenia for the period 2017-2021, adopted on 25 May 2017, (accessed at http://www.un.gov.si/fileadmin/un.gov.si/pageuploads/NPUR_2017_2021.pdf).

³³ On this, see Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on Slovenia adopted on 11 March 2011, para. 37, published on 28 October 2011, (accessed at <https://rm.coe.int/168008c6b0>).

especially when the authorities have not actively tried to remove the persons concerned from that place over years” ([Yordonova vs. Bulgaria](#)).

90. In the meantime, the Commissioner urges the authorities to ensure that all Roma families enjoy access to water, electricity and sanitation on the land where they live. The Commissioner stresses that the involvement of Roma communities in improving their own housing conditions is of paramount importance. He urges local communities to make full use of the local Roma councillors or to set up other arrangements for facilitating dialogue.
91. In light of the far-reaching human rights consequences of early marriages and pregnancies, the Commissioner encourages the Slovenian authorities to collect information on the root causes, extent and impact of this phenomenon on the Roma community in Slovenia, and to develop and implement a holistic strategy to eliminate it, as foreseen in the Istanbul Convention. He recalls that, irrespective of social practices and traditions, it is the duty of the state to ensure the protection of children’s rights according to the UN CRC, and of women and girls pursuant to the CEDAW.
92. The Commissioner recommends that legislation in Slovenia be amended in order to clearly specify that the minimum age of marriage is 18, with exceptions only for persons 16 years of age and older, upon authorisation by a judge. The authorities should ensure that those who participate in or aid and abet the contracting of forced or child marriage are held accountable and punished in accordance with the law.
93. The Commissioner further recommends the implementation of prevention strategies, such as information campaigns on the health and human rights consequences of early marriages and pregnancies; information on steps that can be taken to combat forced marriage (including interventions by social centres); sexuality education in schools; and targeted information sessions in settlements conducted by Roma mediators. The Commissioner believes it is crucial to involve representatives of the Roma community in a dialogue on early and forced marriages and early pregnancies in order to determine the most appropriate measures to combat those phenomena.
94. The Commissioner welcomes the strong emphasis in Slovenia on improving access to education for Roma children and encourages the authorities to augment those efforts. He recognises the important challenges in this field, and highlights the need for flexibility and creative approaches. Access to quality and inclusive education is key to solving the socio-economic difficulties of the Roma community and improving their social inclusion.
95. While welcoming the “incubators” as a first step and exceptional measure to facilitate the access of Roma children to pre-school, the Commissioner would like to underscore, in accordance with the Council of Europe Committee of Ministers [Recommendation](#) (2009)⁴ on the education of Roma and Travellers in Europe, that segregation as such should be eliminated. He therefore calls on the authorities to take measures to facilitate access of Roma children to one year of regular pre-school as a bridge between the “incubators” and elementary schools. That bridge year should be free of charge and facilitated through sponsored transportation and the presence of Roma assistants in the regular kindergartens. Moreover, he urges the authorities to address the issue of over representation of Roma children in special classes or schools, which could reveal a pattern of discrimination against them. To do so, it is crucial to collect data on the situation of Roma children in education on a regular basis in order

to remedy possible cases of segregation and provide adequate support for the inclusion of Roma in mainstream education at all levels.

96. The Commissioner further recommends training and hiring additional Roma assistants in pre-schools, primary and secondary schools, given their important contribution to date. He also urges the authorities to formalise and improve the status of Roma assistants, which has been precarious to date because it has been linked to the funding of specific projects. The Commissioner was interested to learn about plans to create a stipend to encourage pupils' attendance, and encourages the authorities to continue to seek solutions to avoid absenteeism and dropping out from schools. Finally, he recommends hiring additional social assistants in areas close to Roma communities in order to provide holistic support to the families concerned.

3 THE SITUATION OF THE “ERASED”

97. The Commissioner as well as his predecessor have maintained a dialogue with the Slovenian authorities on the issue of the “erased” persons. As a follow-up to his [letter](#) to the Prime Minister in 2013 and [opinion editorial](#) later that year, the Commissioner discussed the topic with the Slovenian authorities and other interlocutors during his visit.
98. The term “erased” (“izbrisani”) refers to members of the population in Slovenia who were eliminated from the official residence registry in the period following the country’s separation from the Socialist Federal Republic of Yugoslavia (SFRY) which resulted in a declaration of independence in June 1991. At the time, nationals of the five other Republics of SFRY who had permanent residence status in Slovenia were given the possibility to apply for Slovenian citizenship until December 1991. Those who did not apply for citizenship were erased from the registry of residents on 26 February 1992 without notification. The measure affected 25671 persons.
99. Without legal status, the “erased” were deprived of their economic, social, civil and political rights. Relegated to the margins of society, many lost their jobs, homes or pensions. Those affected were left without access to health services, education, employment and social benefits, and had no legal remedy to challenge those violations. Thousands were forcibly removed from the country or denied re-entry. Others did not leave for fear of not being allowed to come back and were thus trapped in a legal limbo.³⁴
100. The Commissioner notes that the situation of the “erased” and the necessary policy measures to address the human rights violations they suffered continue to be a sensitive topic in Slovenia. The Commissioner welcomes the progress that has been made over the past few years to address the situation of “erased” people, following

³⁴ “The Scars of the Erasure: a contribution to the critical understanding of the erasure of people from the register of permanent residents of the Republic of Slovenia”, Peace Institute, June 2010, (accessed at http://www.mirovni-institut.si/izbrisani/wp-content/uploads/2012/02/the_scars_of_the_erasure_peace_institute_2011.pdf); Grand Chamber judgment on *Kurić and others vs. Slovenia*, para. 267, 302-303, 356, 412, 26 June 2012, (accessed at

judgments on the matter by the ECtHR in the *Kurić and others v. Slovenia* case.³⁵ The Slovenian government amended its 1999 Act regulating the Legal Status of Nationals of Other Successor States of the Former Yugoslavia in the Republic of Slovenia (Legal Status Act) in 2010 in order to facilitate the regularisation of “erased” people. The deadline to apply was July 2013. According to official statistics, 1899 people applied under the 2010 Act, resulting in 237 residence permits issued, 1350 applications either denied or rejected, while 126 applications were filed too late and the rest are still pending. In total, it is estimated that about 10300 “erased” persons were able to regularise their status over the years.³⁶

101. In 2013, the authorities further adopted the Act Regulating the Compensation for Damage Sustained as a Result of Erasure from the Register of Permanent Population (Act Regulating Compensation), which establishes an administrative procedure to obtain compensation. The deadline to apply for compensation is 18 June 2017. According to official statistics, 7431 claims had been processed by October 2016, and the total amount of financial compensation amounted to EUR 24,692,250. Payments are still being processed. In May 2016, the Committee of Ministers of the Council of Europe, decided to close the monitoring of the *Kurić and others vs Slovenia* case, satisfied that the compensation scheme adopted by Slovenia adequately addressed the ECtHR judgment.³⁷
102. The Commissioner further takes note of the fact that on 26 February 2017, on the occasion of the 25th anniversary of the erasure, the President of the National Assembly of Slovenia, Milan Brglez, issued a public apology to the “erased” “for the injustice, as well as suffering, humiliation and slander” they have suffered.
103. Despite those important steps, NGOs, representatives of the “erased” and the Ombudsman’s office informed the Commissioner that some problems remain. Close to 12000 “erased” have not regularised their status. The Commissioner notes that this figure may include some people who did not wish such regularisation, notably those who rebuilt their lives outside of Slovenia. However, others were prevented from obtaining regularisation either because of the restrictive conditions in the 2010 Legal Status Act, which have been criticised, or because they missed the deadline.³⁸
104. Representatives of NGOs working on the “erased” informed the Commissioner that they continue to receive inquiries from “erased” seeking to regularise their status and who were not aware of the 2010 Legal Status Law. The Commissioner regretted to learn that there are still at least 10 “erased” persons who live today in Slovenia without any legal status. Those persons are older men who have lived in Slovenia for decades.
105. The representatives of the “erased” also indicated that they considered that the amount of compensation did not adequately cover the actual losses and damages suffered (compensation through the administrative procedure is set at 50 euros per month of

³⁵ In a 2012 [judgment](#), the Grand Chamber of the ECtHR found that Slovenia had violated article 8 (respect for private and family life) of the ECHR, as well as article 13 (right to an effective remedy) and decided to apply the pilot judgment procedure to this issue given the numerous related applications. The Court further [ordered](#) that Slovenia create a compensation mechanism for the “erased”.

³⁶ Council of Europe, Department For the Execution of Judgments of the European Court of Human Rights, “Summary of Final Resolutions Adopted by the Committee of Ministers in 2016”, p. 62 (accessed at <https://rm.coe.int/16805d58a0>).

³⁷ Resolution CM/ResDH(2016)112, Execution of the Judgments of the European Court of Human Rights, *Kurić and others vs. Slovenia*, 25 May 2016, (accessed at [http://hudoc.exec.coe.int/eng#{"EXECIdentifier":\["001-163580"\]}](http://hudoc.exec.coe.int/eng#{)).

³⁸ See ECRI’s Fourth Report on Slovenia, para 124; Letter by the Council of Europe Commissioner for Human Rights, Nils Muižnieks, to Prime Minister Janez Janša on the Erased, 10 January 2013, (accessed at <https://rm.coe.int/16806db7dc>).

erasure while compensation claimed through the judicial system cannot exceed twice the maximum amount that could be obtained through the administrative procedure.) Compensation can only be claimed by those “erased” who obtained regularisation of their status, or tried but were rejected before adoption of the 2010 Legal Status Act. NGOs stressed that children of “erased” people are not entitled to compensation even if they suffered similar consequences as the “erased” themselves. The ECtHR found a complaint about the compensation scheme inadmissible in November 2016 because not all domestic legal remedies had been exhausted (*Anastasov v. Slovenia* case). During the Commissioner’s visit, a domestic appeal court referred the matter of compensation before national courts to the Constitutional Court. The Commissioner notes that there are still five group applications related to the “erased” pending at the ECtHR.³⁹

3.1 CONCLUSIONS AND RECOMMENDATIONS

106. The Commissioner stresses that the erasure of over 25,000 persons from the official residence registry resulted in serious suffering and violations of the human rights of those concerned. He welcomes the commitment and efforts of the Slovenian authorities to execute the ECtHR pilot judgment on the matter, and the recognition and remembrance of the violations as expressed by the President of the National Assembly. At the same time, he recommends that the Slovenian authorities provide a way for those “erased” who have not been able to regularise their status and wish to integrate into Slovenian society to do so, especially those who are living in Slovenia with no legal status. Finally, the Commissioner considers that political and opinion leaders, media, and civil society all have important roles to play in telling the truth about past violations and promoting reconciliation. The Commissioner considers it particularly important to include information and analysis about the “erased” in educational materials and to include such material in the core curriculum of schools in Slovenia.

4 POVERTY AND ITS IMPACT ON THE ENJOYMENT OF HUMAN RIGHTS

4.1 POVERTY IN SLOVENIA

107. Slovenia’s poverty rate is within the EU [average](#). The [GINI](#) coefficient, which provides a measure of income inequalities, stood at 0.25 in Slovenia in 2015, one of the lowest in Europe. According to the Slovenian Statistics on Income and Living Conditions (SILC), the percentage of the population living at risk of poverty in 2015 was 14.3%.⁴⁰ This means that 287,000 people in Slovenia were living below the poverty threshold that year. The poverty threshold is calculated by taking 60% of the median income in a given society. According to information provided by the Ministry

³⁹ *Alibegović and 40 Others v. Slovenia; Čulum and 17 Others v. Slovenia; Ašanin and 85 Others v. Slovenia; Bujanja and 7 Others v. Slovenia; Balać and 17 Others v. Slovenia*; information provided by the Mirovni Inštitut in May 2017.

⁴⁰ Income and poverty indicators, Slovenia 2015, July 2016, (accessed at <http://www.stat.si/StatWeb/en/News/Index/6070>).

of Labour, Social Affairs, Family and Equal Opportunities, the poverty line in Slovenia was EUR 617 per month for one adult at this writing.⁴¹

108. In conducting his visit, the Commissioner's purpose was to better understand the situation of those people who currently live under the poverty line in Slovenia and to stress the authorities' responsibility to take measures to ensure the respect of these people's economic and social rights.
109. The Commissioner was concerned to learn that the percentages of people at risk of poverty and at risk of social exclusion in Slovenia have risen markedly over the past 10 years.⁴² The at-risk-of-poverty figure stood at 11.5% in 2007 before the 2008 economic crisis (against 14.3% in 2015, as mentioned above). The percentage of people at risk of social exclusion in 2015 was 20.4% against 18.1% in 2005. In the period between 2008 and 2012, all poverty indicators increased in Slovenia, with child poverty seeing the steepest increase. According the EU 2016 [report](#) on Slovenia, the increase of poverty in Slovenia since the beginning of the economic crisis was faster than in the rest of the EU. Women are at greater risk of poverty than men (by 2.1%).
110. Representatives of humanitarian NGOs informed the Commissioner that up to 700,000 people asked for a one-time exceptional assistance in 2013. This represents almost a third of the Slovenian population. NGOs representatives, however, noted that the numbers have been declining since 2015. In 2016, CARITAS alone was providing regular support in the form of food, clothes, assistance for paying bills and school supplies to 100,000 people. Representatives of NGOs told the Commissioner that they estimate that about 50% of Slovenian people have difficulties paying their bills and making ends meet.
111. The Commissioner observes that the poverty figures mentioned above are calculated after social transfers. Without such transfers, the percentage of people living under the poverty threshold in Slovenia would be 25.2%.⁴³ During his visit, the Commissioner received information confirming that Slovenia has a well-functioning welfare system, as explained below. The figures above strongly demonstrate the importance of social policies in place for fighting poverty and social exclusion.

4.2 A HUMAN RIGHTS APPROACH TO POVERTY

112. Poverty is a serious human rights problem in itself. It is both a symptom and a cause of violations of the human rights that are enshrined in international and national law, such as the rights to work, to adequate food, education, health, housing and an adequate standard of living. Poverty and social exclusion can also have an impact on an individual's ability to meaningfully exercise his or her political and civil rights. The UN Committee on Economic, Social and Cultural Rights has described poverty as a "condition characterised by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights".⁴⁴

⁴¹ "Common Core Document forming part of the reports of States Parties", United Nations International Human Rights Instruments, January 2015.

⁴² "25 Years of Slovenia: Growing Number of Poor", Slovenian Press Agency (STA), 20 May 2015.

⁴³ "Common Core Document forming part of the reports of States Parties", United Nations International Human Rights Instruments, January 2015.

⁴⁴ Statement adopted by the Committee on Economic, Social and Cultural Rights on 4 May 2001, E/C.12/2001/10, pp.2-3.

113. The Commissioner underscores that combating poverty and fighting social exclusion is not only a matter of social policy but also a requirement flowing from the state's commitments undertaken under several international conventions, which mandate the protection of civil, political, as well as economic, social and cultural rights. These commitments are legally binding on Slovenia under international and national law.
114. Slovenia has ratified the International [Covenant](#) on Economic and Social Rights (ICESCR), the European Convention on Human Rights and its additional protocols, the 1996 revised European Social [Charter](#) and several other relevant international treaties such as the [Convention](#) on the Rights of Persons with Disabilities and the Convention on the Rights of the Child. The Slovenian [Constitution](#) guarantees a number of economic and social rights that are critically important for combating poverty, such as the rights to social security (Article 50), health care (Article 51), disability pension (Article 52), education (Article 57), work (Article 66) and proper housing (Article 78).
115. The nature of states' obligation to protect, respect and ensure these rights is defined under article 2 of the ICESCR. The state must "take steps, individually and through international assistance and cooperation, [...] to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures." This framework, which is less than an immediate obligation, reflects the fact that the fulfilment of economic and social rights involves resources and that some flexibility is required to take into consideration financial realities.⁴⁵
116. The Commissioner notes that, under a human rights-based framework, poor people are not victims but bearers of rights, which the state has the duty to realise progressively.⁴⁶ This obligation also implies the availability of accountability mechanisms for violations of economic and social rights enshrined in international and national law. As an example of the exercise of such redress mechanisms, the Ombudsman [reported](#) having brought a case to the Constitutional Court on the reform of the pension system.

4.3 POLICY FRAMEWORK

117. Slovenia's welfare system bears the mark of Slovenia's past as a socialist society forming part of the Yugoslav federation, which was characterised by a preponderant state role in all aspects of the economy, labour and social protection. After Slovenia gained its independence, reforms were conducted progressively, while strong state involvement was maintained in the provision of public services (such as education, child care, health care), social protection, and in regulating the economy and labour market.⁴⁷ Having regard to the foregoing remarks, the Commissioner finds that there is a long-standing tradition of social protection in Slovenia and high expectations in

⁴⁵ Office of the High Commissioner for Human Rights (OHCHR), "Human Rights and Poverty Reduction: A Conceptual Framework", 2004, (accessed at <http://www.ohchr.org/Documents/Publications/PovertyReductionen.pdf>).

⁴⁶ OHCHR, "Draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies", 2002, (accessed at <http://www.ohchr.org/Documents/Publications/PovertyStrategiesen.pdf>).

⁴⁷ "The Future of the Slovenian Welfare State and Challenges to Solidarity", Maša Filipovič Hrast and Tatjana Raka, September 2015, (accessed at https://www.google.fr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjvpryFkNTSAhUBVBQKHFFFAkwQFggcMAA&url=https%3A%2F%2Fblogs.kent.ac.uk%2Fwelfsoc%2Ffiles%2F2015%2F05%2FDraft_Per_FilipovicHrastRakar.pdf&usq=AFQjCNGajHmPVfA7RG78wsyT1zvcR6d9lQ&sig2=1fT0XsMayIEZ1M33MPxjTw&bvm=bv.149397726,d.d2s).

society for the state to play a leading role in creating jobs, redistributing wealth and protecting those most at risk of poverty.

118. Combating poverty has been a key goal of Slovenia's social policy since the early 2000s. As part of the EU accession process, Slovenia adopted a National Programme for the Fight Against Poverty and Social Exclusion in 2000 and reports on its implementation are available up to 2010.⁴⁸ Some of the Programme's key measures included: providing jobs in order to ensure income and social security to everyone, strengthening education and increasing the level of qualification, providing more social housing and introducing rent subsidies for those who cannot cover the cost of rent, as well as raising the level of social benefits.
119. The Commissioner understands that the implementation of some of those measures was hampered by the 2008 economic crisis, which led to heightened unemployment in Slovenia and the need to contain state expenditures, which resulted in cuts to several social benefits, including through the Fiscal Balance Act 2012.⁴⁹ The Slovenian government had committed to lifting these measures one year after national economic growth exceeded 2.5% of GDP. While this figure was reached,⁵⁰ the Commissioner was informed that the government had abolished some, but not all, of the cuts to social benefits.
120. In its [concluding observations](#) on the second periodic report of Slovenia in 2014, the UN Committee on Economic, Social and Cultural Rights had expressed concern that the austerity measures had been taken without the "necessary reflection on the adverse impact such cuts may have on the enjoyment of Covenant's Rights". The Commissioner agrees with the Committee that Slovenia should ensure that austerity measures are truly temporary in nature and abolished as soon as the necessary growth allows it, in accordance with the principle that states parties to the Covenant are obligated to realise rights progressively and to the "maximum of available resources".
121. According to information provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, Slovenia adopted in 2013 a Resolution on the National Assistance Programme 2013-2020.⁵¹ The resolution stresses that the social assistance system in Slovenia aims at "ensuring human dignity and social justice, promoting voluntarism and solidarity, empowering individuals and groups with the aim of preventing and alleviating social distress, promoting intergenerational cohesion, freedom of choice and individualized treatment". It cites particular public service and social programmes aimed at providing assistance to persons with disabilities and addictions, the homeless, children and families, and older persons, and at fostering social inclusion of Roma, migrants and refugees. Slovenia aims at reducing the number of people living below the poverty line by 40,000 by 2020, in line with the Europe 2020 [targets](#).
122. The Commissioner notes that the Slovenian state offers a large array of social benefits to support income generation and fight poverty, each regulated by specific legislation,

⁴⁸ For a list of strategic documents and reports of implemented activities, see the webpage of the Ministry of Labour, Family, Social Affairs and Equal Opportunities: <http://www.mddsz.gov.si/en/legislation/>.

⁴⁹ "Government adopts draft supplementary budget for 2012", Slovenian government press release, April 2012, (accessed at http://www.mf.gov.si/en/media_room/news/browse/5/article/43/1238/).

⁵⁰ "OECD significantly upgrades Slovenia's growth forecast", Slovenian Press Agency (STA), 9 June 2017 (accessed at <https://english.sta.si/2395995/oecd-significantly-upgrades-slovenias-growth-forecast>).

⁵¹ Resolution on the National Social Assistance Programme 2013-2020 (ReNPSV13-20), English translation provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities.

including: pension, invalidity insurance, unemployment benefits, guaranteed minimum wage, minimum social assistance and social services for those with no income, family benefits (including parental leave, child benefits, revenue tax benefits, school meals subsidies etc.). Most benefits are implemented in a progressive manner, based on the level of income. The Minister of Labour informed the Commissioner that the authorities' priority is to protect the most vulnerable. In addition, Slovenia secures basic health care, as well as assistance with access to housing, including social housing, and prohibits evictions when households are unable to pay rent and utilities as a result of social constraints (unemployment, ill health, disability).

123. According to the 2015 [report](#) of the Slovenian Statistics Office, the total expenditure on social protection in 2014 in Slovenia amounted to 24.1% of GDP, which places it close to the OECD average. The highest share of those expenditures went to pensions (42.5%), followed by health (30.8%), family and children (7.9%), disability (6.1%) and unemployment (3%).
124. Nevertheless, Slovenian NGO representatives expressed concerns to the Commissioner that those support systems have not managed to curb poverty sufficiently.

4.4 SOCIAL GROUPS MOST AT RISK OF POVERTY

4.4.1 CHILDREN

125. According to official statistics provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, the poverty rate among children and youth in Slovenia was 14.2% in 2015, meaning that 54,000 children and youth at least lived under the poverty threshold. The Commissioner was informed that the poverty rate among children and youth is the one that increased the most during the period 2008-2012. It was 11.6% in 2008. Child poverty usually leads to a number of infringements on the human rights of children enshrined in the UN CRC, such as the right to adequate living standards, education and enjoyment of the highest attainable standard of health.⁵²
126. Representatives of humanitarian NGOs and the Ministry of Labour, Family, Social Affairs and Equal Opportunities informed the Commissioner that the children most at risk of poverty in Slovenia are children of Roma and migrants, children in single-parent households, children whose parents are unemployed or earning the minimum wage and children in large families.
127. Slovenia used to distribute child benefits to a large portion of families. With the passage of the 2012 Fiscal Balance Act, however, the income conditions to obtain family benefits became more stringent and their amount was decreased. Scholarships were also cut according to the same principle. The aim was to decrease state expenditures while keeping family benefits targeted at the most vulnerable. One side effect, however, was a strong weakening of lower-middle class households (who also suffered from a stagnation or lowering of income) and the rise of a “working poor” class in Slovenia with an impact on their children (see below for more information on

⁵² See for example Commissioner for Human Rights' Report following the visit to Portugal from 7 to 9 May 2012, July 2012, <https://rm.coe.int/16806db8bd>; Commissioner for Human Rights' Report following the visit to Spain from 3 to 7 June 2013, October 2013, <https://rm.coe.int/16806db80a>; Commissioner for Human Rights' Report following the visit to Cyprus from 7 to 11 December 2015, March 2016, [https://rm.coe.int/ref/CommDH\(2016\)16](https://rm.coe.int/ref/CommDH(2016)16).

working poor). In addition, the Commissioner notes that, in the context of impoverished families, family benefits tend to be used as a source of income for all and not just for the children.

128. The Commissioner was concerned to learn from representatives of NGOs that some children relied on their support for access to sufficient and quality food, clothes and school supplies. Children living in poverty do not have access to leisure activities which can contribute to the development of their talents. The Commissioner welcomed the mobilisation of NGOs and charities in Slovenia in the field of child poverty reduction. During his visit, he was informed about a sponsorship programme led by the Association of Friends of Youth Ljubljana Moste-Polje which aims at connecting children in need with people willing to help within Slovenia. This is an example of a laudable effort to promote equal opportunities for disadvantaged children.
129. Representatives of the Ombudsman's office told the Commissioner that they are concerned about an increase in the number of evictions of families with children, despite legal protections that exist in the law. These evictions can lead to infringements of children's rights to housing.
130. The Commissioner voiced his concern to the authorities regarding the risk of intergenerational poverty resulting from child poverty. Studies indeed show that poor children tend to perform more poorly in school and have higher drop-out rates. Lower education translates into fewer opportunities later on and, leading to the perpetuation of poverty from one generation to the next. The Minister of Labour, Family, Social Affairs and Equal Opportunities agreed that eliminating intergenerational poverty should be a priority.

4.4.2 OLDER PERSONS

131. Older persons have become one of the most vulnerable groups in Slovenia, and are at particular risk of poverty. According to official statistics provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, 17.2% of older persons aged 65 and above were at risk of poverty in 2015. The Commissioner learned that older women living alone are particularly vulnerable.
132. Older persons are at a particularly high risk of poverty because they have lower incomes (mostly pensions) and experience higher costs for the treatment of diseases connected to age and expenses to continue to live independently through additional support and assistance services.
133. According to the [Report](#) of the Independent Expert on the Enjoyment of all human rights by older persons on her mission to Slovenia in 2015, older persons in Slovenia represent a significant and rapidly growing portion of the society. The proportion of older persons (older than 55) in 2009 was 16% of the overall Slovenian population. This figure is projected to grow to 33.4% of the population by 2050. The proportion of persons above 80 was 3.5% in 2008 and is expected to increase to 14% in 2050. According to the European Commission 2016 [report](#) on Slovenia, Slovenia's population is ageing faster than in most other Member States. This ageing population puts considerable pressure on the sustainability of the pension, health care and long-term care systems in Slovenia.

134. As part of austerity measures, pensions were frozen from 2012 until January 2016 when there was a one-off increase in pensions of 0.7%. According to information provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, the average pension level has stabilised at around EUR 612 per month for men and EUR 462 for women in 2016 for retirement pensions – a monthly sum which is below the poverty line. Representatives of NGOs told the Commissioner that half of the pensioners in Slovenia have retirement pensions of less than EUR 500 per month. Two pension reforms were passed in 1999 and 2012 which aimed at diminishing state expenditures on pensions by increasing the retirement age and encouraging private insurance. Another set of reforms is expected.
135. According to NGO representatives who met with the Commissioner, older people constitute an important group resorting to their humanitarian services. Older people living in poverty otherwise face challenges in obtaining full enjoyment of their human rights. For example, some impoverished older people may refrain from consulting doctors because they cannot afford a complementary medical insurance to cover costs above the basic health coverage.
136. Older women living alone are sometimes subjected to theft or instances of psychological and physical violence when they live with unemployed children who also lack resources. Older persons' right to adequate living conditions is often not met when they do not have the means to rent accommodation adapted to their age. The Commissioner took note and welcomed reforms under way in Slovenia to address some of these issues. For example, he learned that a recent reform on pensions foresees a minimum full retirement pension of EUR 500 and the attenuating of conditions to obtain social subsidies for rent. In addition, according to information provided by the Minister of Health, the proposed [reform](#) of the health system will eliminate the need for complementary private insurance.

4.4.3 THE LONG-TERM UNEMPLOYED AND THE WORKING POOR

137. The long-term unemployed constitute one of the groups most at risk of poverty in Slovenia. According to information provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, 44.9% of the unemployed are at risk of poverty in Slovenia. Since the 2008 economic crisis, there was a steady rise of unemployment in Slovenia, although the trend seems to have [reversed](#) over the past couple of years.
138. Representatives of NGOs told the Commissioner that those who leave the labour market tend to find it increasingly difficult to get back in it. The number of long-term unemployed has been rising and now represents close to half of the total unemployed in Slovenia. Reportedly, that trend has also affected people with high levels of education. The situation as a whole represents an infringement of these people's right to work, as protected under the ICESCR, and the European Social Charter.
139. As part of austerity measures, unemployment benefits have been cut in duration and amount in Slovenia. This means that the long-term unemployed exhaust their right to unemployment benefits. After that, and subject to some conditions, they are entitled to the basic minimum income, which amounts to EUR 292.56 per month for a single adult, according to information provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities. The Commissioner notes that the basic minimum income is significantly below the poverty threshold of EUR 617 (although he was

informed that people benefiting from the basic minimum income can cumulate other benefits such as housing allowance or child benefits, depending on their personal situation.)

140. Representatives of humanitarian NGOs informed the Commissioner that the largest group (30% to 40%) of people resorting to their services are long-term unemployed in active age. Caritas Slovenia regretted the lack of opportunities for people to undergo re-training in Slovenia, which could help the long-term unemployed to re-adapt to the labour market.
141. Finally, all interlocutors of the Commissioner expressed concerns about the rising phenomenon of working poor in Slovenia since 2008. Poverty amongst the working poor raises the question of enforcement of their right to fair conditions of work. One aspect concerns the increasing number of precarious work contracts in Slovenia, which are a by-product of policies to increase the flexibility of the labour market undertaken in recent years.
142. In addition, NGOs raised the issue of fair remuneration of work in Slovenia, as protected under Article 4 of the European Social Charter (more than 2/3 of employees receive below average wages, a quarter receives less than 60% of average wages and there is a high share earning minimum wage). The issue of fair remuneration covers a few different facets. First, the Commissioner noted that some NGOs and trade unions consider the minimum wage in Slovenia too low. For a very long time, the guaranteed minimum wage in Slovenia – which had first been fixed in 1995 and not subsequently indexed to inflation – was obviously inadequate (at EUR 424.90 in 2007 when the poverty threshold that year was EUR 495). According to information provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, the guaranteed minimum wage increased first in 2010 to EUR 783.66 and was most recently adjusted in 2017 to EUR 804.96.
143. During his visit, the Commissioner repeatedly heard that a family with two parents earning minimum wage and two children only earns EUR 150 more than a similar family benefitting from social assistance. In addition, people on minimum wage may face additional costs (such as meals eaten at work or transportation) which impact on their real level of income. The Commissioner's interlocutors raised concerns that the low level of minimum wages discourages people to work.
144. In addition, the Ombudsperson continues to handle significant violations of labour laws in Slovenia. In her 2015 report, the Ombudsperson regretted that the government had failed to implement measures for the prompt supervision of the payment of salaries and all other social contributions, as per her recommendation. The Ombudsperson reported that she received several complaints again in 2015 of people who had not been paid for their work or who discovered upon retiring that their employers had not paid social contributions and that they would not receive the pensions they had expected.

4.5 CONCLUSIONS AND RECOMMENDATIONS

145. The Commissioner notes that Slovenia is a welfare state with a strong legislative and policy framework to fight poverty. The Commissioner however notes that there is still room for improvement in practice and that some of these strategies are not fully

implemented or effective. Further efforts are needed to ensure that Slovenian society remains truly cohesive and that no one is left behind.

146. In light of concerns that the social policies implemented over the past years are not resulting in a sufficient reduction of poverty, the Commissioner recommends that strategic documents include more clearly defined targets which would enable an assessment of the results – and not simply the level of implementation - of the policies. Such an approach would in turn facilitate evaluation and the formulation of adjustments for future policies on poverty and social inclusion.
147. Doing so would be in line with a human rights-based approach to poverty reduction, which the Commissioner urges Slovenia to consider adopting. This would require Slovenia to clearly ground its social policies in the relevant national and international human rights framework, including ensuring that all persons are protected in an equal and non-discriminatory manner. The Commissioner recalls that participation of the population concerned, as well as that of civil society working with the poor, is critical during the design, monitoring, transparency and accountability processes for the policies concerned. The Commissioner also recommends that the Slovenian authorities and the Ombudsman conduct outreach with the society at large to explain that fighting poverty and social exclusion is a matter of human rights.
148. With regard to austerity measures adopted in 2012, the Commissioner recommends that the Slovenian authorities honour their commitment to lift the remaining cuts, particularly to family and children benefits, now that the 2.5% economic growth mark has been reached.
149. Noting with concern that child poverty can result in intergenerational poverty, with grave consequences for Slovenia's social cohesion, the Commissioner recommends that anti-poverty policies and programmes pay specific attention to the rights of the child, especially the rights to housing, to an adequate standard of living and education. The Commissioner urges the authorities to ensure that the ban on evictions of families with children is respected.
150. The Commissioner welcomed the recent measures aimed at tackling the human rights impact of poverty among older people. The Commissioner hopes that the national assembly will adopt changes to the healthcare system that abolish private medical complementary insurance for older persons and the poor. While understanding that pensions constitute an important and growing public expense in Slovenia given the ageing population, the Commissioner urges the Slovenian authorities to refrain from enacting reforms to the pension system that would result in increased poverty among older persons. The Commissioner points out that it is essential to raise awareness in society about the human rights of older persons and to take measures to ensure that those rights are respected.
151. The Commissioner recommends that the Slovenian authorities, while implementing policies to promote employment, pay particular attention to creating opportunities for sustainable and decent work, respectful of human rights. The Commissioner urges the authorities to adopt specific strategies to tackle the situation of the long-term unemployed and the working poor. He invites the authorities to further evaluate how to make the necessary adjustments to the minimum wage, so as to render it more effective in the current labour and social context in Slovenia.