

Parallel Report

**By the Coalition of NGOs on Economic,
Social and Cultural Rights in Slovenia**

**On the 2nd Periodic Report
of the Republic of Slovenia**

**To the International Covenant on
Economic, Social and Cultural Rights (ICESCR)**

Ljubljana, March 2014



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- Društvo za nenasilno komunikacijo
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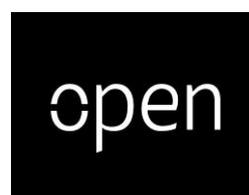


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INTRODUCTION

The present report highlights the key concerns and recommendations contained in the joint submission to the UN Committee on Economic, Social and Cultural Rights by 13 civil society organizations (CSOs) on the occasion of the Slovenian review for the 53rd Pre-Sessional Working Group (May 2014).

The report aims at complementing missing or misrepresented elements of the 2nd report of the Republic Slovenia, submitted to the Committee. Besides pointing out once more some long-standing human rights violations and omissions, coalition of CSOs particularly wishes to highlight recent trend of regression of ESC rights and general living conditions in Slovenia. This information and trends have largely been excluded from the official state report, which presented the situation up to 2010 (often relying on indicators and statistics up to 2008). By excluding the most recent measures and developments in the country, CSOs feel that the state report does not adequately represent the realistic picture of the current situation, particularly the dangerous trend of regression of ESC rights and disregard for the prohibition of discrimination in enjoyment of these rights since 2008.

Economic, political and moral crisis is severely impacting the quality of life and basic human rights, with 13.5 % of population living in poverty, increasing levels of unemployment, deteriorating access to quality health care, inadequate level of social assistance which is not sufficient for basic and decent standard of living, etc. With the adoption of the Fiscal Balance Act¹ in 2012 and other austerity measures, the state further interfered with several ESC rights, additionally eroding the foundation required for a flourishing, creative and productive society.

With this report, CSOs particularly wish to express deep concern over the state's general attitude towards protection and promotion of human rights. This field is malnourished in terms of financial and human resources, as well as policy priorities. No independent institution for human rights promotion and protection and monitoring of the situation exists. These tasks are partly performed by the Human Rights Ombudsman (whose mandate is limited to the public sector) and in a very limited part by the Advocate for Equal Opportunities. Furthermore, there is no human rights and/or anti-discrimination strategy, nor comprehensive monitoring system in the field of human rights. This means that the state does not have comprehensive overview of the level of human rights enjoyment of the population, particularly of the most vulnerable groups, and hence does not have a clear picture on what the effects of legislative and particularly austerity measures have on human rights standards in the country.

The civil society, gathered in this report, expresses deep concern over the current situation and trends in the field of human rights, and particularly ESC rights in Slovenia. They call on the state to adopt adequate measures to stop retrogression of the rights, without any discrimination, and to stop justifying regression under the guise of economic crisis. It is particularly in the times of crisis that the states need to adopt relevant measures and policies to strategically exploit to the maximum all relevant resources to guarantee that human rights are respected, protected and fulfilled.

¹ *Zakon za uravnoteženje javnih financ* (ZUJF); Official Gazette of the Republic of Slovenia, No. [40/2012](#)

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MAXIMUM AVAILABLE RESOURCES

The efforts of the Government of the Republic of Slovenia to address economic crisis and to achieve stability of the public finances led to the adoption of a number of measures with direct consequences on the fulfilment of economic, social and cultural rights (ESC rights) in Slovenia. The adoption of the Fiscal Balance Act² in 2012, among others, represented direct intervention of the state in a number of rights, including reduction of the unemployment and health insurance, limited coverage of health care costs, stricter criteria for obtaining social benefits, reduced pensions for certain groups of beneficiaries, etc. Slovenia is also one of the states that amended the Constitution with the Golden Rule of fiscal policy. This could potentially limit the counter-cyclical measures against the crisis and could lead to decrease of social rights and the level of social protection.

Financial and other resources allocated to key areas of ESC rights are decreasing in recent years, both in terms of the GDP percentage and especially in terms of absolute figures. As a result, less public resources are allocated to health care, social security and education, despite increasing need. There is also a tendency to transfer the financial burden for covering the expenditure on individuals (e.g. increasing number of health services is covered only by the supplementary health insurance). The share of expenditure allocated by the state (the so-called "izdatki sektorja države") for education has been declining since 2005, and has in the last six years already decreased for 1.6 %.³ The share of public expenditure for health care has begun to decline significantly after 2009. The expenditure for social protection has been declining until 2008. Since then it is increasing and has in 2011 reached the level from 2005⁴, which is (especially in the light of the growing crisis-related needs of people for social protection) a great matter of concern. Slovenia remains below the EU-28 average regarding the public funds allocated to health, education and social protection. Additionally, cross-cutting issues, such as protection against discrimination and affirmative actions in this area, as well as general promotion and protection of human rights, are completely marginalized and understrength in terms of financing and human resources⁵. There exist no independent institution responsible for monitoring and promoting of human rights, and the bodies which are dealing in these issues are fragmented. On the other hand, Slovenia will need to allocate more than EUR 4.7 billion of taxpayers⁶ money to rescue banking sector⁷, according to estimations, for which it seeks unfavourable loans from international financial markets, while rescuing even smaller, completely private banks that could not cause the breakdown of the financial system.

It also appears that the state does not fully exploit all the existing internal (including human) and external resources that are at its disposal. There exists a set of weak state bodies, which are employing quite a significant number of people, but are inadequately coordinated (e.g. lack of cooperation in joint projects and programmes). The state also has large number of working bodies that meet

² *Zakon za uravnoteženje javnih financ* (ZUJF); Official Gazette of the Republic of Slovenia, No. [40/2012](#)

³ The Institute of Macroeconomic Analysis and Development of the Republic of Slovenia (*Urad za makroekonomske analize in razvoj, UMAR*). *Poročilo o razvoju 2013*; page 144.

⁴ The Institute of Macroeconomic Analysis and Development of the Republic of Slovenia (*Urad za makroekonomske analize in razvoj, UMAR*). *Poročilo o razvoju 2013*; page 144.

⁵ See more on the situation of the Advocate of the Principle of Equality below.

⁶ Bank of Slovenia. *Media Statement*. Available at: www.bsi.si/library/includes/datoteka.asp?DatotekaId=5426

⁷ NGOs are drawing attention to the lack of transparency in the progress of rehabilitation of the banking system and operations of the Bank Assets Management Company (www.integriteta.si/component/content/article/11-partner-transparency-international/328-porocilo-ek-sluzi-kot-dodaten-poziv).

only rarely (e.g., Council for the Disabled, Council for the Implementation of the Principle of Equal Treatment) and have no specific focus. In 2012, a large number of these bodies (with the exception of those required by law) were abolished, among others the Inter-ministerial Working Group for Human Rights. Working group was re-appointed in 2013, but no longer involves external members, such as representatives of NGOs or academia, in its work. A number of key policy decisions lack serious and straightforward expert and public discussion. Revisions of the legislation (e.g., pension reform, the Fiscal Balance Act) often follow after only weeks or months after laws come into force, suggesting that the state's measures are often reckless.

Among others, Slovenia is a relatively unsuccessful in absorbing external financial sources, e.g. from European funds (out of EUR 4.2 billion of the EU Cohesion funds available in the 2007–2013 financial perspective, less than two-thirds have been utilized so far)⁸. According to some estimates, absorption of the EU funds for areas such as addressing discrimination is even being deliberately avoided. Disbursement of funds is largely carried out at the project level, with the one-off measures, without integrated plan that would enable, in a sustainable and structural way, to address challenges in specific areas. There is a lack of targeted efforts to obtain alternative sources for addressing the consequences of crisis and to achieve progressive realization of ESC rights, including addressing tax evasion and supporting efforts for systemic regulation of these issues at national, European and global level. According to estimates, Slovenia is losing up to a EUR 1,5 billion as a result of tax evasion and inefficient tax collection.⁹ At the same time, ministerial bodies and inspectorates remain financially underserved and understaffed, which prevents them from working effectively. The high level of corruption is not adequately addressed either. According to the Corruption perception index in the public sector, Slovenia ranks 43rd among 177 countries with the score of 51 (with a score of 100 indicating that there is no corruption in the country)¹⁰. Resignation of the entire senate of the Commission for the Prevention of Corruption in 2013 also presents important signal that addressing corruption remains systemic problem. As a one of the reason for their resignation, the Commission stressed that current legislation does not allow them to perform their tasks effectively, highlighting serious absence of political will to address corruption.

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RECOMMENDATIONS

The state has to perform an impact assessment of all adopted and planned austerity measures concerning human rights, in order to avoid retrogression and to ensure that these measures do not place additional burden on already vulnerable social groups. The state must make use of all available resources and employ additional efforts to find alternative resources for fulfilment of ESC rights, including addressing tax evasions and tax havens, by supporting, inter alia, systemic changes of policies at the global and regional levels (e.g., introduction of publicly accessible records of actual owners of companies, reporting by countries). The state must adopt comprehensive strategies, based on human rights principles, seeking synergies across different sectors and using all the resources rationally and increase its efforts in addressing systemic corruption at all levels of government.

⁸ Evropski Socialni Skladi. *Podatki o črpanju sredstev*. Available at www.eu-skladi.si.

⁹ Stop Birokraciji. Available at www.stopbirokraciji.si.

¹⁰ Društvo Integriteta. *Indeks zaznave korupcije*. Available at www.integriteta.si/component/content/article/11-partner-transparency-international/314-indeks-zaznave-korupcije-2013.

NON-DISCRIMINATION

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NON-DISCRIMINATION

The state lacks vision and strategy both for protection of human rights and for combating discrimination. The state does not provide for the respect and effective protection of the right to equal treatment. Its far reaching ambit legislation is not implemented in practice. The existing protective mechanisms are ineffective and critically lack resources. Victims of discrimination do not have trust in them, which is resulting in a wide scope of underreported discrimination cases. The prohibition of discrimination is in practice very often violated by private and public sector alike, with no real consequences for perpetrators. The vicious circle is thus concluded: institutions are becoming co-responsible for the preservation of status quo and effectively give legitimacy to the situation where protection against discrimination is only guaranteed on paper.

With the exception of the situation of certain groups (i.e. women), there are no coherent analyses available in Slovenia on the position of vulnerable groups (such as the elderly, young people, many ethnical minorities, people with disabilities ...), especially in relation to their exposure to discrimination, due to absence of a comprehensive monitoring system.¹¹ There is an evident lack of strategy, leadership and coordination of antidiscrimination policies. Discrimination is therefore not being addressed in coherent and multifaceted way. Relevant recommendations of the Human Rights Ombudsman (hereafter the Ombudsman; see Annual reports for 2002 and 2003), the Parliament¹² and the Advocate of the Principle of Equality (hereafter the Advocate; see Annual reports for 2010 and 2011)¹³ were not taken seriously. Slovenia does not even have a general human rights protection strategy (Concl. Obs., point 22), strategy against racism and xenophobia (the Durban Declaration and Programme of Action 2001) and specific strategies for implementation of key ESC rights (i.e. housing policy). No such strategies are even planned to be drawn up. Even the strategies that exist have very little, if any, focus on non-discrimination. Policies targeting vulnerable groups are focused on healing consequences rather than tackling structural and systemic discrimination as one of the key reasons for their unfavourable position.

Antidiscrimination legislation is not clear, precise and definite enough to be easily understood by their addressees (victims, perpetrators, even public bodies tasked with the protective function). Moreover, inadequate effort and resources were employed to inform and raise awareness about the problem, as well as to form a more concrete guidelines, models and standards (especially by the state), even when they are explicitly prescribed by the legislation. To illustrate this: under The Equalisation of Opportunities for Persons with Disabilities Act (*Zakon o izenačevanju možnosti invalidov*, ZIMI), three ministerial regulations should have been adopted years ago to clearly regulate: a.) accessibility of goods and services (possibly also public services) and housing, b.) assistive technical utilities (especially for those who could not get them via the health insurance system) and c.) conditions for financing car-adjustments to assure personal mobility. The lack of those regulations very seriously hinders the effective implementation of rights under the Convention on the Rights of Persons with

¹¹ This also results in the non-existence of segregated data on degree of respect of human rights for particular vulnerable groups, which is often highlighted by various treaty bodies: see for example *Concluding observations on the combined third and fourth periodic reports of Slovenia*, adopted by the Committee of the Rights of the Child at its sixty-third session (2013). CRC/C/SVN/CO/3-4, Page 4. Available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/451/63/PDF/G1345163.pdf?OpenElement>.

¹² »Government should adopt a strategy of antidiscrimination policy and in this context also study the possibility of forming an independent institution which would tackle prevention against discrimination in all areas, education on human rights and monitor human rights obligations in this areas in cooperation with other stakeholders.« See Point 1 of the decision - recommendation of the Parliament when hearing 8th Annual report of the Ombudsman for 2002.

¹³ Available at

www.mddsz.gov.si/si/delovna_podrocja/enake_moznosti_in_evropska_koordinacija/zagovornik/letna_porocila.

Disabilities (CRPD), also from the non-discrimination perspective, as it should specify requested adjustments of practices (reasonable accommodation) and provide positive action tools to overcome discriminatory (structural) obstacles. Relevant general (imprecise legislation) and specific warnings from the Ombudsman's¹⁴ and the Advocate's annual reports were met with no response. Legal protection against victimization is purely notional. Victimization is merely prohibited (*lex imperfecta*), there are no specific, effective sanctions nor other protective measures available (save potential interim measures that could be imposed by courts).

The absence of effective institutional system of protection is absurd. The system of protection is very far reaching in appearance, with various civil, administrative and punitive (criminal) remedies. They are in principle not mutually exclusive, but several are only applicable in specific contexts. Especially demanding can be protection in various legal proceedings. From the victim's perspective, such system is very complicated, non-transparent and ineffective. The authorities mostly lack much needed specialisation (expertise and sensitivity), and instead of focusing on their duties to protect they often tend to "rely" on the other remedies available; both the numbers of known reported cases and their outcomes are insignificant. The non-binding opinions of the Ombudsman and the Advocate do not affect much the legal reality, as these are remedies of auxiliary nature, not replacing legal remedies. A few interventions of the Ombudsman to the Constitutional Court (CC) are known, but even here some outcomes of the rulings are regrettable.¹⁵ Incredibly small number of cases is reported even in areas where discrimination is widespread, such as employment and work-related cases, especially cases related to gender (young women, pregnant women, harassment), political opinion (in public administration) and race and ethnicity in access to goods, services and housing.¹⁶

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Lack of confidence in the protective function of the state can be further illustrated with research data of the LGBT population: NGO data indicate that LGBT individuals experience multiple forms of homophobic violence and discrimination.. The questionnaire *Discrimination Based on Sexual Orientation (Diskriminacija na osnovi spolne usmerjenosti)*¹⁷ shows that almost 50 % of gay and lesbian respondents had such experiences. Similar research project *Everyday Life of Gays and Lesbians (Vsakdanje življenje gejev in lezbijk)*¹⁸ confirms that 53 % of respondents from this group had experienced homophobic violence. A study *Everyday life of Gay and Lesbian Youth (Vsakdanje življenje istospolno usmerjenih mladih)*¹⁹ indicates that 63 % of secondary school students, 35 % of students at the university level and 34 % of the employed young LGBT people share this experience. 67,6 % of respondents in research project *Activate (Povej naprej!)*²⁰ have reported an experience with homophobic violence and/or hate

¹⁴ On non-implementation of ZIMI, see the Ombudsman's Annual report 2010, page 68. Annual reports are available at www.varuh-rs.si/publikacije-gradiva-izjave/letna-porocila.

¹⁵ For example, unsuccessful attempts to end unequal treatment between autochthonous and non-autochthonous Roma: arbitrary and discriminatory regulation of their political participation on the state and local level (cases U-I-176/08 and U-I-15/10); maximum age limit imposed by austerity measures and hence discrimination in redundancy measures in public sector (case U-I-146/12).

¹⁶ Results of the research on accessibility of one-room apartments (situation testing), conducted in 2013, are rising serious concern: 33 % of professional housing agencies (!) was discriminating against non-Slovenian potential tenants. See more at www.zagovornik.net/si/informacije/osvescanje/novice/novica/date/2013/07/24/rasna-diskriminacija-na-trgu-najemnih-stanovanj-pogosta/index.html.

¹⁷ ŠKUC. *Anketa o diskriminaciji na osnovi spolne usmerjenosti*. 2001. Available at www.ljudmila.org/lesbo/separat.PDF.

¹⁸ The Peace Institute. *Neznosno udobje zasebnosti*. 2005. Available at www2.mirovni-institut.si/slo_html/publikacije/pdf/MI_gay_slo_final.pdf.

¹⁹ Legebitra. *Vsakdanje življenje istospolno usmerjenih mladih*. 2008. Available at www.drustvo-legebitra.si/images/stories/LGBT_Mladi/Istospolno_usmerjeni_mladi.pdf.

²⁰ Legebitra. *Povej naprej!* (report). 2009. Available at www.drustvo-legebitra.si/images/stories/Povej_naprej/POVEJ_NAPREJ.pdf.

crime. Out of these, as much as 92 % of victims did not report the case²¹.

The scope of underreporting is therefore alarming. In our opinion, this behavior cannot be attributed solely to the lack of awareness (especially in the light of the data on perception of the problem)²², but mostly to distrust in the protective function of the state and the consequent fear of victims to face victimisation. **Conclusions that legal remedies for protection against discrimination are only a dead letter are repeatedly highlighted by the Ombudsman and the Advocate.** Serious lack of efficient protection against discrimination is also reported by the Amnesty International (especially regarding access to goods, services and housing, but also in general)²³ and repeatedly outlined by various international human rights institutions, such as Special Rapporteur on the human right to safe drinking water and sanitation²⁴. Committee on the Elimination of Racial Discrimination expressed concern that very few acts of racial discrimination have been prosecuted and convicted. This can be an indication of the absence of relevant specific legislation, lack of awareness of the availability of legal remedies, or of insufficient determination on the part of the authorities to prosecute.²⁵

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There is no efficient and independent assistance to the victims of discrimination. There is no efficient and independent specialised equality body in Slovenia,²⁶ which could significantly contribute to a more effective protection, monitoring and promotion of respect of the right to equal treatment. The Advocate (in place since 2005) is a sole public officer in executive institutions (in the Office for Equal Opportunities, in the Ministry for Labour, Family, and Social Affairs since 2012), and consequently does not possess even an appearance of autonomy, independence and impartiality of the advocate, let alone his/her formal, objective and factual independence. It lacks any organisational and budgetary independence, adequate organisational support or personnel. According to the Advocate, his mission seems to be impossible to accomplish properly under the current legal and factual capacities. The acute deprivation of human resources is aggravated by the rising backlog. Furthermore, the Advocate of the Equal Opportunities for women and men, a special body against gender-based discrimination (required by the article 20 of the Equal Opportunities for Woman and Men Act – *Zakon o enakih možnostih žensk in moških*, ZEMŽM) has not been nominated since August 2008, despite the fact that the inflow of cases has doubled since then. The Government even proposes abolishment of this institution in a

²¹ Ibid.

²² According to the Eurobarometer research No. 393 (2012), 17 % of respondents in Europe believes they were victims of discrimination in the last year, and 34 % witnessed such an event. Available at http://ec.europa.eu/public_opinion/archives/ebs/ebs_393_en.pdf. That means that, according to the research, about 35,000 people in Slovenia believe they were discriminated. Taking into account the fact that considerable proportion of the victims are not even aware of the discrimination, it is clear that only fraction of percent of discrimination cases are reported (Merely 150–250 estimated reported cases to all authorities combined!). Labor law inspection clearly stipulates that discrimination is amongst the most common violations in the public sector, and furthermore that the phenomena "is probably much more widespread than the numbers in the official statistics show«. Labour Inspectorate of the Republic of Slovenia. *Annual report 2012*, page 64. Available at www.id.gov.si/fileadmin/id.gov.si/pageuploads/Splosno/LETNA_POROCILA/LETNO_POROCILO-2012/Inspektorat_RS_za_delo_-_Letno_porocilo_za_letno_2012-2013.pdf.

²³ *Parallel lives, Roma denied rights to housing and water in Slovenia*, index: EUR 68/005/2011, AI Ltd, London, March 2011. Available at www.amnesty.org/en/library/info/EUR68/005/2011/en.

²⁴ Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque. Mission to Slovenia (2011). A/HRC/18/33/Add.2. Available at www2.ohchr.org/english/bodies/hrcouncil/docs/18session/A-HRC-18-33-Add2_en.pdf.

²⁵ CERD. Concluding observations of the Committee on the elimination of racial discrimination. 2010. CERD/C/SVN/CO/6-7, Paragraph 14. Available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/451/55/PDF/G1045155.pdf?OpenElement>.

²⁶ Required by the European Council directives – Article 8a of the Directive 76/207/ES, Article 7 of the Directive 2002/73/ES, Article 12 of the Directive 2004/113/ES and Article 20 of the Directives 2006/54/ES, Article 2 of CEDAW (protection of women), partly also article 4 of the Convention on the Rights of the Child (protection of children) and Article 33, Paragraph 2 of the Convention on the Rights of Persons with Disabilities (protection of people with disabilities).

draft of the Act on Equality between Women and Men (*Zakon o enakosti žensk in moških*, ZEŽM). The Advocate struggles unsuccessfully for available resources to improve his performance and tackle staff deprivation: he was deprived of special funds from the *Progress* program²⁷ and under the Norwegian Financial Mechanism,²⁸ etc. To illustrate the »responsiveness« of the government: advocate's annual report for 2011 was not even heard by the government.²⁹ The absence of the real and effective equality body is apart from HR ombudsman and the Advocate himself persistently highlighted by NGOs and even governmental study *Analiza institucionalne ureditve spodbujanja enakosti in varstva pred diskriminacijo v Republiki Sloveniji*³⁰. The European Commission against Racism and Intolerance (ECRI) has in 2007 already recommended that the Slovenian authorities keep under constant review the status, powers and duties of the Advocate of the Principle of Equality to ensure the most effective protection for the victims of racial discrimination, and highlighted the need of independence of such a body.³¹ Similar recommendations were given by the Committee on the Elimination of Discrimination against Women (CEDAW) in 2008³². In 2011, the Advisory Committee On The Framework Convention For The Protection Of National Minorities³³ even highlighted the problem amongst the »issues requiring immediate action«. In early 2013, the domestic authorities were faced with an intervention of the EQUINET network, and the issue is also highlighted in the EUPILOT 4500/13/JUST file of the European Commission, which was – according to the latest data – transformed into infringement proceedings. Moreover, the Special Rapporteur on the human right to safe drinking water and sanitation expressed concern that nobody conducts systematic monitoring on prevention and protection from discrimination. She urges the state to consider revision of the existing legislation and promptly eliminate these shortcomings.³⁴ She further recommends that such function be performed by an independent body or institution, which would be able to provide more accurate data on discrimination events and social

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²⁷ Since 2011 Advocate is unable to use funds from restricted call for proposals action grants (annual amount approximately 300.000 euro) for support to national activities aiming at combating discrimination and promoting equality (JUST/2011/PROG/AG/D4, JUST/2012/PROG/AG/AD in JUST/2013/PROG/AG/AD).

²⁸ In the project DIKE for capacity building of LGBT persons and their NGOs, approved for financing under the Norwegian Financial Mechanism in 2013, the Ministry of Labor approved the Advocate's involvement in the project but refused to make financial resources (EUR 10,000) available.

²⁹ It also includes history of warnings, recommendations and proposals from domestic and international human rights institutions, and lists a number of international studies, which highlight dubious endeavors of Slovenia in this area. Available at www.zagovornik.net/si/informacije/letna-porocila/lp-2011/index.html.

³⁰ Available at

www.vlada.si/si/delo_vlade/qradiva_v_obravnavi/qradivo_v_obravnavi/?tx_govpapers_pi1%5Bsingle%5D=%2Fupv%2Fvladnagrada-08.nsf%2F18a6b9887c33a0bdc12570e50034eb54%2F3947bc30d254a3afc1257829004f0f2e%3FOpenDocument&cHash=93f12ffa29.

³¹ ECRI. *Third report on Slovenia*, CRI(2007)5, page 13, Available at

http://hudoc.ecri.coe.int/XML/Ecri/ENGLISH/Cycle_03/03_CbC_eng/SVN-CbC-III-2007-5-ENG.pdf.

³² In the *Concluding observations of the Committee on the Elimination of Discrimination against Women: Slovenia* (2008), CEDAW expressed concern regarding the low number of cases examined by the Advocate for Equal Opportunities for Women and Men and the current appointment of only one Advocate for implementation of equal treatment, who has a wide mandate as a general anti-discrimination advocate and whose position is that of a governmental official. The Committee recommends that the government consider the establishment of an Advocate for Equal Opportunities for Men and Women with independent status and adequate mandate, authority and visibility. It also encourages the state to establish a deputy Gender Equality Ombudsperson with a specific mandate to promote the rights of women. See CEDAW/C/SVN/CO/4, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/SVN/CO/4&Lang=En, (Paragraphs 13 and 14).

³³ *Third opinion on Slovenia*, March 31, 2011, ACFC/OP/III(2011)003, available at

http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_OP_Slovenia_sl.pdf. In the field of anti-discrimination legislation, the Law on Equal Treatment of 2004 was amended in 2007 but further improvements are needed to ensure effective protection against discrimination, and in particular, the access to effective remedies. The powers of the Advocate of the Principle of Equality, established under the Law on Equal Treatment, appear to be particularly ineffective in protecting the victims of discrimination and, more generally, preventing and monitoring discrimination in society. This institution lacks independence, financial and human resources, and its competences are very limited. It is essential to remedy these important shortcomings as a matter of urgency. See paragraph 14.

³⁴ *Ibid.*; Paragraph 7.

patterns and be able to give more decisive suggestions for improvements of the situation.³⁵

The Ombudsman is unable to fulfil all the tasks of the equality body: assistance to victims is only given in relation to violations in public sector (but not in court proceedings and other open proceedings) and is subject to the subsidiarity rule. The institution's former endeavours in this area (especially in the period 2006–2008) were subsequently reduced both in substance (promotion, monitoring) and in scope. In 2008, its antidiscrimination department was abolished. As a result, the tasks of the national equality body are currently performed by less than two state officials (with the Advocate of the Principle of Equality being the only one who is actually dealing with this issue continuously and focused). Considering the extent and gravity of the problem, as well as internal resources of the state, this is absolutely unacceptable and comparatively unique.³⁶ The abovementioned shortcomings after 2008 *ipso facto* represent a clear and **unacceptable regression**. For this reason, the state should prove that everything in its power was done under the given circumstances.

Furthermore, the state does not enable NGOs to actively assist victims (representation in litigation, third party intervention), **particularly in the most complex legal proceedings**, as required by the valid EU legislation (relevant concerns are constantly raised by the Ombudsman, the Advocate and the European Commission in the EU pilot files).

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2

NON-DISCRIMINATION

Non-implementation of the legislation, not providing for the effective, proportionate and dissuasive sanctions. The legislation provides a comparatively wide and strict system of civil, administrative and criminal sanctions in the discrimination cases. However, the statistics on the results of the applied legal remedies is extremely worrisome: the probability of the perpetrator suffering any real consequences for his actions is close to zero. The Ombudsman³⁷, the Advocate, NGOs and international organizations are trying to draw attention to these facts for several years. The available data on sanctions imposed show that these are usually under the minimum prescribed (i.e. warnings instead fines). All these deeply concerning facts, circumstances and developments raise very serious doubts of the implementation of the legislation in practice, and it is for the state to prove otherwise. **Even the incentive part of legislation is not being implemented.** See observations on Article 3 below regarding the situation of women, see below regarding the situation of the Roma, and see the above considerations on the lack of regulations for the implementations of the ZIMI Act regarding the situation of the people with disabilities. Furthermore, it has to be noted that the majority of the objectives on improving accessibility (the Accessible Slovenia strategy) remain unmet.

Ineffective system for the promotion of equality, adoption and exercise of policies.

Policy-making bodies³⁸ for various vulnerable groups are numerous but dispersed between various ministries and consequently weak. This indicates an irrational resource management, the consequences of which are also inefficiency, non-transparency, lack of intersectional approach, bad coordination and lack of leadership on a horizontal level. Occasional reorganizations of the public sector are poorly planned (like the one in 2012, which, among others, abolished the Office for

³⁵ Ibid.; Paragraph 56. See also recommendations under 'i)'.

³⁶ See data on equality bodies available by EQUINET, available at <http://www.equineteurope.org/-Member-organisations>.

³⁷ See HRO annual report 2009, page 50. Available at http://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/Letno_porocilo_Varuha_za_2009.pdf.

³⁸ Such as Office for Minorities, Office for Religious Communities, the Directorate for the disabled, Equal Opportunities and European Coordination Service, Youth Office, Directorate for Family, etc.

Equal Opportunities) and produce no real financial savings, let alone substantive synergies. In the field of gender equality, the staff of the policy-making bodies almost halved. On the other hand, we have seen the number of employed representatives of the political parties in the cabinets of the executive power on the rise,³⁹ even after 2008. This proves that the financial resources are not a decisive problem. The scope and reach of the projects in the fields of promotion, awareness-raising and training of key stakeholders (i.e. the prosecution, the judiciary, public sector, employers, etc.) is comparatively very small. Due to the absence of any strategy, the projects are not focused and lack continuity and sustainability. The lack of the state's proactive approach cannot be replaced by the activities of the NGOs.

All of the above is merely the ***symptom of underestimating the weight and extent of the problem of discrimination and lack of the will to tackle it.*** Political will is the crucial and decisive missing factor, as prove the state's inadequate responses to numerous continuous warnings and recommendations by the local and international organizations for the protection of human rights.⁴⁰ What is more, the shortage of data about the violations is the perfect excuse of some sceptics in the political debate, that *»in fact there is no problem, that it is insignificant in extent and that it is made-up by the controlling institutions in order to justify their existence«*.

ARTICLE

2

NON-DISCRIMINATION

The cases of disregard for the prohibition of discrimination by the state are multiplying, especially in connection to regressive austerity measures and delays in elimination of the serious systemic irregularities (disrespect for the judgements of the Constitutional Court). Lately, the legislator insists on the regressive measures in the field of protection. The new Employment Relationships Act (*Zakon o delovnih razmerjih*, ZDR-1) provides lower sanctions for employment-related discrimination in comparison to the general antidiscrimination legislation for no apparent reason. It also reduces the transparency of recruitment procedures, e.g., shortening the deadlines for submitting bids and exonerating the invitation to tender. The proposed Act on Equality between Women and Men contains clearly regressive legal definitions of the forms of gender discrimination, widens the permissible exceptions, eliminates the special body for the gender equality, abolishes the proactive duties of the political parties to adopt relevant strategies, etc.

Some examples of such systemic and structural violations are presented below on various occasions, i.e. in respect to the right to housing, social and labor rights, children's rights, the situation of the Roma communities and the people with disabilities, the situation of the Erased, the culture, etc. At this point, we would like to outline two such examples. The first is the Fiscal Balance Act (*Zakon o uravnoveženju javnih financ*, ZUJF), which came into force on May 31 2012. This Act is a typical example of wide regressive and indirectly discriminatory austerity measures. It produced numerous irregularities: retroactive intervention into pensions for specific groups, such as supposedly privileged pensioners, employed in the institutions of the former nondemocratic regime (discrimination on the ground of perceived political opinion, the Constitutional Court judgement in the case U-I-186/12);⁴¹ the compulsive retirement age in the public sector, disproportionately affecting women (gender discrimination, the Constitutional Court

³⁹ Article in *Dnevnik* daily, February 19, 2014, available at <http://www.dnevnik.si/slovenija/od-podmladka-do-ministrovega-kabineteta>.

⁴⁰ See also the Special Rapporteur on the human right to safe drinking water and sanitation, Document No. A/HRC/18/33/Add.2 (Paragraphs 44 and 47, page 14 and 15). Available at www2.ohchr.org/english/bodies/hrcouncil/docs/18session/A-HRC-18-33-Add2_en.pdf.

⁴¹ We would also like to stress that the special legislative act, adopted to tackle the consequences of this judgement, deprived the victims of any compensation (i.e. interests), even those which protected their rights vigorously and by the correct legal means.

judgement in the case U-I-146/12); unfortunately, the age discrimination claim was rejected in the same judgement.

The second example indicates the fundamental unresponsiveness of the state. It is well known that LGBT persons, same-sex couples and families are systemically discriminated against in the various legal acts and regulatory provisions. Discrimination persists in the Health Care and Health Insurance Act (*Zakon o zdravstvenem varstvu in zdravstvenem zavarovanju*, ZZVZZ; see below), Housing Act (*Stanovanjski zakon*, SZ-1; see below), Code of Obligations, The Criminal Code, Enforcement of Criminal Sanctions Act, Criminal Procedure Act, General Administrative Procedure Act, Civil Procedure Act, Marriage and Family Relations Act, etc. The Constitutional Court has found The Registration of a Same-Sex Civil Partnership Act⁴² and Inheritance Act⁴³ both discriminatory and has ordered the legislator to remedy this unconstitutional situation in six months, but this was not done. Existence of various clearly unconstitutional legal gaps with regard to the exercise of the social and economic rights of registered and unregistered same-sex couples (see below) can be clearly visible even from relevant judgements of the European Court of Human Rights (ECHR) and the Court of European Union, for example the problem of acquiring the widow pension⁴⁴. All these problems have been raised in the campaign for the proposal of the Family Code, which was rejected in the referendum.

ARTICLE

2

NON-DISCRIMINATION

RECOMMENDATIONS

The Committee shall request immediate and strong action of the state with all the available resources. The Republic of Slovenia should immediately improve its system of protection against discrimination and enjoyment of the rights under the Covenant without any discrimination, and should to this end provide and ensure: the elimination of all systemic discrimination from its legislation; sufficiently clear legislation and a system of transparent and effective legal remedies for the protection against discrimination, which should be easily accessible to the victims; NGO assistance to the victims of discrimination in all, even the most complex proceedings; an independent and effective equality body for the protection against discrimination, qualified to assist the victims in pursuing protection of their rights, monitor the situation independently and perform proactive work in the form of general recommendations, guidelines, awareness raising, information, and general assistance on the subject; the strategy of prevention and elimination of discrimination, including punitive policy strategy; and sufficient human, organizational and financial resources for these efforts.

GENERAL
DUTIES
UNDER THE
COVENANT

OBLIGATION TO
PROTECT

OBLIGATION TO PROTECT

Access to free legal aid

Limited access to free legal advice and legal aid after 2008 results in ineffective protection of the right to judicial protection,⁴⁵ in particular for vulnerable groups.

In 2001, Slovenia adopted the Free Legal Aid Act to implement the right to judicial protection on the principle of equality, taking into account the social position of

⁴² Constitutional Court judgment No. U-I-425/06. 2009. Available at <http://odlocitve.us-rs.si/usrs/us-odl.nsf/o/5EC66748A09C70A4C12575EF002111D8>.

⁴³ Constitutional Court judgment No. U-I-212/10. 2013. Available at <http://odlocitve.us-rs.si/usrs/us-odl.nsf/o/FC62EF78571FE59EC1257B4800408D62>.

⁴⁴ Compare with the Court of European Union judgement "Maruko v. Versorgungsanstalt der deutschen Bühnen", C-267/06 (2008).

⁴⁵ The right to judicial protection includes the right to advice on the possible initiation of legal proceedings.

people who cannot exercise this right without harm to their livelihood or the livelihood of their family. The Act regulates several forms of legal assistance, including the so-called initial legal advice. At first, this instrument was available free of charge to permanent or temporary residents, without prior verification of the eligibility. The system provided extensive protection to all, but especially enabled access to legal assistance free of administrative barriers to the most vulnerable social groups. The free initial legal advice is especially important for addressing basic rights concerning labor law and social security, which need to be addressed without delay (termination of the employment, wages, pay for annual leave, the right to social transfers, subsidized housing, legal assistance to victims of domestic violence ...). At least 10,000 people took advantage of this instrument annually.

Free initial legal advice is also important in terms of prevention of the growing number of newly initiated litigations. There are far too many litigations in Slovenia with respect to the capacity of courts, as evidenced by the Lukenda project⁴⁶, designed to reduce the case backlog. Under the 2008 amendment to the Free Legal Aid Act, beneficiaries and their family members have to meet certain conditions regarding financial situation and property status in order to be eligible for the free initial legal advice. These conditions are determined in the process conducted by the competent district court. There are only 11 district courts in Slovenia. The financial census (EUR 530,44) is fixed below the poverty threshold (EUR 606),⁴⁷ allowing access to this service to less than 10 % of the population. Established conditions concerning financial and property status⁴⁸ make it impossible for most citizens and other beneficiaries to access these free services. Furthermore, the amendment introduced an administrative barrier, which in practice leads to diminished access to justice. The 2008 amendment to the Act has been drawn up in response to the audit report of the Court of Audit on the implementation of free legal aid instrument, but it only contributed to an even more inefficient use of public funds.

**OBLIGATION TO
PROTECT**

The cost of the initial legal advice is EUR 18, while the court spends more than three times that amount only for determining eligibility for free legal advice. But above all, the procedures take from one to two months, rendering legal advice meaningless in the meantime. ***In this way, the most vulnerable groups are denied access to legal assistance and effective protection of their rights.*** In some cases that are less important in terms of human rights protection (e.g. in the fields of consumer protection and tenants), the state indeed provides such legal aid without verifying the financial conditions, but this constitutes, in our opinion, violation of the principle of equal protection rights. On the other hand, the applicable regulations are not being implemented. The Social Security Act, for example, still provides obligatory advice and assistance to employees in corporations, public sector and other employers in solving problems in the workplace, upon termination of employment and in exercising their rights to health, pension and disability insurance and to child and family care (Article 18), but this provision is very rarely exercised by the state since the amendments to the Free Legal Aid Act in 2008.

RECOMMENDATION

The right to free legal aid, including the initial legal advice, should be granted to all below the at-risk-of poverty threshold.

⁴⁶ The Lukenda project was initiated as the result of the ECHR judgment in the case Lukenda. It is a national project for elimination of the backlog of cases, run by the Ministry of Justice in cooperation with the Office of the state Prosecutor General.

⁴⁷ Statistical Office of the Republic of Slovenia. *Income and poverty indicators, Slovenia, 2012*. Provisional data of 09/16/2013.

⁴⁸ Property of the beneficiary of free legal aid and his family must not exceed EUR 15,913 (60 minimum salaries). In determining eligibility, annual leave allowance, maintenances, etc. are taken into account as well.

OBLIGATION TO
PROTECT

OBLIGATION TO PROTECT

Failure to remedy the violation; of the rights; in the case of the Erased

Failure to remedy the mass and continuing violations of the rights of the Erased people of Slovenia since 1992.⁴⁹ Slovenian authorities continuously failed to comply both in content and in due time with the relevant decisions of the Constitutional Court and the ECHR. Despite the gravity and wide scale of the initial arbitrary act of erasure, the state has continuously posed obstacles to the victims in their efforts to remedy the violations, which inevitably resulted in mass and long lasting ESC rights deprivation.

When Slovenia gained independence from Yugoslavia in 1991, citizens of the former Socialist Republic of Slovenia automatically became citizens of the new country, the Republic of Slovenia. Furthermore, according to the Citizenship of the Republic of Slovenia Act, all citizens of other republics of the former Yugoslavia with permanent residence in the Socialist Republic of Slovenia had the right to apply for Slovenian citizenship within six months of the date of independence. Those who did not apply for citizenship (for various reasons, e.g. not knowing they do not have the republican citizenship or failing to apply in due time) or did not obtain citizenship (because their application was refused or discarded or because the procedure was terminated) were deprived of their permanent residence status by the act of "erasure". On February 26, 1992, 25.671 (ex-)Yugoslav citizens, permanently residing in Slovenia and mainly originating from other Yugoslav republics, were arbitrarily erased from the register of permanent residents, without proper legal ground and without any administrative act (i.e. written decision). As a consequence, they lost virtually all economic and social rights linked to this status. Many erased people were subsequently forced to leave the country and to reside outside the country for many years.

Erasure was declared unlawful by two rulings of the Constitutional Court (in 1999 and 2003).⁵⁰ None of them was fully respected by the legislator. Respective legislation in 1999 (Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia; hereinafter: Legal Status Act) enabled some of the erased to acquire new status of permanent residence (*ex nunc*). But this was declared insufficient and unconstitutional by the second Constitutional Court judgement in 2003 which *inter alia* required *restitutio in integrum* (return of the status *ex tunc*). After the judgement, a serious political deadlock on the issue prevented any reasonable solution to this problem. Respective amendment of the Legal Status Act, required by the Constitutional Court decision in 2003, was adopted only in 2010, *but further failed to abide to the decision*. Due to very restrictive conditions for acquiring permanent residence permit under this law, the majority of the Erased who applied were not able to acquire the status and they are still unable to exercise their economic and social rights, including the rights to work, social security, health care and education.

This amendment of Legal Status Act introduced a list of unjustified conditions for regularization of status of the Erased. The amendments kept the 1999 requirement of proof that they continuously (actually) lived in Slovenia since the erasure, which in practice prevents regularization to all those who have been forced to reside outside the country for many years and could not return. This legislation imposed conditions retroactively, which means that today the erased persons cannot do anything to change the circumstances in the past, i.e. in 1992 and onwards, to meet the conditions required by the law. With 2010 amendments, some exceptions have been added, according to which a person is entitled to receive a permanent

⁴⁹ *Concluding Observations*, Paragraph 16.

⁵⁰ Constitutional Court judgments No. U- I-284/94 as of February 4, 1999 and No. U-I-246/02 as of April 3, 2003.

residence permit even if he or she was absent from Slovenia. However, these exceptions are limited, difficult to prove⁵¹ and are therefore further unduly excluding a number of persons from the regularization of their status. Moreover, the law did not address the issue of family reunification for the family members of the Erased who started their families while living abroad and acquired residence permit but are now not able to return with their families due to non-compliance with the conditions for family reunification, applicable to applicable to third-country nationals in general. Furthermore, the administrative fee for initiating the procedure for regularization of their status (EUR 95 per application) is further discouraging the Erased to apply for the status. To illustrate the impact: out of 987 applications⁵² for a permanent residence under the 2010 legislation, only 138 applicants were granted permanent residence; 175 applications were denied; and additional 674 applications are still pending. The low number of applications also indicates that the information about the possibility to regularize was not widely available.

OBLIGATION TO PROTECT

At the deadline for the applications under the amended 2010 Legal Status Act (July 24, 2013), over 13.000 Erased were still without any kind of status in Slovenia. With the expiration of the 2010 Legal Status Act, they were left without any effective legal remedy to regularize their statuses, unable to return to Slovenia and/or denied an opportunity to reintegrate into Slovenian society.⁵³ During this time, the problem was internationalised by the petitions to European Court of Human Rights, which confirmed the seriousness of the human rights violations.

In order to implement the judgment of the European Court of Human Rights in the case Kurić and others vs. Slovenia, the National Assembly adopted the Act Regulating Compensation for Damage to Persons Erased from the Permanent Population (hereinafter: Compensation Act) as late as November 2013. The law further discriminates between different groups of the Erased, depriving a large group of people from access to compensations for the violation of their rights.

The Grand Chamber of the ECHR issued a pilot judgment on June 26, 2012 in the case *Kurić and others vs. Slovenia*, in which it determined that the Republic of Slovenia has violated the rights of the Erased. It determined violations of Article 8 (right to privacy and family life), Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights, as the Erased, being citizens of the former Yugoslavia, were treated less favorably than those with a foreigners status, who at the time resided in Slovenia in a comparable position. The Court awarded each of the six applicants compensation for non-pecuniary damages in the amount of EUR 20,000, recognized insufficiency of the measures taken by the government to address the structural problem of the Erased, and ordered Slovenia to set up an ad-hoc

⁵¹ The 2010 amendments introduced an additional, unjustifiable condition stating that if a person manages to prove they fall within one of the exceptions, only the first five years of their absence are considered justified; to justify the next five years of their absence, they also have to prove that "they tried to return to Slovenia during their absence". This provision is unclear and effectively blocks status regularization for all those who do not live in Slovenia, as it is impossible to prove that a person tried to return. In many cases they were inquiring about their options in Slovenian consulates abroad, but have no proof of that.

⁵² From 24 June 2010 to 31 July 2013 there were 987 applications for a permanent residence permit filed under the 2010 legislation - 841 by the Erased individuals, 51 by children of the Erased and 95 by the citizens of the former FRY republic who had not been "erased".

⁵³ After the expiration of the deadline in July 2013, there were cases that indicate that there are still some erased persons residing in Slovenia without any kind of status for the past 22 years – without any kind of legal status and documents and without access to economic and social rights, including the rights to work, social security and health care. After July 2013 many of the erased residing abroad also sought help with Slovenian authorities and civil society organizations, expressing interest to regularize their status in Slovenia, which are now not able to do, since the deadline for filing applications under the 2010 Legal Status Act expired.

mechanism for recognition of the compensations, with the deadline of June 2013. The National Assembly only adopted the Compensation Act as late as November 2013 and it will not come into effect before June 2014. The law was never coordinated with the Erased and the civil society and their numerous concerns were not even addressed. Under the Compensation Act, only those who have already obtained either a permanent residence permit in Slovenia or Slovenian citizenship will be entitled to compensation. Another group of beneficiaries was included - the Erased who applied for a permanent residence permit or citizenship before the adoption of the 2010 Legal Status Act and whose application was rejected, dismissed or the procedure was terminated. However, this group will still have to prove their actual living in Slovenia under similar provisions that proved to be too restrictive under the 2010 Legal Status Act.

Exclusion of certain groups of the Erased from the effects of this legislation has no legitimate aim and represents unjustified discriminatory treatment of different groups of the Erased. This position is even supported in the observations of the Legislative and Legal Service of the National Assembly. The Erased and civil society organization also contested the delayed effect of the legislation; the amount of compensation and its limitation without a proper justification; the time limits for payment of compensation (in case the amount exceeds EUR 1,000, the person shall be paid in up to five instalments); and the fact that the law does not include children of the Erased as beneficiaries and does not allow the heirs of the deceased Erased to claim compensation.

With the Legal Status Act expiring and the Compensation Act conditioning the access to compensation with already acquired legal status, but not addressing the issue of status regularization, approximately 12,000 Erased will not have access neither to statuses nor to compensations. Furthermore, it is rather clear from the most recent decision of the ECHR of March 12, 2014 (the case *Kurić and others vs. Slovenia*, in which the Court awarded compensation for pecuniary damages to the six applicants) that the compensation amounts under the Compensation Act are too low. Furthermore, according to the ECHR ruling, the rights of the family members (i.e. spouses, children) that were not themselves "erased", were also gravely violated, but the national legislation does not address this issue at all.

OBLIGATION TO
PROTECT

RECOMMENDATIONS

The state should enable status regularization for all the Erased who wish to reintegrate into Slovenian society – without additional conditions and free of administrative fees. Furthermore, the authorities should enable reunification for the family members of the erased without additional conditions. The state should enable access to compensations to all the Erased in the light of equal treatment, as they were all "erased" unlawfully in the same way.

INTERNATIONAL
ASSISTANCE &
COOPERATION

INTERNATIONAL ASSISTANCE & COOPERATION

With the stagnation at 0.13 % of GDP, the state does respect its international commitments and will not achieve the objective to provide 0.33 % of GDP by 2015. Despite some progress in the field, existing official development aid (ODA) remains dispersed and largely focused on medium developed countries (70 % allocated to Western Balkan). A large part of the aid is tied and there is a tendency to use ODA as a tool for economic diplomacy, which may limit development contribution of ODA for systemic improvement of the ESC rights in developing countries. Transparent allocation of funds, as well as low level of support and awareness of Slovenian public of the importance of international development cooperation, which is one of the lowest in the EU, still remain a challenge.

Slovenia lacks a comprehensive ODA strategy to support its thematic and geographical priorities. It also lacks established action plans and monitoring and evaluation system in these areas, further limiting the potential ODA contribution to structural changes in partner countries, which could lead to a higher degree of implementation of human rights. There is also a lack of a comprehensive integration of the human rights based approach to the development into Slovenian ODA.

Since 2009, the amount of official development assistance (ODA) has stagnated at the level of 0.13 % GDP. More than two-thirds of ODA is multilateral, and bilateral funds - largely intended for the Western Balkan countries - remain dispersed. Slovenian NGOs implement programs with only 2 % of ODA, while in the OECD donor countries, NGOs implement an average of 13% of ODA. In the context of bilateral ODA, Slovenia allocates one-fifth of the funds to education (covering tuition fees and scholarships for studying in Slovenia). The funds thus remain in Slovenia, limiting the contribution to reducing poverty in partner countries, with a possibility of a brain drain. An additional problem is the provision of services and infrastructure in the target countries, which to a large extent represents tied aid carried out by the Slovenian institutions. We would also like to draw attention to the tendency of using ODA as a means of economic diplomacy, which should not be the primary purpose of ODA.⁵⁴ The challenge also remains the non-transparent allocation of funds, which was also pointed out by the Court of Audit of Republic of Slovenia. Additionally, the *Aid Transparency Index*, published in October 2013, ranks Slovenia 58th out of 67 countries with respect to transparency of bilateral aid.

About 10 % of ODA is intended for humanitarian and post-conflict assistance, but these funds were not sufficient to cover all of the crises in 2011. There is no mechanism for the financing of humanitarian interventions by NGOs, which would be necessary for the further development of this field. The country is too slow in responding to the humanitarian disasters and is not cooperating with the national NGOs, even though they already have an established structure on the grounds.⁵⁵ The support and understanding of the Slovenian public of the importance of ODA is also among the lowest in the EU, and yet there is less than 1 % of ODA dedicated for this. The field of global learning, as well as the potential of cooperation in this field with the NGOs, are also financially malnourished and unexploited.⁵⁶

RECOMMENDATIONS

The state needs to increase ODA funding, allocate more resources to the least developed countries and increase the share of (programmed) bilateral funds. The efforts to ensure transparent use of the funds have to be increased, including by setting strategy for implementing the Busan commitments, and clarifying the objectives and principles of ODA. The state should strengthen the active cooperation with NGOs, support raising of the public awareness of the importance of ODA, and accelerate activities in the field of global learning. The state should develop a comprehensive ODA strategy with corresponding measurable action plans, the preparation and implementation of which should focus on human rights based approach.

INTERNATIONAL
ASSISTANCE &
COOPERATION

⁵⁴ Sloga. 2013. *Interim evaluation of the effectiveness of implementation of the Resolution on International Development Cooperation for the period until year 2015*. Available at www.sloga-platform.org/images/Vmesna_ocena_uspesnosti_uresnicevanja_Resolucije_-_alternativno_p.doc.pdf.

⁵⁵ Ministry of Foreign Affairs. 2013. *Report on International Development Cooperation of the Republic of Slovenia for 2012*. Available at www.mzz.gov.si/fileadmin/pageuploads/Zunanja_politika/RA/Porocilo_2012.pdf.

⁵⁶ Ministry of Foreign Affairs. 2012. *Report on International Development Cooperation of the Republic of Slovenia for 2011*. Available at www.mzz.gov.si/fileadmin/pageuploads/Zunanja_politika/RA/Porocilo_o_MRS_2011.pdf.

ARTICLE

EQUAL RIGHT OF MEN AND WOMEN TO THE ENJOYMENT OF ALL ESC RIGHTS

3

EQUAL RIGHT OF MEN
AND WOMEN TO THE
ENJOYMENT OF ALL
ESC RIGHTS

Legislative and political measures on gender equality and equal position of women did not have the desired effects, with protection against discrimination also remaining ineffective. Although numerous indicators show that position of women has been worsened by the economic recession, the adoption of protective and political stimulation measures is also in regression. The at-risk-of-poverty rate for women is increasing, alongside with the unemployment of women and income difference between man and women. Gender segregation in the labor market, double burden for women and stagnating women's political representation at the state and community level are also remaining a reality in society.⁵⁷

Women are, in relation to men, placed in a disadvantaged position in several social domains. Independent analyses (as opposed to official statistical data, according to which the income difference between men and women amounts to 8.3 %) show that on the average, in the period 2003–2007 men earned 23 % more than women and 18 % more for equal work for the same employer. In public sector, this difference was 24 % and 14 %, respectively.⁵⁸ The income gap is increasing with the level of education of women, and is bigger among self-employed workers and in precarious forms of work. Although unemployment data show decrease in unemployment among men in recent years, this does not apply to women. Increase in unemployment is particularly high among women with higher education (in 2005–2012, the increase was 15 % for women and 3 % for men). On average, women seek employment longer than men, with this period being the longest for young women looking for a first employment, middle-aged women, women members of ethnic minorities and migrant women.⁵⁹ For the first time, the unemployment rate for women reached above the EU-28 average, with the position of young women being particularly worrying (see below). According to an OECD estimate, women in the EU perform unpaid domestic work in the value of 33 % of GDP, compared to as much as 40 % of the women in Slovenia; employed women spend 42 hours per week for domestic and caring work, while men spend 28 hours. Researches show that the difference in time spent for domestic work between men and women in Slovenia is among the highest in Europe.⁶⁰

After 2009, this situation has been deteriorating due to economic recession and social crisis, while the status of women has also been disproportionately influenced by the governmental counter-crisis measures, including by more stringent criteria for obtaining minimum pension support (before the austerity measures, two-thirds of the beneficiaries for support were women);⁶¹ furthermore, women represent two-thirds of the retired population that is receiving pensions lower than EUR 622. Even in 2011, when the general at-risk-of-poverty rate was 15 %, this rate was 24 % for women aged over 60, and 34 % for women aged over 75.⁶²

There are large gender differences in childcare, although the legislation also provides for child nursing and care leave for fathers since 1979. However, in 2010 and 2011, only 7 % of fathers among parents actually took the parental leave. In

⁵⁷ Statistical Office of the Republic of Slovenia. *International Women's Day*. 2008–2013. Available at www.stat.si.

⁵⁸ Humer, Ž., Roksandić, M. 2013. *Counter-crisis measures and gender equality*. Ljubljana, Women's Lobby of Slovenia. Available at www.zls.si/images/PROTIKRIZNI_UKREPI_ENAKOSTSPOLOV.pdf.

⁵⁹ *Ibidem*.

⁶⁰ Aliaga, C. 2006. »How is the time of women and men distributed in Europe?«. *Statistics in Focus*, No. 4. Luksemburg, Eurostat. Available at http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-NK-06-004/EN/KS-NK-06-004-EN.PDF.

⁶¹ Humer, Ž., Roksandić, M., op. cit.; For more, see also *The right to social assistance*.

⁶² Humer, Ž., Roksandić, M., op. cit.

2010, two-thirds of these fathers took the leave for no longer than 3 months out of 8.5 available. Non-transferable paid 15-day paternity leave was taken by 63 % of fathers in the second year since its adoption (2003), and in 2011, more than 80 % of them took the leave. Since 2006, fathers can also benefit from the 75-day paternity leave without compensation, but with paid social security contributions calculated from the minimum wage. In 2011, this leave was taken by less than 20 % of fathers.⁶³ Overall, measures therefore do not equalize participation of women and men in childcare.

In 2012, the austerity legislation has imposed additional burden on young families: preschool care for the second child has ceased to be free of charge, and previously universal childbirth allowance and large family allowance have become conditional on the minimum level of income. While the maternity allowance still remains at 100 %, the childcare allowance (as well as the paternity leave and adoption leave allowances) have dropped to 90 % and have been limited with the amount of 2.5 average salaries (the measure was supposed to affect only one hundred women across the country – with 21,947 children born annually!). As fathers only rarely take the paternity leave, this reduction mainly affects mothers. In relation to reduction of allowances and incentives, it also needs to be pointed out that as many as one quarter of families in Slovenia are single-parent families where the main provider for the family is woman in 85 % of the cases.⁶⁴ »Excessive social expansion«, as this situation was assessed by the Government in its proposal of Parental Protection and Family Benefits Act, is thus to be contained indirectly by discriminatory regressive measures.

ARTICLE

3

EQUAL RIGHT OF MEN
AND WOMEN TO THE
ENJOYMENT OF ALL
ESC RIGHTS

Gender inequality remains high in decision making. Since 2012, Slovenia indeed has a female Prime Minister for the first time in its history, but it has never had neither a female president of the National Assembly nor the National Council. The representation of women in politics is poor, with the exception of the National Assembly in current mandate (32.2 %). The National Council only has 7.5 % female members; there are 21.9 % female council members, 4.8 % female mayors at the local level, and 28.7 % MPs in the European Parliament. There are also few women on key decision-making positions in economy.⁶⁵ We would like to highlight the fact that the obligation of political parties to prepare the strategy for inclusion of women in all aspects of their operation, including standing for offices (Article 31 of the Act on Equal Opportunities for Women and Men) has been neither respected nor monitored, and the violations have not been sanctioned with the provided fines.

Furthermore, the body protecting gender equality ceased to operate in 2008 (see above). In 2012, the state abolished the Equal Opportunities Office, which existed since 1992 as an independent body responsible for policies of equal gender opportunities. The tasks of the Office were shifted to the Ministry of Labor, Family, Social Affairs and (since 2013) Equal Opportunities (within which operates the Office for Equal Opportunities and European Co-ordination, which almost halved the human resources in the field of gender equality). The national strategy of gender equality was in force until the end of 2013, while the new strategy has not (as yet) been adopted.

⁶³ Statistical Office of the Republic of Slovenia. *International Father's Day 2013*. Available at www.stat.si/novica_prikazi.aspx?id=5558. *Harmonisation of Family and Professional Life, Slovenia, Second Quarter 2010 – final data*. Available at www.stat.si/novica_prikazi.aspx?id=3821.

⁶⁴ Humer, Ž., Roksandić, M., op. cit.

⁶⁵ Statistical Office of the Republic of Slovenia. *Statistical Yearbook 2013*. Available at www.stat.si/letopis/LetopisVsebinska.aspx?poglavje=5&lang=si&leto=2013. Antić Gaber, M. 2011. *Women on the margins of politics*. Ljubljana, Založba Sophia.

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3

EQUAL RIGHT OF MEN
AND WOMEN TO THE
ENJOYMENT OF ALL
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RECOMMENDATIONS

The state should establish an efficient institutional mechanism for protection against gender discrimination, and for policies of gender equality. It should pledge to implement the integrated politics of gender equality, provide for the implementation of the equality principle in all social spheres, and increase awareness-raising activities regarding the equality-related issues. It should provide for regular quantitative and qualitative gender monitoring data, making this the basis for the adoption of measures for the improvement of the position of women. Data analyses should be conducted by independent expert institutions. All statistical data should be gendered and should be widely accessible to public. Measures should also take into consideration the intersectional discrimination related to age, social-economic position, ethnicity, etc. The state should adopt regulations and more efficient measures to promote working activity of women, to prevent their unemployment, horizontal and vertical segregation on the labor market and employment in precarious forms of work, and to reduce income difference for equal work. With intervention on the labor market, the state should facilitate the reconciliation of professional and private life. It should encourage a more balanced division of labor between women and men in parental leave, and reduce additional burden for women stemming from the care for the family. The state should adopt regulations and measures to prevent deterioration of the social position of women and the worrying trend of gradual increase of the risk of poverty, especially among older women. Existing legislation for promotion of representation of women in some political segments should expand to other segments of politics, as well as to the representation of women in top management in economy.

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THE RIGHT TO WORK AND RIGHTS AT WORK

Slovenia is not adopting appropriate measures to fully implement and effectively protect the right to work. The executive branch, with its labor inspectors and law enforcement, and the judiciary are not effectively addressing mass violations of the labor law. The state is not sufficiently effective in promoting respect for the right to work, as the awareness and culture (especially of employers) are at a very low level. Another serious concern is the trend of limiting access to the courts.

The Labor Inspectorate is critically understaffed and the employment trend continues to decrease. In 2012, for example, there were 81 inspectors employed (88 in 2011) and they carried out 16,582 inspections – this means that every inspector made an average of about 200 inspections per year! Furthermore, there are only 46 real labor inspectors, a number of whom were even forced to retire in 2013 due to provisions of the Fiscal Balance Act. Due to constantly growing number of potential perpetrators (inspection spots), there were more than 2,300 potential violators per single inspector in 2012. Apart from that, additional demanding tasks were added to inspectors' mandate.⁶⁶ The most recent information shows that the inflow of cases has doubled in the last year.⁶⁷ **Furthermore, even the gravest extensive violations (i.e. intentional omissions of employers to pay benefits and secure health and pension insurance) were not under scrutiny of police and prosecutors until a few**

⁶⁶ Nataša Terček, Chief Inspector of the Labor Inspectorate, at the conference on the situation of migrants in Slovenia (*Položaj migrantov v Sloveniji – Kje so meje*); adapted from MMC RTV Slovenia, available at www.rtv slo.si/mmc-priporoca/ko-je-zadetek-na-lotu-verjetnejsi-od-obiska-delovnega-inspektorja/322673.

⁶⁷ Anja Kopač Mrak, Minister of Labor, Family, Social Affairs and Equal Opportunities, in an interview for *Dnevnik* daily. Available at www.dnevnik.si/objektiv/intervjuji/-anja-kopac-mrak.

years ago, despite the scale of the problem and seriousness of such criminal acts.

Two measures are especially worrying in terms of increasingly ineffective protection of the right to work: the introduction of court fees to labor disputes in 2013, and restricted access to the Constitutional Court (in particular with regard to initiatives for the review of constitutionality) after 2011. Also imposed were restrictions of access to higher courts and the right to extraordinary remedy (it can only be filed by lawyers or other individuals with completed bar exam). This, especially in light of limited access to free legal aid and free legal advice, constitutes the regression of protection.

RECOMMENDATIONS

The state should practically implement effective, proportionate and dissuasive sanctions in cases of breaches of labor law by strengthening supervisory authorities and supporting efforts to increase universal awareness of the importance of labor rights. The state should eliminate excessive barriers with regard to access to justice and provide appropriate support structures (e.g. office for gender equality, support to NGOs in the proceedings ...).

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THE RIGHT TO WORK AND RIGHTS AT WORK **Position and structural discrimination of young people**

Youth employment crisis is very serious and is further deteriorating. Exclusion of young people is not merely structural (unemployment, chaining of employment contracts, temporary employment, precarious work, lack of social security ...), they are also disproportionately disadvantaged on the system level (indirect discrimination). Existing measures are partial and unsystematic.

With 24,1 % in June 2013⁶⁸, the youth unemployment rate was higher than the European average. In October 2013, registered unemployment in the age group 15–24 years amounted to 25.9 %, according to the Employment Service of Slovenia. Persons aged 25–29 are the most critical group, representing two-thirds of all unemployed youth. In the period 2008–2012, youth unemployment rose by as much as 58.3 %, which is one of the fastest growing rates of youth unemployment in Europe. Actual youth unemployment rate is even higher due to regulations on student work and enrollment in university and higher education, which allow fictitious entries, “concealing” the real unemployment rate. In the last quarter of 2012, temporary employment rate in the group of employees aged 15–24 amounted to 71.4 %, the highest in the EU-28. Particularly alarming is an 84 % share of women in this age group, reflecting the discriminatory practices that remain unchallenged. The data indicates that young people are working (through self-employment, student work, undeclared work, precarious forms of employment ...), but are not necessarily guaranteed social security.

Even during the economic boom, there was no reliable system of youth employment policies and no prevention of mass employment of the youth in precarious forms of work. Comprehensive and systematic measures to address these problems were never adopted, in part due to inadequate representation of young people in politics (they are not represented in the parliament as are the seniors, for example). Measures that are currently being adopted by the Ministry of

⁶⁸ EUROSTAT News Release, July 2013 (Data are for seasonally adjusted youth (under 25) unemployment) 3. Within the European Union (EU-28), the youth unemployment rate is much higher than the unemployment rate of the general population. The average youth unemployment rate amounts to 23.3 % (EUROSTAT, August 2013), while the unemployment rate of the total population in the same area is 10.9 %.

Labor, Family, Social Affairs and Equal Opportunities (e.g. *Youth Guarantee* programme) show no significant improvements towards a more systemic approach. While these measures are likely to mitigate the employment problem for the duration of active employment policies, in particular due to the subsidies for each young unemployed, they will not be successful in the long run, as they are not addressing structural causes.

Young people also face disproportionate systemic discrimination (indirect discrimination). Both old and the new Employment Relationships Act prescribes the length-of-service increments and leave of absence. In public sector, restrictions or moratoria on recruitment and promotion, as well as wage freezes and even wage cuts, are in effect for several years now due to austerity measures and restructuring⁶⁹. It is very clear that this has bigger effect on young people than on the older ones, and the dismissals of seniors following the Fiscal Balance Act does not compensate for that in any way. It is therefore about regressive measures as well, measures that are not conditional or temporary (e.g. measures in the Employment Relationships Act). The changes in regulations also allow for a growing number of volunteer (unpaid) internships in comparison to paid ones; the former are becoming a prevalent practice even in the state administration (ministries, tax authorities and other bodies/agencies)⁷⁰.

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Other cases of discrimination

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HIV-positive people in Slovenia are often discriminated when it comes to employment, but rarely decide to use legal measures due to fear of additional stigma. In 2013, the Labor Court ruled for the first time on a case concerning discrimination based on health diagnosis (HIV) and decided in favor of the plaintiff – confirming that discrimination had taken place. A health institution, responsible for labor medicine, discriminated against the individual based on his HIV status, issuing a certificate with a restraint. The certificate later prevented a successful employment of the preselected individual.

The labor legislation prevents LGBT persons living in registered or non-registered partnerships from exercising the right to leave to care for a sick partner and the right to paid leave upon registration of the same-sex partnership. Both rights are guaranteed to married couples.

There is severe structural exclusion and concomitant lack of incentives, and even asymmetric incentives, in the field ***of employment of persons with disabilities*** – e.g., within the quota system, lower employment quotas are set for public administration and information services than for mining and other labor-intensive industries. Half of employers, who are obliged to fulfill the quotas, rather pay charges than employ people with disabilities. Several measures (incentives) paradoxically promote segregation in the labor market (supported employment, sheltered enterprises ...) rather than engaging target groups in the usual forms of employment. Furthermore, ***it is impossible to simultaneously receive pensions and be self-employed, which disproportionately affects especially those with second degree of disability.*** The relevant Constitutional Court decision U-I-358/04 (limiting the possibility to receive a pension if one re-activates through self-employment) was not respected for several years, while the reform of the pension system preserved the status quo.

⁶⁹ Act of Intervention Step because of Economic Crises, adopted in 2010.

⁷⁰ According to the Ministry of Education, Science and Sport, there were 135 paid and 75 volunteer internships in 2008, 90 paid internships in 2012, and only 200 volunteer internships advertised in 2013, with no paid internships for the first time.

RECOMMENDATIONS

The state should effectively prevent individual, structural and systemic discrimination against the most vulnerable groups. The state should remove all discriminatory laws and practices and adopt a strategy with effective programs to reduce unemployment and increase job security.

THE RIGHT TO WORK AND RIGHTS AT WORK Violations of migrant workers' rights

Several practices, such as "enterprise chaining" and subcontracting, are sources of grave violations of migrant workers' rights. Migrant workers' wages are often very low and paid in cash (undeclared) with several months of delay and frequent unlawful deductions. It is not uncommon for migrant workers to be pressed to work for long hours with very few days off, representing exploitation of migrant workers who are seen as disposable goods, only to be used and then discarded. In many cases, such practice is primarily allowed due to automatic loss of the right of legal residence (and working permit) upon termination of the labor contract. Migrants are in a clearly unfavorable position regarding legal remedies (language barriers, lack of information, legal aid cuts, etc.).

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Migrant workers⁷¹ mostly work in low-income jobs with poor working conditions, often within the so-called informal economy. As a result of economic crisis, the number of migrant workers dropped in the recent years,⁷² particularly due to collapse of many "construction companies and official restrictions"⁷³. However, the violations of migrant workers' rights continue.

Specificities of agency work contribute to vulnerability of migrant workers. The number of business entities dealing with recruitment and placement services has been growing, especially in construction and manufacturing sectors. There are a number of entities operating without proper concession contract, under disguise of business cooperation.⁷⁴ Despite regulations providing for at least certain level of equality between national and foreign workers, the latter repeatedly find themselves in a weaker position, unable to exercise their rights. The specific characteristics of **agency work** - individuality and temporariness - force migrant workers to work for the same employer, yet under different terms and conditions than the rest of the workers, which also prevents them from organizing. In most cases, their contracts are short-term and with frequent changes of employment position. Sometimes, migrant workers are being

⁷¹ The majority of migrant workers in Slovenia originate are from former Yugoslavia, especially from Bosnia and Herzegovina, due to high unemployment rate in the state of origin, but also due to geographical and cultural proximity. They are predominantly male, mostly unskilled or semiskilled, employed under fixed-term (temporary) contracts, especially in the industry, including building sector, metal manufacturing, transportation, agriculture and forestry. Sources: Obala Regional. 2013. *Kljub osipu tujih delavcev kršitve ostajajo*. Available at www.regionalobala.si/novica/kljub-osipu-tujih-delavcev-kršitve-ostajajo (November 22, 2013). Znanstveno in raziskovalno središče Koper. 2011. *Delovni in bivalni pogoji delavcev migrantov v Sloveniji*. Available at www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti_pdf/el2010_raziskava_razmere_delavcev_migrantov_250311.pdf (September 17, 2013).

⁷² In 2008, 85,302 work permits for foreign workers were granted, whereas in 2012 this number fell to 20,519. In the period 2004-2010, quotas were in place, regulating the inflow of foreign workers. Since 2011, the condition for being granted work permit is that there is no suitable national workers for the position of employment in question. (Regional Obala, 2013)

⁷³ Ibid.

⁷⁴ Zveza svobodnih sindikatov Slovenije. 2010. *Delavci migranti v primežu politike*. Available at www.zsss.si/attachments/article/42/DelavciMigrantiVPrimežuPolitike_porocilo_NK_227010.pdf (October 22, 2013).

“borrowed” among different agencies in order to avoid signing contract of an indefinite period.⁷⁵ It is common for the agency workers to sign a non-dated form with consensual termination of employment (or be coerced into signing it) upon signing the contract.⁷⁶ There are also cases of migrant workers required to commit not to claim compensation in case of work-related injuries or comply with material liability in case of unilateral early termination of contract.⁷⁷ The agency work is still not fully regulated; it must be noted, however, that recent introduction of liability of the user of agency workers⁷⁸ regarding work conditions is a step in the right direction.

Subcontracting is also a source of grave violations of migrant workers’ rights. This is especially case in the construction sector. The main contractor is often unaware of the number of different employers that the migrant workers at the construction site work for. In order to bypass regulations, employers make different contracts with contractor, causing a situation in which migrant worker’s work permits are tied to one employer, when in fact they work for another.⁷⁹ When it comes to public procurements, e.g. infrastructure projects, the funds are usually rewarded to the subject offering the lowest price. The contracting authority often fails to examine whether the price offered actually covers the work expenses. Frequently the contracts are made under false pretenses, with the sole purpose of completing the project with the lowest possible expenses – even if migrant workers bear the costs.⁸⁰

The practice of the so-called enterprise chaining is another alarming issue. This happens when a single employer (or a family) owns several companies. One company from the “chain” gets a business deal and makes a contract; usually this company has no workers employed. In order to fulfil its contractual duties, the company hires workers of another company from the chain. When migrant workers do not get paid for the work done the court can issue a default judgment; since the company they were working for usually has its accounts frozen and the capital is in another company, the judgment is unenforceable. This is illustrated by the fact that inspectors have issued more than EUR 5 million of fines in 2012, yet only managed to receive EUR 1,3 million of revenue.⁸¹

In the case of migrant workers, a parallel labor market with “bosses”, “dealers” and “slaves” exists. This means that recruitment is not done by regular means but rather through word of mouth or on the street. In the recruitment phase, migrant workers are often deceived with false promises of decent wage and other benefits, only to find themselves in informal employment relationship (undeclared employment) or victims of illegal employment, facing exploitative working conditions and struggling for survival. Sometimes migrant

⁷⁵ Mozetič, P., Pavlišič, A., Pistotnik, S. 2012. *Migracije in prekernost: agencijsko delo in migranti v Sloveniji*. Available at www.njnetwork.org/IMG/pdf/MIGRACIJE_IN_PREKERNOST_AGENCIJSKO_DELO.pdf (December 12, 2013). Zveza svobodnih sindikatov Slovenije. 2010. *Delavci migranti v primežu politike*. Available at www.zsss.si/attachments/article/42/DelavciMigrantiVPrimezuPolitike_porocilo_NK_227010.pdf (October 22, 2013). Zveza svobodnih sindikatov Slovenije. 2013. Personal interview, December 9.

⁷⁶ This is in fact not only happening in the case of agency workers – in sectors such as transportation or similar services, it is often demanded from workers to sign the agreement on termination of employment in advance.

⁷⁷ Source: Mladina. 2013. *Delo za življenje*. Available at www.mladina.si/141671/delo-za-zivljenje (December 12, 2013).

⁷⁸ The Labor Code states that the user is subsidiary liable for the payment of wages and other remunerations from employment for the period in which the worker carried out the work for the user.

⁷⁹ Zveza svobodnih sindikatov Slovenije. 2010. *Delavci migranti v primežu politike*. Available at www.zsss.si/attachments/article/42/DelavciMigrantiVPrimezuPolitike_porocilo_NK_227010.pdf (October 22, 2013).

⁸⁰ Val202. 2013. *Izkoriščanje delavcev na koncu podizvajalske verige*. Available at www.val202.si/2013/10/rekel-je-naj-grem-ker-me-bodo-sicer-pretepli (October 22, 2013). Zveza svobodnih sindikatov Slovenije. 2013. Personal interview, December 9.

⁸¹ Mladina 2013. *Delo za življenje*. Available at www.mladina.si/141671/delo-za-zivljenje (October 22, 2013). Zveza svobodnih sindikatov Slovenije. 2013. Personal interview, December 9. Val 202. 2013. *Izkoriščanje delavcev na koncu podizvajalske verige*. Available at www.val202.si/2013/10/rekel-je-naj-grem-ker-me-bodo-sicer-pretepli (October 22, 2013).

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workers are brought to Slovenia and obliged to work without any employment contract, being on "probation period"; the employer then employs workers that he is satisfied with, the rest are sent back home.⁸² There are cases of migrant workers having a regular contract but then **forced into (unlawful) verbal arrangements** giving up recourse or overtime compensation and limitation of working hours. They have to work at least ten hours per day with rest time deducted from their wages and no compensation of overtime; often they are paid "on hand" – meaning there is no payment of taxes and social security contributions.⁸³ The abusive relations are also reflected in the vocabulary characteristic of the parallel labor market: the employer is called "gazda" (master, the boss), the middleman is "diler" (dealer) and the worker is "suženj" (slave).^{84 85}

Economic dependence and exploitation develops because **work permits** are tied to a specific employer. Sometimes, migrant workers are forced to make a declaration of residence at the employer address, and pay the employer a monthly tariff, which can add up to 150 migrant workers fictitiously living at one address. In almost all cases this happens with transportation companies, due to the nature of work, as the drivers "live" in the trucks. Dependence is exacerbated by employers holding migrant workers' passports and controlling (and sometimes destroying) their personal mail. When trying to access justice or draw attention violations of their rights, migrant workers often face blackmailing, humiliation and threats, most often along with termination of the contract.⁸⁶

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Many migrant workers are seeking for help. The severity of the situation regarding violations of migrant workers' rights can also be illustrated by a number of migrant workers involved in a project called *Integration package for unemployed migrants, refugees and asylum seekers*.⁸⁷ The project was aimed at informing, counselling and advocacy on behalf of migrant workers and their families, refugees and asylum seekers. It lasted for three years and during this time, there were 5,400 requests for information and 2,500 counselling/advocacy services provided. These numbers reflect a good visibility of the project, gained during the operation, but also point out the number of individuals in distress and the scope of problems they face. The project is planned to continue in 2014.⁸⁸

Violations of migrant workers' rights related to work conditions are also worrying. Migrant workers mostly work in low income jobs with poor working conditions, often within the informal economy. Despite the labor code provisions,⁸⁹

⁸² Zveza svobodnih sindikatov Slovenije. 2010. Delavci migranti v primežu politike. Available at www.zsss.si/attachments/article/42/DelavciMigrantiVPrimezuPolitike_porocilo_NK_227010.pdf (October 22, 2013).

⁸³ Zveza svobodnih sindikatov Slovenije. 2013. Personal interview, December 9.

⁸⁴ One example from 2013 is a case of about 40 Bulgarian citizens, provided by a Bulgarian dealer to a Slovenian boss. Migrant workers were accommodated in an improper housing near Austrian border and being driven to work on construction sites in Austria. They worked on a basis of promises – each migrant worker was given approx. EUR 300 in the beginning of the month, which they could use for food. The dealer got 1 euro for every work-hour done. After a month or a month and a half, migrant workers were sent back home and the dealer had another group of migrant workers available. Similar trafficking, but on a larger scale, was going on a few of years ago with the Roma people from Slovakia, provided to a Slovenian employer by an Ukrainian dealer. (The Association of Free Trade Unions of Slovenia 2013)

⁸⁵ Znanstveno in raziskovalno središče Koper. 2011. *Delovni in bivalni pogoji delavcev migrantov v Sloveniji*. Available through: www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti_pdf/el2010_raziskava_razmere_delavcev_migrantov_250311.pdf (17.9.2013).

⁸⁶ Zveza svobodnih sindikatov Slovenije. 2013. Personal interview, December 9.

⁸⁷ The project, originally called »Integracijski paket za brezposelne migrante, begunce in prosilce za azil« (in Slovene), lasted from December 2010 to December 2013 and was run by The Association of Free Trade Unions of Slovenia, in partnership with Slovene Philanthropy.

⁸⁸ Zveza svobodnih sindikatov Slovenije. 2013. Personal interview, December 9.

⁸⁹ Amendments to the labor code stipulate that the employer is obliged to ensure at least minimum wage to foreign workers and that the employer cannot terminate the employment relationship or deregister the worker from social insurance without prior control of legality of such actions by Health Insurance Institute of Slovenia and without informing the worker of the decision. Also, foreign workers cannot be employed by employers who are not paying

migrant workers are subjected to a number of exploitative practices. Employers **fail to pay wages on time**, the delay can be as long as several months. Wages are often paid "on hand", especially in the building sector. Employers frequently pay migrant workers only minimal wage and then make unlawful deductions, e.g. for the rent, for the "recession fee" or for excessive fuel consumption, or even withhold a part of wage as compensation. Other common violations relating to remuneration are non-paid or wrongly calculated overtime, non-paid wages in case of sick leave, non-paid recourse or forcing migrant workers to resign a right to recourse, and sending migrant workers home on temporary layoff without wage compensation. It is common for employers to not pay any bonuses, e.g. for seniority or work on Sunday or holidays. Contributions and taxes are calculated based on a minimal wage: the overtime is set according to a verbal arrangement and paid in the form of commuting or lunch allowance; the amount intended for contributions and taxes is kept by the employer.⁹⁰ Recently, there have been reports in the media of employers paying migrant workers a **humiliatingly low wages**: it was revealed that a migrant worker received only EUR 1.6 per hour,⁹¹ there have also been cases of workers receiving EUR 20 even only EUR 5 for the whole week's work.⁹² Particularly worrying is the widespread practice of not registering workers to health and pension insurance coverage or deregistering workers without termination of employment contract or after illegal termination, with migrant workers most often unaware of it⁹³.

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Frequently, migrant workers are **coerced to work long hours with very few days off**. This can lead cases when migrant workers work 260, 280 or even more than 300 hours a month. The Employment Relationships Act states that overtime can last up to 8 hours a week, 20 hours a month and 180 hours a year. Migrant workers often work longer than that, with overtime paid at a lower hourly rate. The Association of Free Trade Unions of Slovenia reports of a case of a migrant worker, employed in construction sector, who performed more than 1000 hours of overtime! Often, the required 11-hour resting time in the period of 24 hours is not respected. This happens especially in the service (commerce and food service) and building sectors (due to wages mostly depending on the number of hours of work or projects being tied to a certain deadline),⁹⁴ as well as in the transport sector (truck drivers).

The Association of Free Trade Unions of Slovenia reports⁹⁵ that smaller employers are often not familiar with **proper health and safety conditions at work**. Improper safety equipment or not using appropriate safety equipment can be especially dangerous when combined with migrant workers' exhaustion due to large number of overtime hours and intensive work. In some cases, **workplace accidents** tend to be presented as migrant worker's responsibility due to negligence. In this way, the employer can avoid damage liability. When it comes to less severe work-related injuries, migrant workers often receive medical care

taxes and social contributions. Regional Obala. 2013. *Kljub osipu tujih delavcev kršitve ostajajo*. Available through: <http://www.regionalobala.si/novica/kljub-osipu-tujih-delavcev-krsitve-ostajajo> (November 22, 2013).

⁹⁰ Zveza svobodnih sindikatov Slovenije. 2010. *Delavci migranti v primežu politike*. Available at www.zsss.si/attachments/article/42/DelavciMigrantiVPrimezuPolitike_porocilo_NK_227010.pdf (October 22, 2013). Slovenska filantropija. 2012. Email interview, December 3.

⁹¹ Regional Obala. 2013. *Kljub osipu tujih delavcev kršitve ostajajo*. Available at www.regionalobala.si/novica/kljub-osipu-tujih-delavcev-krsitve-ostajajo (November 22, 2013).

⁹² 24ur. 2013. *Za cel teden dela na gradbišču dobil 5 evrov pa še te mu je delodajalec vrgel kot psu*. Available at www.24ur.com/novice/slovenija/za-cel-teden-na-gradbiscu-dobil-5-evrov-pa-se-te-mu-je-delodajalec-vrgel-kot-psu.html (November 22, 2013).

⁹³ Slovenska filantropija. 2012. Email interview, December 3.

⁹⁴ Slovenska filantropija. 2012. Email interview, December 3.

Zveza svobodnih sindikatov Slovenije. 2010. *Delavci migranti v primežu politike*. Available at www.zsss.si/attachments/article/42/DelavciMigrantiVPrimezuPolitike_porocilo_NK_227010.pdf (October 22, 2013).

Zveza svobodnih sindikatov Slovenije. 2013. Personal interview, 9.12.

⁹⁵ Zveza svobodnih sindikatov Slovenije. 2010. *Delavci migranti v primežu politike*. Available at www.zsss.si/attachments/article/42/DelavciMigrantiVPrimezuPolitike_porocilo_NK_227010.pdf (October 22, 2013).

through someone else's health insurance card. If injuries are severe, however, migrant workers are usually simply sent back to their country of origin, as in the case of a migrant worker who broke his leg and was sent back to Bosnia and Herzegovina, or another migrant worker who suffered broken ribs and other injuries following a fall, and was locked into his room.⁹⁶

In the case of **expatriate employees** - Slovenia being a transit country for expatriate employees as well - the violations are similar to the ones described above, but harder to uncover due to workers working in (mostly) Western Europe. According to a representative of The Association of Free Trade Unions of Slovenia,⁹⁷ there were around 4,100 workers, most of them migrants, referred to work in Germany by more than 300 Slovenian employers in 2,013; those employers are generally not fully respecting German rules on expatriate employees. The companies are established exclusively for the purpose of referring workers and are not running any other activity. *Modus operandi* of such companies is making verbal arrangements on work conditions, which are always worse for the worker than the ones set by regulations.⁹⁸ This may lead to a situation in which migrant workers are used as disposable goods, to be used and discarded when not needed anymore.

The state has so far failed to address these issues in a proper manner, in part due to lack of resources of labor law inspectorate and omissions by the prosecution. The violations are thus not effectively sanctioned and the perpetrators can continue with exploitative practices, e.g. simply by establishing a new enterprise. The government recently proposed several changes to legislation concerning work and employment, yet the concern remains.

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The state should employ measures to assure that everyone, including migrant workers, enjoys fair and just work conditions, and to end exploitation of migrant workers. The state must address all issues related to practices that allow for the exploitation of migrant workers: "enterprise chaining" and operation of companies that avoid liability and continue with violations of the rights of employees should be restricted; subsidiary liability should be introduced in the contractor-subcontractor chain; supervision in the field of referring expatriate employees needs to be exercised more thoroughly, ensuring that taxes and benefits are paid from the first day of referral (even if the Tax Administration of the Republic of Slovenia blocks the accounts of companies that are not paying taxes and benefits, they can still operate abroad and refer workers). Companies infringing the regulation should not be allowed to operate anymore and control authorities should have the authority to ban their operation. In case of non-payment of wages, insolvency proceeding should be accelerated. Capacity of the Labor Inspectorate should be strengthened considerably in order to carry out regular inspections, especially in the sectors of economy that employ migrant workers, to address complex violations, and to assure proper follow-up. The state must guarantee that all migrant workers are properly informed about their rights and, when in distress, receive proper legal help and support. The state should ratify UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

⁹⁶ Zveza svobodnih sindikatov Slovenije. 2013. Personal interview, December 9.

⁹⁷ Zveza svobodnih sindikatov Slovenije. 2013. Personal interview, December 9.

⁹⁸ 24ur. 2013. *Za cel teden dela na gradbišču dobil 5 evrov pa še te mu je delodajalec vrgel kot psu*. Available at www.24ur.com/novice/slovenija/za-cel-teden-na-gradbiscu-dobil-5-evrov-pa-se-te-mu-je-delodajalec-vrgel-kot-psu.html (November 22, 2013).

ARTICLE

SOCIAL SECURITY & SOCIAL PROTECTION



SOCIAL SECURITY &
SOCIAL PROTECTION

Social security benefits are not high enough to ensure social security. The criterion of material security is set too high and inadequately. Consequently, more and more individuals in need of assistance are left outside of the social transfer system. The state's measures disrupt fair balance between the public interest and the need for savings on one side and individual rights on the other side.

With the anti-crisis measures, the state has significantly interfered with the rights of the most vulnerable social groups. The most important legislative amendments in the field of social security⁹⁹ came into force in early 2012, when stricter conditions for obtaining rights to public funds were introduced. In practice, however, one of the most notable changes in legislation is the obligation to return the collected social assistance and compensatory supplement from public funds after the death of the beneficiary (e.g. from his estate). This legal duty is in place already for 20-30 years, but has been only recently enforced. It seems that the new legislation is more oriented towards preventing abuse of the system of aid from public funds and towards savings, rather than towards the mitigation of poverty¹⁰⁰. In practice, it can be observed that the decision-making procedures on the rights are too long; especially lengthy are procedures on appeals against first instance decisions. This is due to an outrage of complainants caused by many changes in legislation, a large number of regulations and intervention measures, and on the other hand, the increasing number of requests for rights and errors in computer software. Over 11,000 such cases are pending before second instance, with has serious shortage of personnel for tackling this enormous backlog.

Intervention measures¹⁰¹ have also affected pensions. In 2012, they were not allowed to be harmonized (valorized), which has of course led to deterioration of the material welfare of the beneficiaries. The pension-to-salary ratio is becoming increasingly unfavorable: according to the Institute for Pension and Disability Insurance (*Zavod za pokojninsko in invalidsko zavarovanje Slovenije, ZPIZ*) the average pension in 2012 accounted for 57.0 % of the average salary, compared to 58.6 % in 2011. Moreover, the ratio between the employees and retirees has fallen from 1.69 to 1.45 since 2007. If this trend continues, one employee will provide for one pensioner by 2030. The Fiscal Balance Act reduced the pensions of more than 26,000 beneficiaries whose pension payments had no basis in the contributions to the Slovenian pension fund. The reduction of such pensions was made without issuing decisions, so that legal protection was only provided by the intervention of the Constitutional Court. The state acted in a discriminatory manner (because of political beliefs, among others, this measure has affected all former federal employees and soldiers in the Ex-Yugoslav army) and arbitrarily targeted only one group of the beneficiaries – it was a case of retroactive interference with vested rights. In its judgment No. U-I-186/12, the Constitutional Court annulled certain provisions of the Fiscal Balance Act and declared others inconsistent with the Constitution. This would in principle enable restitution of pensions ex post to all, and would be beneficial to all who had launched legal remedies against the reduction. But the legislator deemed necessary to adopt an additional law requiring

⁹⁹ The Social protection benefits Act, Official Gazette of the Republic of Slovenia, No. [61/2010](#) with amendments; and Exercise of Rights to Public Funds Act, Official Gazette of the Republic of Slovenia, No. [62/2010](#) with amendments.

¹⁰⁰ In practice, however, a number of problems arose. In its 2012 annual report, Human Rights Ombudsman indicates: problems in the functioning of the information system; unclear and complicated explanations of decisions; maladministration in the servings of decisions and the range of assets taken into account in determining the material situation; inclusion of assets that are of no economic benefit to the applicant; taking into account the same net income in two consecutive years or the income from previous years, which is irrelevant to the current situation ...

¹⁰¹ The Additional 2012 Intervention Measures Act, Official Gazette of the Republic of Slovenia, No. [110/2011](#) with amendments; and the Fiscal Balance Act, Official Gazette of the Republic of Slovenia, No. [40/2012](#) with amendments.

repayment of unduly reduced pensions ex ante to all, including those who did not vindicate their rights, but preventing, among others, reparation (interests), including to those who were protecting their rights by legal means. Thus, the state recklessly caused an additional financial burden due to initiated legal proceedings and appeals against encroachments on the rights, resulting in unnecessary administrative burdens. Certainly quite substantial are also the costs of the implications of a special law requiring repayment of the unduly reduced pensions, applicable to all, irrespective of whether they lodged an appeal or not. A very important change resulting from the intervention measures concerns the system of compensatory supplement, paid to the beneficiaries with the lowest pensions, which is excluded from pension and disability insurance, and transferred to social security benefits. This means, among others, that the provision of obligatory repayment after the death of the beneficiary applies for it as well. This rapidly reduced the number of recipients of compensatory supplement, with many beneficiaries losing the right to the supplement due to stricter conditions for entitlement, and even more beneficiaries waiving the right voluntarily to protect themselves and their heirs from repaying the amounts received, thus deepening their social distress.¹⁰²

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The rights regarding unemployment and health insurance have also been downgraded, as the cost coverage for various health services and compensations for temporary absence from work have been reduced. Furthermore, the conditions for the acquisition and maintenance of unemployment rights have tightened and unemployment allowances were reduced.¹⁰³

Income and poverty indicators show that the risk of poverty is increasing. In 2012, 13.5 % of the population lived below the poverty line (11.3 % in 2009), with disposable net income of persons living below the poverty line being less than 606 EUR per adult per month.¹⁰⁴ Social security benefits are determined and granted on the basis of minimum income, which is 265.55 EUR since August 1st 2013. This means that the minimum income is significantly below the poverty line and that the amount of social security benefits does not suffice to ensure social security. It is worrying that according to calculation of the Ministry of Labor, Family, Social Affairs and Equal Opportunities, the minimum cost of living for one adult person (the conversion of the cost of the "basket of basic goods and services« to total costs) amounted to EUR 562.07.

Slovenia still allocates a smaller share of GDP on social protection than the EU-28 average (in 2011, the EU-28 share was 29 %, compared to 25 % in Slovenia).¹⁰⁵ Measured by purchasing power per capita, expenditure on social protection in 2010 remained at 72 % of the EU average.¹⁰⁶

¹⁰² In 2012, there were an average of 13,016 recipients of the compensator supplement per month, based on the decisions of the centers for social work. If we compare the number of recipients in December 2011 (46,752) and December 2012 (10,386), we can see that the number of beneficiaries declined by more than three quarters.

¹⁰³ According to the Employment Service of Slovenia, in 2012 the average monthly gross unemployment allowance was EUR 675.42 in 2012, which is less than the minimum salary. In addition, according to the Statistical Office of the Republic of Slovenia, the net disposable income of persons living below the poverty threshold was less than EUR 606 per adult per month in 2012. This means that the unemployed receive unemployment allowance in an amount that is below the poverty threshold. In 2013, the amount of compensation reduced even further.

¹⁰⁴ According to the Statistical Office of the Republic of Slovenia, the average monthly net salary for 2012 was EUR 991.44 in 2012. Compared to the 2011, it has increased slightly in nominal terms (0.1 % gross growth and 0.4 % net growth), but in reality (considering consumer price inflation), it has declined (2.4 % gross decline and 2.1 % net decline). Available at www.stat.si/novica_prikazi.aspx?id=5311. Almost two-thirds of employees receive lower-than-average salary. Available at www.stat.si/novica_prikazi.aspx?id=5845.

¹⁰⁵ Eurostat. *Expenditure on Social Protection*. Available at <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&language=en&pcode=tps00098&plugin=1>.

¹⁰⁶ The Institute of Macroeconomic Analysis and Development of the Republic of Slovenia (*Urad za makroekonomske analize in razvoj, UMAR*). *Poročilo o razvoju 2013*. Page 166

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SOCIAL PROTECTION

RECOMMENDATIONS

Even though it is necessary for the state to limit the abuse of social assistance system and to tackle budget constraints, the priority has to be on solving the problem of poverty and choosing the right to social security in the conflict between the public interest and the rights of individuals. The state must loosen the criteria for the allocation of social assistance and pay special attention to vulnerable social groups such as the disabled, the unemployed and pensioners. The state has to consider the actual costs of living in determining the amount of social transfers, unemployment and disability allowances and the like. In times of austerity measures and temporary reductions of individual rights, discriminatory effects of such measures have to be prevented.

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PROTECTION

FAMILY & CHILD PROTECTION

Child maintenance

Inefficient system of determining and recovery of child maintenance further limits the creation of conditions for effective gender equality. In Slovenia, courts are determining child maintenance in the average amount of EUR 131.16.¹⁰⁷ However, monthly costs for maintenance of one school-aged child is about EUR 500, according to calculations based on the average cost of living in the country. The average child maintenance does not cover the proportionate share of the child's needs, even taking into account the child allowance¹⁰⁸. Only 12.8 % of children receive adequate maintenance (i.e. maintenance of more than EUR 200). The proportion of very low child maintenance (up to EUR 20) is 0.8 %, 2.4 % of the beneficiaries receive EUR 20–40, while 16.1 % receive EUR 40–80¹⁰⁹. If the maintenance debtor does not pay the maintenance (or fails to pay the maintenance regularly), the beneficiary may submit a request for payment of maintenance compensation from public funds,¹¹⁰ but this compensation covers only a small proportion of the child's needs, which puts its guardian in a disadvantaged economic situation. The Fiscal Balance Act¹¹¹ postponed the harmonization of maintenance compensation with the growth in the cost of living up to (and including) the year following the year in which economic growth exceeds 2.5 % of the gross domestic product.

Maintenance that is set to low presents a financial burden to the parent to whom the child is assigned. As much as 91.7 % of the maintenance debtors are fathers, a third of which are not fulfilling their obligations, at least not regularly. With its inefficient system of determining and recovery of maintenance, the state is abandoning its duty with regard to implementation of the conditions of de facto gender equality, and allows for women to carry greater financial (and general) burden of child support, thereby placing single mothers at a disadvantage. However, it is children who are the most affected by nonpayment of child maintenances or payments that are set too low. In this respect, the fact that Slovenia does not enact the institute of child rights advocate, which could take care of the best interests of the child in all situations (Article 4 of the CRC), is

¹⁰⁷ Data taken from the Ministry of Labour, Family, Social Affairs and Equal Opportunities on 10/18/2013; www.mddsz.gov.si/si/uvcljavljanje_pravic/statistika/prezivnine (12/04/2013).

¹⁰⁸ Child benefit is a complementary benefit for maintenance, upbringing and education of the child. Since (?), it is limited by the census, otherwise its amount depends on the family income and the number of children in the family.

¹⁰⁹ www.mddsz.gov.si/si/uvcljavljanje_pravic/statistika/prezivnine (12/04/2013)

¹¹⁰ Compensation typically ranges from EUR 72.46 to EUR 94.19 (depending on the age of the child). If the maintenance is set to a smaller amount, only compensation in the amount of the maintenance determined is paid by the Guarantee and Alimony Fund.

¹¹¹ Official Gazette of the Republic of Slovenia, No. 40/2012, 55/2012 Skl.US: U-I-162/12-5, Up-626/12-5, 96/2012-ZPIZ-2, 104/2012-ZIPRS1314, 105/2012, 25/2013 OdI.US: U-I-186/12-34, 46/2013-ZIPRS1314-A, 47/2013, 56/2013-ZŠtip-1, 63/2013-ZOsn-I, 63/2013-ZJAKRS-A

troublesome. Short limitation periods, which are not bound by the child's capacity to stand trial, are a big reason for concern as well. Every single maintenance installment is time-barred within three years after the maturity date¹¹². Although there is no limitation period to the right to maintenance¹¹³, outdated claims cannot be recovered. When the claim is time-barred, it becomes possible for the debtor to dispute the writ of enforcement, thus preventing enforcement proceedings.

RECOMMENDATIONS

The state should set the minimum maintenance in the amount of at least half the minimum wage¹¹⁴ and harmonize this amount with the compensations of the children's maintenance fund. The coordination of benefits has to be insured. The state should establish a more effective system of enforcement for child maintenance, so that maintenances have absolute priority of claims in enforcement proceedings, and introduce respective changes in the tax and customs legislation. The state should establish a permanent institute of child rights advocate (Article 4 of the Convention on the Rights of the Child) and raise public awareness of the importance of compliance with obligations related to child maintenance, as this would reduce the number of defaults, improve the situation of the guardians and establish greater gender equality.

The criterion of permanent residence for the allocation of a range of social benefits to children and families discriminates disproportionately and unfairly against foreigners (indirect discrimination). This regulation applies to parental benefit, childbirth allowance, large family benefit, childcare allowance, payment for lost income. The ruling of the Constitutional Court in the case UI-31/04 clearly shows that the regulation in question is problematic, although it was only the criterion regarding child allowance that was repealed as unconstitutional.

RECOMMENDATION

The state should abolish the discriminatory treatment of foreigners in the allocation of social benefits for children and families.

FAMILY & CHILD PROTECTION

Contact; with child and child withdrawal

Marriage and Family Relations Act¹¹⁵ does not regulate sufficiently in detail the contacts of children with their parents under supervision. Legislation concerning child withdrawal is vague and allows for conflicting judicial and administrative decisions on the withdrawal of the child from his parents.

The child has the right to relations with both parents and both parents have the right to a contact with their child. If there exists a danger to the child, the court may decide that the contacts of the child with the parents are exercised under the supervision of a third party. The legal basis for contacts under supervision only exists in Marriage and Family Relations Act, but the law does not clearly define the role, duties, criteria or time limitation of contacts, or substantive and staffing requirements for the implementation of contacts supervised by third parties. Courts often assign the task of contacts under supervision to centers for social work, even if these centers do not have the workplace conditions to carry out such

¹¹² Article 347, Paragraph 1 of the Code of Obligations, Official Gazette of the Republic of Slovenia, No. 97/2007-UPB1, 30/2010 Odl.US: U-I-207/08-10, Up-2168/08-12; hereinafter CO;

¹¹³ Article 348, Paragraph 3 of the CO.

¹¹⁴ In 2013, the minimum wage was EUR 261.51. www.uradni-list.si/1/objava.jsp?urlid=20138&stevilka=231

¹¹⁵ Marriage and Family Relations Act, Official Gazette of the Socialist Republic of Slovenia, No. 15/1976, 1/1989, 14/1989; Official Gazette of the Republic of Slovenia, No. 82/1994, 29/1995, 64/2001, 16/2004.

tasks (and inform the court of that fact in advance). In most cases, courts do not even verify the situation, and adjudicate as if this is a standard practice. The centers are not funded for the implementation of this extra duty assigned by courts, so the contacts between children and their parents take place in offices or conference rooms (if a center has one), which is not a child-friendly environment. Supervision is carried out by individual professional worker of the center,¹¹⁶ usually a different one each time, and the information about the meeting is not being communicated among staff. Security plan is not prepared, which affect both the child and the parent that brings the child to a meeting. With contacts under supervision, the child's right to contact with his parents and the parents' right to contact with their child is severely limited, but in reality some of the assigned supervised contacts last for several years.

The Slovenian family law practice allows for situations of conflict between judicial (issued by the court) and administrative (issued by the center for social work) decisions to withdraw the child from its parents, each with a different, even conflicting content, but both enforceable. Such is the case when a center for social work initiates the procedure for child withdrawal based on Article 120 of the Marriage and Family Relations Act, and the parents at the same time demand divorce by mutual consent or file a lawsuit for divorce. In this case, the court decides of its own motion on the custody of minor children. It can happen that the center for social work issues a decision to withdraw a child from both parents while the court entrusts him to the custody of one of them. The Marriage and Family Relations Act does not delimit the jurisdiction of the court and the center for social work over child withdrawal, and is generally very unclear in this respect.

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RECOMMENDATIONS

The state must prepare and implement appropriate legislative measures and the basis for the exercise of contacts under supervision pursuant to the best interests of children, and provide the necessary funds, premises and staff to perform these tasks. Decision-making powers regarding measures to protect the interests of children should be delegated to courts as soon as possible, thereby avoiding conflicting decisions of social work centers and courts.

FAMILY & CHILD PROTECTION
Prevention of domestic violence

The Family Violence Prevention Act¹¹⁷ has many shortcomings. Some of them, such as absence of sanctions for violations of the measures imposed under Article 19 (prohibitions due to violent behavior) and Article 21 (release of apartment in shared use), may critically compromise the safety of the victims of domestic violence. It is also unclear which processes are subject to the right of escort in support of the victim and the right to free legal aid. The police unduly denies escort and protection to the victims upon entering residential premises with the victim's personal belongings, if the victim did not report violence to the police.

The perpetrator of violence can freely and with impunity violate the measures imposed under the Family Violence Prevention Act. In the cases when the victim calls the police, they cannot impose sanctions on the perpetrator but can only direct the victim to further proceedings. In practice, this means that the victim

¹¹⁶ Ministry of Labor, Family, Social Affairs and Equal Opportunities, Frequently Asked Questions, Centers for Social Work; acquired on 02/12/2014,
www.id.gov.si/si/delovna_podrocja/socialne_zadeve/pogosta_vprasanja_in_odgovori/#c17451.

¹¹⁷ Family Violence Prevention Act, Official Gazette of the Republic of Slovenia, No. [16/2008](#).

must first submit a proposal for enforcement to the court, which has to include a proposal of a fine in case of infringement, then wait for the court to issue an order to authorize the enforcement, and only then can the victim expect police intervention in case of repeated infringement. As a result, the victims are forced to enter ever new procedures and incur additional costs. Apart from that, the length of the court proceedings (a major problem in Slovenia) should also be taken into account. Thus, the measures aimed at protecting the victims can drive them into even greater financial, psychological and emotional distress.

Article 27 of the Family Violence Prevention Act provides that free legal aid is granted for procedures initiated by the victim for the measures under Articles 19 and 21 of the Act. In most cases, the victim's decision to leave the perpetrator of violence is just the beginning of numerous long and arduous proceedings in front of various authorities, notably the courts. As the victims of (many times long-lasting) violence, they are highly vulnerable, with truncated or non-existent resources and social network, and destroyed self-esteem. They are in a distinctly weaker position in relation to the perpetrator of violence, so it is very important for them to have legal assistance in any proceedings that follow the dissolution of the relationship where the violence was present (in addition to the measures under the Family Violence Prevention Act), e.g. divorce, decisions on the custody of minors, contacts and child maintenance, division of marital property, determining the tenant, criminal proceedings ... For the same reasons (vulnerability, subordinate position in relation to the perpetrator of violence, battered self-esteem, etc.), it is vital for a victim and her/his situation in court – even during proceedings, closed to the public – to be accompanied by a person of her/his own choice, the so-called victim escort.

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It is unclear whether the right of victim to an escort, accompanying her/him in all proceedings related to violence, applies to all proceedings associated with the dissolution of the relationship where violence was present or only to proceedings under Articles 19 and 21 of the Family Violence Prevention Act. In practice, the prevailing view is that this right only applies to proceedings under the Family Violence Prevention Act.

Article 18 of the Family Violence Prevention Act provides that the police protects lives and guarantees personal safety to the victim in accordance with the regulations governing the police operation. At their request, the police should ensure security to the victims of domestic violence upon entering residential premises in order to collect possessions necessary to satisfy basic living needs of themselves and their children. In reality, the police often denies such protection if the victim did not report violence to the police. This puts the victims who are not yet ready to report violence in the unenviable position and forces them to file a report under pressure and in a hurry (as the belongings in the apartment are essential for the victim), which can greatly affect the quality of the application and, consequently, the outcome of the criminal proceedings.

RECOMMENDATIONS

The state should draw up and implement the amendments to the Family Violence Prevention Act in a manner that will provide for adequate sanctions for violations of the measures under Articles 19 and 21 of the Act and ensure the safety of the victims. The state should also legally ensure that free legal assistance to the victims is granted for all procedures associated with the disintegration of a relationship in which violence was present. The state should clearly specify the victims' right to police protection upon entering residential premises where the victim resides, also on the basis of confirmation of the prior proceedings related to violence by the competent authorities, threat assessment, records on residing in a safe house and alike.

FAMILY & CHILD PROTECTION

Offense of threat and protective measures

In recent years, the offense of threat under Article 135 of the Criminal Code¹¹⁸ has only become prosecutable by civil actions, which has made it difficult, if not impossible, for the victims of domestic violence to ensure their own security. Due to a lack of protective measures for the rights of victims and insufficient imposition of the existing measures by the courts, victims are repeatedly exposed to secondary victimization or even re-victimization in criminal proceedings. An additional problem is the shortage of adequately qualified court experts for domestic violence and sexual abuse.

Prosecution of an offense under Article 135, Paragraph 1 of the Criminal Code (*Kazenski zakonik, KZ-1*) is initiated by civil action (3/135 KZ-1). Civil action means that the offender is prosecuted by the victim himself, which bears the burden of proof (without the help of the state apparatus, e.g. police) and costs of the proceedings in the event of failure. The victim is faced by the fact that the threats (of attack on life and limb!) are not serious or important enough to be seriously addressed by the state. Threats of attack on life and limb are one of the characteristic elements of domestic violence. A victim, aware of the fact that the perpetrator of violence is very much able to realize his threat, takes the threats very seriously and feels very exposed.

The courts are not sufficiently aware of the necessity of imposing protective measures for the victims of criminal offenses, and the authority of the courts is no longer sufficient to prevent pressures (in some cases even attacks) on the victims by the perpetrators. For example, arrangement of the waiting areas in the courts where victims and offenders await the beginning of trials is entirely inappropriate, with common waiting lobbies away from the security service of the court. Even the equipment in the courtrooms does not provide a sense of security, with the bench of the accused located directly behind the podium where the victim gives his/her testimony. The Criminal Procedure Act¹¹⁹ introduces some provisions that could be used by the courts to protect victims¹²⁰, but in the cases of domestic violence (and sexual violence as well) the courts do not generally draw on these measures. The safety of victims could also be greatly increased by informing them (at their request) about the release of the accused/convicted person from detention/prison.

Even the Supreme Court of the Republic of Slovenia¹²¹ notes that the courts are faced with a serious shortage of suitably qualified court experts for domestic violence and sexual abuse. There is not enough court experts, therefore a proper professional training and supervision of their work should be established. In the field of child sexual abuse, there are virtually no experts who would be capable of performing the interview with the abused children. Efforts for legislative regulation of recording interviews with sexually abused children, which would prevent the child to be repeatedly exposed to various testimonies in court and expert opinions, have stalled. NGOs also observe that the court experts do not take into account the dynamics of domestic violence and the consequences of the violence on children and take vague positions regarding the benefits of children's contacts, all of which harm the best interests of the child.

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¹¹⁸ Criminal Code, Official Gazette of the Republic of Slovenia, No. [55/2008](#) ([66/2008](#) revised), [39/2009](#), [91/2011](#).

¹¹⁹ Criminal Procedure Act, Official Gazette of the Republic of Slovenia, No. [63/1994](#) ([70/1994](#) revised), [72/1998](#), [6/1999](#), [66/2000](#), [111/2001](#), [56/2003](#), [43/2004](#), [101/2005](#), [14/2007](#), [68/2008](#), [77/2009](#), [91/2011](#), [47/2013](#).

¹²⁰ E.g. Article 240 of the Criminal Procedure Act, disclosure of certain personal information or complete identity of particular witnesses; Article 244a of the Criminal Procedure Act - the use of videoconferencing).

¹²¹ E.g. at consultation on the current issues in the realization of children's rights in the Republic of Slovenia (*Aktualna vprašanja uresničevanja otrokovih pravic v Republiki Sloveniji*) on October 7th 2013 in the National Council of the Republic of Slovenia; acquired on 02/12/2014, www.ds-rs.si/node/231, dr. Mateja Končina Peternel, 55:35.

RECOMMENDATIONS

The state should draw up appropriate amendments to the Criminal Code so that the offense of threat is once again prosecutable *ex officio*. The state should examine options and implement solutions for spatial arrangement and protective measures of the courts to ensure the safety of victims and thus reduce the possibility for re-victimization. The state should also examine options and implements solutions for informing victims about the release of the accused/ convicted person from detention/prison in a way that interferes the least with the right of the accused/convicted person to the protection of the personal data while ensuring the safety of victims. The state should draw up and implement a legal basis for recording interviews with sexually abused children by properly qualified experts. This will enable the use of such recordings in all judicial proceedings, thereby preventing repeated exposure of children to different testimonies in court and expert opinions. The state should provide the court experts with appropriate training for interviews with the sexually abused children and establish supervision of their work.

ARTICLE

FAMILY & CHILD PROTECTION LGBT

10

FAMILY & CHILD PROTECTION

Same-sex families are discriminated against, compared to the families of partners of the opposite sex, because same-sex partnerships do not enjoy the same legal protection as opposite-sex partnerships.¹²²

Less social rights for same-sex partners means less social rights for children living in same-sex families. In Slovenia, unilateral adoption (adoption of the partner's child) in the same-sex unions can be reached by legal means.¹²³ However, since such adoptions are not systemically regulated in the law, same-sex couples usually face many bureaucratic problems in the process of legalization of unilateral adoption in centers for social work. The procedures are long, expensive and complex, and the outcomes are uncertain. The processes are usually ended by the decision of the Appeal Authority (Ministry). In the meantime, and in the event of a negative decision, the child is deprived of fundamental social rights, arising from legally recognized relationship with the social parent. Widespread prejudices against same-sex couples with children were one of the main neuralgic points leading to a referendum on the Family Code. The Family Code was designed to eliminate the majority of unconstitutionality in the protection of families and children. The eradication of discrimination was rejected by voters on the national referendum.

RECOMMENDATION

The Republic of Slovenia must provide the same level of protection to same-sex families as it does to the families of partners of the opposite sex.

¹²² Rajgelj, B., 2010. *Relationships in same-sex families - where we are and where we can go?* *Socialno delo*, 49, pages 5-6 and 305-318.

¹²³ Supreme Court of the Republic of Slovenia. Decision II Ips 462/2009. 2010. Available at http://www.sodisce.si/mma_bin.php?static_id=20110413133235

ARTICLE

THE RIGHT TO AN ADEQUATE STANDARD OF LIVING
The right to housing (general overview)

11

THE RIGHT TO AN
ADEQUATE
STANDARD OF LIVING:
POVERTY & SOCIAL
EXCLUSION

Slovenia does not have a comprehensive housing policy.¹²⁴ There are several cases of systemic and structural discrimination.

The share of individually owned houses and residential houses is extremely high. According to data from the Central Population Register, there were 175, 000 empty residential units in 2011; some of them were unsuitable for living; many were rented out informally (which significantly weakens the security of tenure). However, according to expert estimates, there were still at least 50, 000 empty residential units. Despite this, property prices and renting prices remain extremely high, which is largely the result of inadequate tax policies, which could, if designed properly, contribute to better accessibility of the available units. In this situation, it is also very difficult for the financially less well-off, including young people (and their families), to access housing. According to the findings of the Court of Audit, 30 % of the state-owned residential units, intended for civil servants, were empty in 2008. The vast majority of the housing units are in a relatively poor condition (e.g. high energy-consuming) because owners are not capable of proper maintenance.

The Housing Act is clearly unconstitutional and discriminatory to the financially weaker regarding the access of benefits, since it excludes all foreign non-EU countries residents¹²⁵ from the possibility of hiring public non-profit housing (this greatly affects migrants, among others, as well as “the Erased”). The same problem affects them in access to subsidies available for rents at the open market. Furthermore, surviving partners in same-sex partnerships are excluded from the entry into the tenancy by this Act.¹²⁶

Discrimination in the field of housing (access to housing and real estate) is widespread, while remedies are evidently ineffective. In addition to the structural disadvantage of foreigners,¹²⁷ there is also marginalization of persons with disabilities, who are so often forced to reside in institutions. In order to secure dignified independent life, the state should, among others, provide support for personal assistance. Institutional forms of accommodation are proven to be irrational in terms of available resources, as they are unduly more expensive than an inclusive approach to accommodation in a normal living environment, which must of course be adapted accordingly.

People with disabilities are often forced to reside in institutions, in part because there are not enough accessible housing available for them and because of the absence of supportive measures such as personal assistance (which also affects many other economic, social and cultural rights, such as the right to work and the right to independent living).

RECOMMENDATIONS

The state should immediately adopt a housing policy that will – by employing all available resources – address the needs of all residents, without discrimination on the basis of race, ethnic origin or other personal circumstances. Policy should take into account

¹²⁴ The European Committee of Social Rights. *Conclusions* 2003, 2005 and 2011. Available at www.coe.int/t/dghl/monitoring/socialcharter/Conclusions/state/Slovenia2011_en.pdf (page 37).

¹²⁵ Repeated warnings of The European Committee of Social Rights concerning the rights of migrant workers. E.g. *Conclusions* 2006. Available at www.coe.int/t/dghl/monitoring/socialcharter/Conclusions/state/Slovenia2006_en.pdf.

¹²⁶ Compare with the ECHR judgments in the cases “Kärner against Austria” (2003) or “Kozak against Poland” (2010).

¹²⁷ See results of the situational testing above under Article 2 (Discrimination).

the special needs of persons with disabilities, including the provision of personal assistance to those who need it to live independently.

THE RIGHT TO AN ADEQUATE STANDARD OF LIVING Pressing issues concerning the Roma minority housing

The situation of the Roma minority is deeply worrying, especially in the southeast of the country. In some segregated settlements, the Roma minority lives in extremely poor (housing) conditions in informal settlements, without security of tenure and access to water, electricity or sewage. This situation remains virtually unchanged despite continuous calls for urgent action of the human rights monitoring mechanisms.¹²⁸ The national authorities have failed to produce a systemic approach on addressing this situation.

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The governmental National Programme of Measures for Roma (2010–2015) is ineffective and cannot be considered a sufficient strategic document to improve the situation of Roma (with education being a notable exception to this). The document does not provide specific and measurable goals, does not set regular evaluation and does not provide financial background for measures stated therein. The measures itself are more or less a collection of existing activities and do not envisage creative outreach programmes to overcome the flaws of the current systemic deadlock (e.g. regarding access to water). In addition, several fields are simply excluded from this document, the most important areas being social support measures and human rights/community policing.

As Roma houses are often built informally and in places without spatial planning, it is impossible for the residents to acquire a building permit. As a direct consequence, the Roma cannot legally upkeep or restore their houses. This situation effectively means the Roma are forced to live in poor shacks without insulation, often without foundations and with leaky roofs. Sometimes the Roma are forced to live in run-down trailer camps, which are extremely overcrowded. Being unable to acquire building permits, the Roma cannot gain access to public infrastructure systems (water, electricity, sewage).

In some Roma settlements, there are severe hygienic health problems. Rat infestations are common and extermination measures are carried out often (e.g. Dobruška vas settlement in Škocjan municipality). In November 2011, the Ministry of Health gathered a compilation of local healthcare centers' reports and passed it to the Governmental committee for the protection of Roma community. The reports clearly show degraded health condition of the Roma in informal Roma settlements. The basic summary is also included in official yearly governmental reports of the Roma minority situation.

Without running water, electricity and sewage, and without security of tenure, Roma parents lead a difficult life. In the winter dark and cold,

¹²⁸ We would like to bring to the attention of the CESCR: the findings of the Special report by the Ombudsman on the housing situation of Roma in southeast Slovenia from 2012 (available only in Slovenian at www.varuh-rs.si/fileadmin/user_upload/pdf/posebna_porocila/POSEBNO_POROCILO_ROMI_-_maj_2012_-_za_splet.pdf); findings of the UN Special rapporteur on the human right to safe drinking water and sanitation from 2011 (available at <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/18/33/Add.2&Lang=E>); and findings of the Amnesty International report *Parallel lives* from 2011 (available at www.amnesty.org/en/library/asset/EUR68/005/2011/en/8a225f13-4f26-44c9-9078-85bcfa6fa0d2/eur680052011en.pdf). In addition, various Council of Europe bodies (ECRI, AC FCNM, CoE HR Commissioner) have reiterated similar positions or recommendations in virtually all occasions and reports.

children cannot study, wash themselves before school and pursue their aspirations for the future, In some settlements, they even live in fear because their homes may be demolished in a matter of weeks.

The main problem lies in the fact that the authorities consider a valid building permit the only possibility to connect a housing unit to public infrastructure. In the cases of informal Roma settlements, it is impossible to acquire a valid building permit and thus gain access to these basic services. Such Roma settlements include (but are not limited to) Dobruška vas 41 settlement in the Škocjan municipality, Goriča vas settlement in Ribnica, Mestni log municipality in Kočevje, Ponovala vas municipality in Grosuplje, and many others. In addition, many people on the outskirts of predominantly legalized settlements cannot gain access to basic infrastructure (outskirts of Smrekec settlement in Grosuplje and many others).

Despite the fact that the May 2011 Governmental commission on Roma recommended municipalities to provide water to Roma, little or nothing has been done to implement this in practice.

Aforementioned findings of the Ombudsman, Amnesty International and UN Special rapporteur on water and sanitation still hold true. There have been some small steps forward in some Roma settlements (such as providing access to water to 3 out of 19 families in Škocjan in the fall of 2011, one more family is said to have connected in 2013), but the authorities failed to provide systemic measures to guarantee permanent access to water to all individuals based on a legal claim.

National legislation contains no provisions regarding prohibition of forced evictions. As a consequence, there are no safeguards in place to prohibit forced evictions.

In the case of Dobruška vas 41 settlement, plans for a waste-water cleaning facility and a business-economic zone at the location of Roma settlement were presented in 2013. The municipality was awarded a project of the Ministry of Economic Development and Technology and a building permit was issued. EU funds were partly made available for a part of the project. The Roma were not informed of, let alone consulted or included in the plans (even more, the Roma on the property of a private company were criminally prosecuted, as explained). A few months beforehand, three Roma houses were given demolition orders by the inspection. At least one Roma family complained against the decision, but lost the case at the Administrative court level in late 2013. In his letters, the mayor has expressed gratitude to the inspection for demolition orders and stated that demolitions have to be carried out in 2013 because of the aforementioned plans. As of February 2014, the Roma are in great uncertainty as to what will happen with their homes and families. The Governmental commission for Roma publicly promised to propose to the Government to intervene at the municipal authority in this respect. The project documentation states that by the end of November 2016, 1.6 ha of land, »currently degraded and occupied by illegal Roma settlements, will have been made available for business«. To this day, the Roma did not receive any information on what this actually means for their lives.

In the meantime, the private company that owns approx. half of the Roma settlement in Dobruška vas initiated criminal proceedings against the Roma living on their land, despite the fact that this situation was existing (with no other, e.g. civil remedies used) for decades. This action resulted in the first instance criminal conviction. Mr. Ljubo Novak was sentenced for misappropriation of resident property according to Article 338, Paragraph 2 of the Criminal Code of the Republic of Slovenia. He has been living on the location with his 12 children for 20 years. Some Roma filed an appeal against this first instance ruling, and the court issued a

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decision to carry on proceedings in January 2014. The Roma fear that this ruling will be used as a means to forcibly evict them. The director of the company said publicly there will be no demolitions and evictions – but this is not a legal guarantee in the substance of »security of tenure«. Tamara Vonta, State Secretary in the Office of the Prime Minister and the Head of the Governmental committee for Roma visited the settlement in summer 2013 after the case was made public. She made a public promise to the Roma that no forced eviction will take place.

Segregation of the Roma community in gaining access to housing is not comprehensively analyzed (except the fact that a very large part of this community live in about 100 "Roma settlements"), but segregation obviously exists and is maintained, particularly in regions where municipalities remain passive (e.g., do not want to solve spatial and communal challenges in the settlements). Due to discriminatory behavior patterns, the Roma also find it difficult to rent or buy housing on the open market or to gain subsidized rents.

Segregation is, among others, illustrated by individual forced relocations (e.g., proceedings with Strojan family following orders of the Minister of the Interior in 2006) and by even more common practices of preventing the settlement of the Roma. Due to the pressure from the majority population, municipality de facto support or include such practices in their policies (as a rule, such events tend to coincide with the period of local elections). These phenomena are observed, for example, in the annual reports of the Ombudsman (2006) – occasionally, they grow large and build on the abuse of democratic institutions (see unacceptable conclusions of municipalities in attempts of relocating Strojan family). In his report in 2007, the Ombudsman describes the behavior of the Municipality of Žužemberk in the misuse of pre-emption rights and the actions of the Municipality of Novo mesto, which is conditioning Roma settlements with the consent of the majority population. There are known incidents of petitions against Roma settlements in Vranoviči in 2012, in the Municipality of Kočevje in 2013, in the Municipality of Celje in 2014 and so on). Intolerance and discrimination are unfortunately too often a tool for gaining cheap political points.

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RECOMMENDATIONS

The state has to take urgent steps to end segregation and inhuman living conditions of some Roma in respect to housing, safe drinking water and sanitation.

THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

The right to food

Slovenia is among the countries with a low degree of food security and is far from meeting all of its needs for home-grown food. This is associated, among others, with the existing structure of agriculture.

In 2008, the overall level of food self-sufficiency in Slovenia was only about 50 %, compared to 70 % in approx. 1970. In 2000, there were 508,960 ha (2,571 m² per capita) of agricultural land, while in 2009, there were only 468,496 ha (2,297 m² per capita), which is significantly below the EU-27 average (3,510 m² per capita). In unchanging geographical and climatic conditions, we would need at least 3,000 m² of agricultural land (fields, permanent grassland and meadows, orchards, vineyards) per capita for safe food supply. Slovenia is behind most of the EU countries concerning the extent of the agricultural land (arable land) (24th out of 27 states). In 2007, there was only 8.6 % of cultivated land (19 % in 1900; 18 % in 1953; 11 % in 1991) and 24.3 % of the utilized agricultural area in the total area of the state. In 2007, the European average was 24.2 % of the cultivated or 40.1 % of the total utilized agricultural area. Slovenia's self-sufficiency, especially

in crops, is highly dependent on the harvest, which is subject to weather conditions.

RECOMMENDATION

Slovenia must take appropriate measures to increase the level of food security and at the same ensure strict protection of the existing agricultural land.

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THE RIGHT TO HEALTH

General overview

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Public health care resources are being reduced. Austerity measures are leading to a reduction of rights and employment restrictions in the health sector, which cannot provide high quality and universally accessible health care due to its underfunding.

The prevailing policy aims to reduce the scope of the public sector, including health, regardless of people's needs and even though the needs for health protection are growing due to demographic reasons (aging). In recent years, Slovenian health insurance system was the subject of numerous unsuccessful reform attempts, and is recently the target of austerity measures, which lead to limited rights and employment in health care (despite the increasing needs, the percentage of employees in health care remains low, e.g. according to estimates, Slovenian hospitals would need one fifth more employees in order to adequately carry out their functions¹²⁹). The Fiscal Balance Act has thus also limited the rights related to health insurance. With amendments to the Health Care and Health Insurance Act, it has limited the coverage of health care costs and reduced compensation during temporary absence from work. Reduction in public expenditure was largely achieved by transferring part of the health care payments to the complementary health insurance, reducing wages and lowering sick pay. Thus, very few medical services are financed entirely from public funds (the share of public financing ranges from 5 to 95 %), the majority must be covered by additional payments from the complementary health insurance.¹³⁰ Accordingly, the compulsory complementary health insurance contribution has been increasing, while the share of the insured people has been decreasing over the years. For services that are vital to human health and are therefore largely covered by the compulsory health insurance, there is still problem of effective access – since 2011, waiting periods are again getting longer again¹³¹ and are remaining quite long in some areas (orthopedics etc.).

A small group of Slovenian population (about 30,000 people) who do not have citizenship or a valid residence permit in Slovenia on the basis of the employment, remains excluded from the compulsory health insurance.

Health expenditures in absolute numbers is declining. In 2011, they amounted to 8.8 % of GDP, compared to 9 % in 2012. However, due to decrease in revenues from the compulsory health insurance, actual contributions lowered by 6.3 % in the period 2010–2012. At the same time, the ratio between public and private health expenditure changed. The share of public expenditure amounted to 71.8 % in 2012 (72.3 % in 2012).¹³² Compared to the EU, the share of resources allocated

¹²⁹ RTV Slovenija. *Zaradi pomanjkanja sester vsakdanja improvizacija*. Available at www.rtvlo.si/zdravstvo/zaradi-pomanjkanja-sester-vsakodnevna-improvizacija/330148.

¹³⁰ Inicijativa zdravnikov. *Sistem zdravstvenega zavarovanja v Sloveniji*. Available at: <http://inicijativa-zdravnikov.si>.

¹³¹ Inicijativa zdravnikov. *Sistem zdravstvenega zavarovanja v Sloveniji*. Available at: <http://inicijativa-zdravnikov.si>.

¹³² UMAR. *Poročilo o razvoju 2013*.

to health care remains below average (9 % vs. 9.5 %).¹³³ The Doctors' Initiative also draws attention to the high levels of corruption in the health system.¹³⁴

The health condition of the population of Slovenia is worse than the European average, with exception of children (infant mortality is among the lowest in the world).¹³⁵ There are also large differences between different population groups – for example, there is a discernible difference in life expectancy between the most and the least educated, and high difference in mortality rate among differently developed regions. There is also a high suicide rate. Slovenia is placed third among the 17 EU countries (data for 2010). Suicide rate in 2011 was 17.2 (per 100,000 people), with the rate varying among statistical regions. The highest rate (32.8) is in Posavska region.¹³⁶

RECOMMENDATIONS

The state must break the trend of reduction of the rights and services covered by basic health insurance, increase the proportion of essential healthcare funding and reform the complementary health insurance system. The state should introduce a special insurance for old age, based on the general health insurance principle, which would – in addition to safe old age – also provide thousands of new jobs for young people. The state must take appropriate measures to address the corruption in health system.

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THE RIGHT TO HEALTH

The right to health of the LGBT group

In Slovenia, registered and non-registered same-sex couples do not have the status of close family member (next of kin) as do married couples or (non-married) life partners. This violates their right to a peaceful family life and access to health. Trans persons, as one of the most vulnerable group, are not provided with continuous medical support in the process of gender reassignment. It is also difficult for them to exercise their right to a second medical opinion and the right of free choice of doctor. Legal and medical procedures of gender reassignment are not separated. Slovenia does not guarantee an appropriate level of protection of sexual and reproductive health for lesbians. Quality psychosocial support and dental health care for HIV-positive persons is not guaranteed.

According to the Health Care and Health Insurance Act (Zakon o zdravstvenem varstvu in zdravstvenem zavarovanju, ZZZV),¹³⁷ registered or non-registered partner is not entitled to take official leave for the care of the sick partner and to the right to compensation for the care of family member.¹³⁸ Unemployed registered or non-registered partner is not entitled to a health insurance on behalf of his/her partner.¹³⁹ This arrangement is clearly discriminatory and in breach with the

¹³³ EUROSTAT. *Health Indicators*.

¹³⁴ The Doctors' Initiative to establish a transparent and professional public health in Slovenia: <http://iniciativa-zdravnikov.si>.

¹³⁵ Health at Glance 2013, OECD Indicators, OECD Publishing.

¹³⁶ Statistical office of the Republic of Slovenia. *World Suicide Prevention Day 2012*. Available at www.stat.si/novica_prikazi.aspx?id=4953.

¹³⁷ Official Gazette of the Republic of Slovenia, No. 72/2006-UPB3, No. 114/2006-ZUTPG, 91/2007, 71/2008, 76/2008, 118/2008 Skl.US: U-I-163/08-12.

¹³⁸ Article 30, Paragraph 1 of the ZZZV provides the right to a social benefit due to care for a close family member relating to the Article 20, Paragraph 1 of the ZZZV, which defines close family members as spouses and children of the person insured.

¹³⁹ According to Article 21 of the ZZZV, a spouse can be insured as a family member, if they are not insured (Paragraph 1). According Paragraph 2, the same applies for a person living in a partnership with the insured person, which is, in legal consequences, equalized with a marriage by the Marriage and Family Relations Act.

obligations imposed by the ECHR.¹⁴⁰

There is only one professional team for procedures of gender reassignment for trans persons in Slovenia. The team is composed of experts, specialists of endocrinology, plastic surgery and psychiatry. The latter is the head of the team and decides about the continuation of medical procedures. In the event of death (such as in 2012) or a prolonged sick leave (such as in 2013) of one of the team members, especially the head of the team, trans persons are not guaranteed a continuous medical support in the process of gender reassignment.¹⁴¹ In addition, trans persons are seriously deprived of the right to a second opinion and the right to free choice of doctor. Since October 2013, gender reassignment procedures may be carried out abroad, but trans persons have to pay for the interventions by themselves, only to be reimbursed by their health insurance company when they return home. Health insurance companies should recognize and reimburse the costs, but only up to the price for intervention in Slovenia. Due to high costs of such interventions in foreign countries and differences in prices, the treatment abroad is practically impossible. In Slovenia, legal and medical procedures of gender reassignment are not separated.¹⁴² For legal gender reassignment (change of ID), at least a hormone therapy is required. But in some cases this kind of therapy is not possible due to medical reasons or due to lack of consent by the trans-person. As a consequence, the finalization of the desired gender reassignment is not possible in some cases – this has a serious impact on the mental and physical health of trans-persons.

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A recent qualitative study¹⁴³ has revealed deficiencies in sexual and reproductive health care for lesbians. Lesbian sexual acts are not perceived as “real sexual intercourses” by some specialists of gynecology. Therefore, they refuse to provide their lesbian patients the comparable amount of gynecological services as to heterosexual women.

Medical experts often report about being understaffed in the field of psychosocial support and help for persons living with HIV/AIDS.¹⁴⁴ An NGO research among dentists,¹⁴⁵ performed in October 2005, has shown that 94 out of 426 dentists included in the survey would deny service to a HIV-positive person. The main reasons given were lack of appropriate conditions for the treatment of HIV-positive person and fear of infection.

RECOMMENDATIONS

The state must ensure the enjoyment of all health related rights of close family members, without discrimination on grounds of sexual orientation or gender identity. In order to eradicate the discrimination based on gender identity, the state has to ensure an ongoing medical support in the process of gender reassignment, the exercise of the right to a second opinion, the right of free choice of doctor and the distinction of legal and medical procedures in the process of gender reassignment of trans

¹⁴⁰ Compare with the judgment of the ECHR in the case *P.B. and J.S. vs. Austria* (2010).

¹⁴¹ Delo. *Rojeni v napačnem telesu: transseksualnost pod Alpami*. 2013. Available at www.delo.si/zgodbe/nedeljskobranje/rojeni-v-napacnem-telesu-transseksualnost-pod-alpami.html.

¹⁴² Legebitra, Transgender Europe, ILGA Europe. *European Social Charter – Submission by Legebitra, Transgender Europe and ILGA Europe on the 12th report by Slovenia on the implementation of the European Social Charter (revised)*. Available at www.amnesty.si/media/uploads/files/LEGEBITRA,TGEU%20and%20ILGA-Europe%20Social%20Charter%20Shadow%20Report%20on%20Slovenia%20-%20coerced%20medical%20treatment%20-%2018%20July%202013-1.doc.

¹⁴³ Legebitra. *Needs of LGBT consumers and users of various services of public and private providers (Report on focus groups)*, Simon Maljevac, Eva Gračanin. Februar 2014. Legebitra archive.

¹⁴⁴ Institute of public health. *HIV infection in Slovenia - data on reported cases, up to and including 26 November 2012*. 2012. Available at <http://img.ivz.si/janez/2160-6107.pdf>.

¹⁴⁵ ŠKUC. *The report of the project »Dentists« by Škuc*. 2005. Available at www.ljudmila.org/siqrd/2005/11/porocilo-projekta-zobozdravniki-drustva-skuc.

persons. The state should establish mechanisms to insure protection of sexual and reproductive health of lesbians, psychosocial support and dental care for people living with HIV/aids.

ARTICLE

THE RIGHT TO EDUCATION

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THE RIGHT TO
EDUCATION

Due to austerity measures, the present level of quality and access to education without discrimination based on wealth is in jeopardy. At the same time, regional disparities between the residents of eastern and western Slovenia are increasing. In addition, the issue of discrimination and segregation of Roma in the school system remains unresolved.

Austerity measures have deteriorated conditions for exercising the right to education. The Fiscal Balance Act, the standards for primary and secondary schools, as well as for higher education institutions remained unchanged due to the threat of strike. However, some other changes have been adopted – e.g. only pupils from socially disadvantaged families are eligible for a school lunch subsidy.¹⁴⁶ 20 % of Slovenian primary school and 12 % of Slovenian secondary school pupils receive lunch subsidies. Apart from that, free kindergarten admittance for a younger child and price reduction for one salary grade for older children have been abolished. Optional second foreign language is no longer available to pupils in a customized program with lower education standards. On the other hand, optional second foreign language is being introduced for students from 5th to 9th grade in the extent of two hours per week. Enrollment to these classes is optional, but once enrolled, a child has to attend the class throughout the school year.¹⁴⁷

The situation of teachers is deteriorating, especially apparent is a shortage of incentive measures. This is indeed a general finding that applies to all public sector employees. In addition to employment restrictions, there was a reduction in public sector salaries in 2012 in the amount of 8 % of the basic salary. Additionally, payment for lunch for civil servants has also been reduced. Reimbursement of the costs of transport to and from work, which belongs to the employee if the distance from the place of residence to the workplace is more than two kilometers, has also been reduced. Employees are not entitled to compensation in organized or free transportation to and from work is available. Employee is entitled to reimbursement in the amount of the price of public transport on the same route. As an example, it is worth noting in view of the unusual and unjustified emphasis in the field of education that the state allocates considerable sums annually¹⁴⁸ simply to stimulate the Slovenes or people of Slovenian ethnic origin around the world to study in Slovenia (grants or scholarships). It probably goes without saying that we are not talking of a vulnerable group in this case.”

Because of austerity measures, less scholarships for secondary school and

¹⁴⁶ Only primary school children from families where the average monthly income per person, identified in the decision on child allowance, does not exceed 53 % of the net average wage in Slovenia, and secondary school children from families where the average monthly income per person, identified in the decision on child allowance, does not exceed 42 % of the net average wage in Slovenia, are eligible for a subsidy for lunch. Secondary school children from families where the average monthly income per person, identified in the decision on child allowance, is between 42 % and 53 % of the net average wage in Slovenia (grade 5 of the child allowance), are eligible to a partial subsidy for lunch in the amount of 70 % of the lunch cost, while secondary school children from families where the average monthly income is between 53 % and 64 % of the net average wage in Slovenia (grade 6 of the child allowance), are eligible to a partial subsidy for lunch in the amount of 40 % of the lunch cost.

¹⁴⁷ Fiscal Balance Act, Official Gazette of the Republic of Slovenia, No. 40/2012. Available at www.mddsz.gov.si/si/zakonodaja_in_dokumenti/zakon_za_uravnotezenje_javnih_financ_zujf.

¹⁴⁸ EUR 600,000 in 2013, EUR 550,000 in 2012, EUR 460,000 in 2011 and so on. Data available at www.sklad-kadri.si/si/stipendije/stipendije-za-studij-zamejcev-in-slovenecv-po-svetu-v-sloveniji.

university students are available as well. In 2012, only adult (aged 18 or more) secondary school students had access to scholarships.¹⁴⁹ As a consequence, 50 % less government scholarships were granted than in 2011. Due to this limitation of the scholarship grants, there have been numerous departments from boarding schools. There were additional negative changes that affected the quality of life of scholars: 3,416 less student grants, revocation of the allowance for transportation for Zois scholarship beneficiaries, tightening of entitlement criteria for allowance for accommodation outside the place of residence for Zois scholarship beneficiaries, 75 % less scholarships granted to secondary school students than the year before, and less co-financed intern scholarships (the number of recipients of intern scholarships has been reduced by 647).

In 2014, the 'new' Scholarship Act (*Zakon o štipendiranju, ZŠtip-1*)¹⁵⁰ entered into force, which allows for the acquisition of several types of scholarships simultaneously, but also exacerbates conditions for the acquisition (e.g. exceptional achievement, excluding achievement in sport, as a prerequisite for Zois scholarships). In Zois scholarships, income allowance is abolished, residency grant is incompatible with the residency allowance, but the overall amount of these scholarships is increased. Access to scholarships for students of 3rd degree Bologna Study Programme is restricted (they are only eligible for Ad Futura scholarship) and foreigners are no longer eligible for state scholarships since 2012.¹⁵¹

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The introduction of tuition fees in higher education. In December 2013, Slovenia adopted the amendment to the Higher Education Act. The amendment enables charging of tuition fees to up to 40 % of all enrolled students (full- or part-time study) in public higher education establishments, with the provision of two cumulative conditions: the permitted scope of a paid study should not affect the performance of the activities of the institution; and paid study may not exceed 40 % of all enrolled students. According to the Ministry, paid study will be applicable to full-time students who will no longer qualify for a free study.¹⁵² Students point out, also through protests, that – despite some improvements – the Scholarship Act violates the right to education and that the amendment to the Higher Education Act prevents universal access to public education by imposing fees.

In the Slovenian school system, the Roma population is discriminated against and subjected to segregation. Slovenia was among the first Member states to reach the European relative measure for 2010: to have a maximum of 10 % of those who leave school early. But a more detailed data raise concerns: in most cases it is Roma who leave school early¹⁵³, reflecting the suspicion of discrimination against Roma in the Slovenian school system.¹⁵⁴ On average, more than 65 % of the Roma community have not completed elementary school; in the population of Roma women, this share is 70 %.¹⁵⁵

¹⁴⁹ In Slovenia, scholarships are regulated by the Scholarship Act, the Rules on granting state scholarships and the Fiscal Balance Act.

¹⁵⁰ The new Scholarship Act will only apply to students who will apply for the scholarship for the first time in a specific educational program after January 1st 2014. For students who received scholarship time in a specific educational program prior to January 1st 2014, 'old' Scholarship Act (*ZŠtip*) will apply for the time of scholarship.

¹⁵¹ Ministry of Labor, Family, Social Affairs and Equal Opportunities. *Novi Zakon o štipendiranju se začne izvajati 1. 1. 2014*. 2013. Available at www.mddsz.gov.si/nc/si/medijsko_sredisce/novica/article/7185.

¹⁵² Slovenian Press Agency. 2013. *Pikalo z novelo objublja večjo kakovost visokega šolstva in odpravo razlik med zasebnim in javnim*. Dnevnik, 11/05/2013. Available at www.dnevnik.si/slovenija/v-ospredju/pikalo-z-novelo-objublja-vecjo-kakovost-visokega-solstva-in-odpravo-razlik-med-zasebnim-in-javnim.

¹⁵³ Integra, Human Resources Developing Institute. *Stop dropout!* 2014. Available at www.stop-dropout.eu/index.php?id=2&L=7.

¹⁵⁴ In 2008, 90 % of the Roma in Prekmurje region were involved in the educational process, compared to only 39 % in Dolenjska region (Nečak Lük, A.; Novak Lukanovič, S. 2011. *Inclusion of Roma Children into Education in Slovenia: The Language Competence and Culture Dimensions*. The Open Education Journal, 4, 164–173. Available at <http://benthamsscience.com/open/toeduj/articles/V004/SI0130TOEDUJ/164TOEDUJ.pdf>).

¹⁵⁵ REDUPRE project. *Položaj Romov v Sloveniji*. 2011–2012. Available at www.project-redupre.eu/datoteke/Slovenija/REDUPRE-AnalizapoloajaRomovvSloveniji.pdf.

Persisting problems are: a) Roma children are rarely included in pre-school education; b) in primary and secondary levels, many of them attend schools for children with special needs;¹⁵⁶ c) high illiteracy rate due to the failure of Roma children in primary schools, mainly due to lack of knowledge of the Slovenian language and rare opportunities to learn Romani language, irregular attendance, lack of adequate clothing, lack of financial resources and inadequate living conditions; d) use of school materials that reinforce prejudices and stereotypes about the Roma, and at the same lack of information on Roma culture, language and history in regular curriculum.¹⁵⁷

Theoretically, segregation of Roma in education was legally allowed up to 2008, and in some areas, practices confirm that. With the 2004 Strategy of Education of Roma, segregation was abolished and replaced by an integrative approach. It is our opinion that the educational system is making progress, but historical effects of segregation remain a serious concern. Moreover, effects of pressing housing issues and other effects of structural discrimination of Roma population have a profound effect on the Roma children and their participation in education.

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The state funds two major outreach projects. The first one is introduction of Roma assistants. These assistants are currently present in 31 schools in Slovenia. However, a problem with this project is the fact that the schools themselves are free to decide on the introduction of assistants, i.e. this form of support for Roma children and their parents is not compulsory.

The second key initiative is an outreach of pre-school education to Roma communities. The aim of the initiative is to tackle the fact that Roma children rarely engage in kindergarten services (preschool education) and instead enrol directly to 1st grade of the primary school, which has many negative consequences. Both projects are a vital first step forward. But they also raise concerns. Amnesty International advocates that role of Roma assistants should be reinforced and further supported and that the assistants should become part of the pedagogical staff instead of merely external collaborators. Further education and capacity building of Roma assistants should be supported by scholarships. The project of pre-school education¹⁵⁸ should be integrated into the educational system (not all schools were willing to participate in such projects), as it has proved to be an extremely important outreach step towards integration of those Roma communities who could participate in it. The project has officially terminated in August 2013. Some reassurances were given that the project would nevertheless continue in 2014, but no official plans for its upgrade/continuation were made as of yet. Amnesty International believes that such attitude of the authorities raise serious concerns that decision-making is not genuinely and sustainably targeting the goal of providing equal opportunities for Roma children.

The infamous Bršljin model, implemented at the Bršljin primary school, remains unevaluated and no lessons were learnt from it. The only evaluations were internal, basically by the same institutions/people who devised and ran it. We believe that the model has led to indirect discrimination which effectively resulted in segregation. In the 2008–2009 school year, 14 out of 25 first grade pupils of the school failed to advance to second grade. Since then, the school refuses to provide information on Roma pupils, claiming they do not collect ethnic data and do not

¹⁵⁶ In the 2004–2005 school year, 8 % of Roma children attended schools for children with special needs, compared to 1 % of the Slovenian children. (Committee on the Rights of the Child. *Concluding observations on the combined third and fourth periodic reports of the Republic of Slovenia*, adopted by the Committee at Its sixty-third session. 27 May - 14 June 2013. UN Doc.: CRC/C/SVN/3-4. Available at <http://www.crin.org/docs/CRC-C-SVN-CO-3-4.pdf>).

¹⁵⁷ Committee on the Rights of the Child. *Concluding observations on the combined third and fourth periodic reports of the Republic of Slovenia*, adopted by the Committee at its sixty-third session. 27 May - 14 June 2013. UN Doc.: CRC/C/SVN/3-4. Available at www.crin.org/docs/CRC-C-SVN-CO-3-4.pdf.

¹⁵⁸ www.khetanes.si

know which children are of Roma origin (despite the fact that the school receives financing and provides Roma assistants)¹⁵⁹. Amnesty International believes (but virtually impossible for them to prove it), the Bršljin model is still being applied and executed – without any external evaluation.

Information from other schools also suggests that education of Roma remains a serious concern. Amnesty International is not attempting to provide a coherent analysis, but merely points to available information on the Roma children success rates, collected by Roma council members (*Forum romskih svetnikov*), journalists of *Mladina* weekly and Amnesty International Slovenia. Hence, these figures only represent a warning about the necessity for cross-cut systemic outreach to Roma with specific positive action measures (education, social support, employment, and empowerment). In our opinion, existing measures are far from being sufficient.

In addition to the Roma, people with special needs are often deprived of the right to education as well. Slovenia is one of the few European countries that does not have a central authority for the early care for children with special needs (ensuring such children's personal development and the capacity of families and promoting social inclusion of families and children). In the field of pre-school education, early care and implementation of special educational support at home are not systemically regulated. Despite the huge needs in practice, the legislation in the field of children with special needs is not being implemented.¹⁶⁰ Specific shortcomings in this field are presented in the 2012 Ombudsman report, which emphasizes, among others, that deaf children, despite the Placement of Children with Special Needs Act from 2011, are not able to use sign language as the regulations from the Act are still not being implemented. Children with special needs are furthermore disadvantaged because their education is often carried out in inappropriate conditions with inadequate equipment (e.g. Ljudevita Pivka primary school in Ptuj). Renovation of these schools is often dependent on the agreement between several municipalities, some of which are uncooperative in securing the necessary funds.¹⁶¹

Regional differences in the educational structure. In the field of education in Slovenia, regional differences in the educational structure are problematic as well. In 2012, 2,035 individuals aged 15–64 were without education in the eastern region of Slovenia, compared to 1,086 (just over half as many) individuals in the western region.

In its education survey, Statistical Office of the Republic of Slovenia took into account the proportion of people with at least tertiary education among people aged 30–49 years, since most of the population already achieves tertiary education at this age and the employment rate in this age group is the highest. Regional differences are very large: the proportion of people with tertiary education in the Central Slovenia statistical region (33.4 %) is almost twice the proportion of the Pomurje region (17.7 %).

Human rights education is predominantly the responsibility of non-governmental organizations. In primary schools, human rights education is mainly only present in the subjects of civic education and ethics and indirectly in

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¹⁵⁹ More information on education aspects can be found in 2006 Amnesty International report *False starts*. The report is outdated, but can give an overview of the situation from only a few of years ago:

www.amnesty.org/en/library/asset/EUR05/002/2006/en/de46d8ad-d3e1-11dd-8743-d305bea2b2c7/eur050022006en.pdf.

¹⁶⁰ The Educational Research Institute, Ministry of Education and Sport. 2010. *Analiza vzgoje in izobraževanja otrok s posebnimi potrebami v Sloveniji*. Available at http://www.mizs.gov.si/fileadmin/mizs.gov.si/pageuploads/podrocje/posebne_potrebe/Gradivo_Analiza_vzgoje_in_izobrazevanja_OPP_v_Sloveniji.doc.

¹⁶¹ Human Rights Ombudsman of the Republic of Slovenia. 2012 Annual Report. Available at www.varuh-rs.si/fileadmin/user_upload/pdf/lp/Letno_porocilo_Varuha_2012.pdf.

history, whereas in secondary schools it is present in the subjects of sociology and history. In these subjects, human rights are taught in the context of education about wartime events (e.g. the Holocaust), about the concepts of the state, European Union etc. It should be noted that it is mainly about learning of civil and political rights, and not so much of economic, social and cultural rights.¹⁶² Otherwise, human rights education is predominantly carried out by non-governmental organizations. They include their programs in school lessons or extra-curricular activities and provide the possibility of non-formal education (e.g. workshops in youth centers). In recent years, some opposition has even emerged to teaching of these subject in schools (such as those regarding the prevention of discrimination), especially in the context of the discussion on the Marriage and Family Relations Act. According to some of the parents, mentioning of the LGBT groups in some of the NGO programs violated their religious freedom. This pressure, which was not clearly rejected by the public school authorities, had a deterrent effect on many schools.

The state's education system does not guarantee young LGBT people full development of their personality and dignity. Sexual education for LGBT youth is not guaranteed. According to an NGO research¹⁶³, 79 % of respondents answered that they never discussed homosexuality in primary or secondary school (34 %) or that they discussed it very little (45 %). Out of 9 % of those that did discuss the subject in school, 18 % replied that they had discussed it in a negative way. According to Legebitra research¹⁶⁴, 73 % of secondary school teachers feel that there is not enough professional and objective discussion of homosexuality in the secondary schools. The school is therefore not a place that would provide homosexual young people with a safe environment for the wholesome development of their personality and dignity. Sexual education in schools is not regulated comprehensively and on a system level.¹⁶⁵ Due to its heteronormative orientation, it is almost entirely focused on reproductive health and does not engage in teaching of LGBT youth on healthy and responsible sexual behavior.

RECOMMENDATIONS

The Republic of Slovenia should adopt appropriate legislative measures and provide financial resources to ensure that quality public education is equally accessible to all citizens, without discrimination on the basis of any personal circumstance, such as ethnic origin, financial status, residency, sexual orientation or gender identity, disability, etc. The state should ensure the integration of all vulnerable groups at all levels of education, without discrimination or segregation of any kind, and take appropriate measures to reduce regional disparities in access to education and level of education. It should also ensure that a comprehensive teaching of human rights – political and civil, as well as economic, social and cultural rights – is included in the curricula of primary and secondary schools, because knowledge of human rights is a prerequisite for preventing their violations. The state must provide education and social skills training for a living in a diverse society, including education for safe, healthy and responsible sexuality, which will enable all young people to fully develop their personality as well as their ability of mutual respect.

¹⁶² Rustja, E., ed. 2008. *Training and Education for Human Rights*. Available at www.mss.gov.si/fileadmin/mss.gov.si/pageuploads/ministrstvo/Publikacije/Vzgoja_izobrazevanja_za_CP.pdf.

¹⁶³ The Peace Institute. *Neznosno udobje zasebnosti*. 2005. Available at www2.mirovni-institut.si/slo_html/publikacije/pdf/MI_gay_slo_final.pdf.

¹⁶⁴ Legebitra. *Homofobija na naši šoli?* 2011. Available at www.drustvo-legebitra.si/images/stories/Oprostite_gospa_uiteljica_ste_lezbijka.pdf.

¹⁶⁵ Legebitra. *Narobe* magazine. *AIDS – 30 let*. 2011. Available at www.narobe.si/stevilka-18-19/tema-18-19.

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