

# ECRI

European Commission against Racism and Intolerance  
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## European Commission against Racism and Intolerance

### SECOND REPORT ON SLOVENIA

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## **Foreword**

*The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.*

*One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.*

*At the end of 1998, ECRI finished the first round of its country-by-country reports for all member States. ECRI's first report on Slovenia is dated 7 February 1997 (published in March 1998). The second stage of the country-by-country work, initiated in January 1999, involves the preparation of a second report on each member State. The aim of these second reports is to follow-up the proposals made in the first reports, to update the information contained therein, and to provide a more in-depth analysis of certain issues of particular interest in the country in question.*

*An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.*

*The contact visit to Slovenia took place on 21-23 October 2002. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the national authorities of Slovenia for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation each of whom provided much valuable information on their own field of competence. ECRI would also like to thank the national liaison officer for Slovenia whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.*

*Furthermore, ECRI would like to thank all the representatives of non-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.*

***The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 13 December 2002 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.***

### ***Executive summary***

Since the publication of ECRI's first report, Slovenia has taken a number of steps towards addressing issues of racism, intolerance and discrimination. Such steps include ratification of international instruments, the adoption of measures protecting the rights of the Italian and Hungarian national minorities, initiatives to improve the situation of refugees under a temporary protection status, measures to facilitate access to citizenship and education and employment programmes for members of the Roma community.

However, some problems remain. Improvements in the situation of the ex-Yugoslav minority groups, many members of whom are still non-citizens, will depend on the speed and efficiency of implementing the new legislation. Furthermore, there still exists a certain level of prejudice and intolerance among the Slovenian population towards those who are different from the majority. In certain areas, the Roma population is also faced with economic and social difficulties, which make its members vulnerable to discrimination. Also noted are the lack of a comprehensive body of anti-discrimination legislation, the need to increase the effectiveness of the criminal law provisions aimed at combating racist and intolerant expressions and the need for improved protection against arbitrary deportation.

**In this report, ECRI recommends that the Slovenian authorities take action in a number of fields. These recommendations cover, inter alia: the pressing need to find solutions to the problems encountered by ex-Yugoslav minority groups as concerns access to citizenship and to social and economic rights, the need to organise trainings in human rights and tolerance of all civil servants working in contact with minority groups, the need to ensure that the existing legislation to combat racism and racial discrimination is fully applied. As regards immigrants, the Slovenian authorities should also consider adopting an integration strategy in order to reinforce the cohesion of the whole population of Slovenia.**

## **SECTION I: OVERVIEW OF THE SITUATION**

### **A. International legal instruments**

1. Slovenia has signed and ratified many of the international instruments relevant to the fight against racism and intolerance. In particular, since the adoption of ECRI's first report, Slovenia has ratified the Revised European Social Charter, the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. ECRI notes with satisfaction that Slovenia made the declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination on 10 November 2001.
2. Slovenia signed Protocol N° 12 to the European Convention on Human Rights in March 2001. ECRI encourages Slovenia to ratify as soon as possible this Protocol, which provides for a general prohibition of discrimination. ECRI has been informed that signature of the European Convention on the Legal Status of Migrant Workers is under examination by the Government. It encourages the Slovenian authorities to speed up the process to become party to this Convention. ECRI also recommends Slovenia to become party to the European Convention for the Participation of Foreigners in Public Life at Local Level and to the European Convention on Nationality.
3. ECRI notes that, according to Article 8 of the Constitution, "laws and regulations must comply with generally accepted principles of international law and with treaties that are binding on Slovenia. Ratified and published treaties shall be applied directly".

### **B. Constitutional provisions and other basic provisions**

4. The Constitution of Slovenia contains a large number of provisions relating to the principle of equality. For instance, Article 14 of the Constitution states that everybody in Slovenia is guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other beliefs, material status, birth, education, social status or any other personal circumstances. Article 13 of the Constitution provides that "in accordance with treaties, aliens in Slovenia enjoy all the rights guaranteed by this Constitution and laws, except for those rights that pursuant to this Constitution or law only citizens of Slovenia enjoy". Equality is also guaranteed before any public authority (Article 22) and in access to employment (Article 49 of the Constitution).
5. According to Article 63, any incitement to national, racial, religious or other inequality and the encouragement of national, racial, religious or other form of hatred or intolerance are prohibited.
6. Article 61 grants to every person the right to freely express affiliation to her or his nation or national community, to nurture and express her or his culture and to use her or his language orally and in writing. Article 62 provides that everyone shall have the right to use her or his own language, orally and in writing, in the realisation of their rights and duties and in proceedings before state and other bodies which perform public services, in a manner which shall be specified by law.

- **Legislation on minority groups**

7. While Article 64 of the Constitution grants special protection to the autochthonous Italian and Hungarian national communities in Slovenia, Article 65 provides that the status and special rights of the Roma/Gypsy community living in Slovenia shall be regulated by law. ECRI welcomes the status granted to Italian and Hungarian communities and the satisfactory implementation of Article 64 in many aspects. As regards the provision on Roma/Gypsies, ECRI hopes that the Slovenian authorities will continue its implementation, through the adoption and full implementation of legislation<sup>1</sup>.

**C. Criminal law provisions**

8. According to Article 141 of the Criminal Code, whoever, due to differences in respect of nationality, race, skin colour, religion, ethnic origin, gender, language, political or other beliefs, birth status, education, social position or any other circumstances, prevents another person's enjoyment of any human right or freedom recognised by the international community or laid down by the Constitution or the statute, or grants to any person a special privilege or advantage on the basis of such discrimination shall be punished by a fine or sentenced to imprisonment for not more than one year. The same punishment applies to the offence of harassing an individual or organisation promoting equality (paragraph 2). Paragraph 3 contains a qualified form of the criminal offence of infringing equality as defined in paragraph 1 and 2 and foresees a greater punishment (imprisonment for up to three years) for public officials abusing their official function.
9. Article 300 prohibits incitement to ethnic, racial and religious hatred or intolerance or spreading ideas concerning racial superiority. This offence is punishable with imprisonment for up to two years (paragraph 1). A qualified form of this basic criminal offence is defined as including the use of force or ill-treatment, endangering safety, denigrating other nationalities or ethnic or religious symbols, damaging foreign property or desecrating monuments, memorials or graves. In these cases imprisonment can be imposed for up to five years. The crime of genocide is penalised under Article 373 of the Criminal Code. There is no specific provision establishing that the racist motivation of the author of an offence constitutes a specific aggravating circumstance. However, for certain criminal offences, there is a provision such as Article 127 in the case of murder which provides for a more severe punishment if the judge considers that an aggravating circumstance should be taken into account. While ECRI takes note of the wide range of criminal provisions aiming to combat racism, it considers that further criminal law provisions should be introduced, for example defining ordinary crimes with a racist motive as racist crimes, or expressly providing that the racist motivation of crimes be taken into account by the courts as an aggravating circumstance when sentencing. In this respect, ECRI draws attention to its General Policy Recommendation N° 7 on national legislation to combat racism and racial discrimination, which provides guidelines on suitable criminal law provisions in this field.

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<sup>1</sup> See below, *Roma/Gypsies*. As regards other minority groups, see below, para. 39 and 40

10. In 2001, the public prosecutors offices received sixteen reports on account of the violation of the right to equality under Article 141 but six of these were dismissed since no grounds for suspicion of a criminal offence existed. The public prosecutors have made additional investigation of the remaining ten cases within the framework of the pre-trial criminal procedure with the assistance of the police or by some other method. These investigations have not yet been completed. The Public Prosecutor's Office is currently dealing with one case under Article 373 of the Criminal Code on genocide, relating to an event immediately following the Second World War.
11. According to certain reports, the police does not always pay the necessary attention to the racist aspect of an offence, considering it rather as a common offence such as a street fight. It appears, in general, that the criminal provisions aimed at combating racism and discrimination are not used sufficiently, despite the fact that such phenomena are reported as a significant problem in Slovenia, notably by the Human Rights Ombudsman<sup>2</sup>. It has been stated that victims of racial discrimination do not often report it to the police, one possible reason being the lack of awareness of the existence of such provisions. ECRI strongly urges the authorities to improve the implementation of legislation against racism and discrimination, for example by ensuring that the general public and potential victims are aware of the legislation in force and its implications and that victims are given encouragement and support to approach the police. Moreover, steps should be taken to ensure that complaints brought to the police receive a proper and systematic follow-up in order to improve the confidence of minority groups in the criminal justice system and to send a message to the majority population that manifestations of racism are not acceptable. The introduction of parallel civil and administrative law provisions covering discrimination in various areas of life might also facilitate recourse to justice (see below, Civil and administrative law provisions).
12. ECRI encourages the Slovenian authorities to provide training on the subject of racism and racial discrimination to all actors involved in the criminal justice system, from the police to the prosecuting authorities and the judges, and to further raise their awareness of the need to actively counter manifestations of such phenomenon. At the same time, ways should be considered to encourage the victims of such acts to come forward.

#### **D. Civil and administrative law provisions**

13. Slovenian legislation contains some general provisions prohibiting discrimination such as Article 82-3 of the Alien's Act<sup>3</sup>, according to which state and other bodies, organisations and associations shall ensure in their activities protection from any kind of discrimination on the grounds of racial, national, ethnic or other differentiation of foreigners.
14. The new Employment Relationships Act of April 2002 contains more detailed anti-discrimination provisions, aiming at enshrining in national law the requirements of European Union standards. This law will enter into force on 1 January 2003. Article 6 prohibits direct and indirect discrimination on a non-exhaustive list of grounds, including grounds such as race, skin colour, religious conviction or

<sup>2</sup> See *Slovenian Human Rights Ombudsman, Seventh Annual Report (2001)*, Ljubljana, June 2002.

<sup>3</sup> *Official Gazette RS N° 61/1999*.

national origin, in the field of access to work, termination of a work contract and work conditions. ECRI notes that this provision also provides for a shared burden of proof between the alleged victim of discrimination and the discriminator. In the case of discrimination, the employer is liable to payment of compensation for damages to the victim and can be sanctioned by an administrative fine. ECRI welcomes this new law and hopes that the Slovenian authorities make all necessary efforts to raise employers' and workers' awareness of this provision, in order to give the prohibition of discrimination through civil and administrative law its full meaning.

15. ECRI regrets that there is no comprehensive body of anti-discrimination legislation that covers all aspects of life, including education, housing, access to public and social services, access to public places and contractual relations between individuals and that provides for effective mechanisms of enforcement and redress. ECRI strongly encourages the Slovenian authorities to consider the adoption of such a body of legislation on the same model as the new law on employment and to make efforts to raise awareness among the legal community and the general public of such legislation. In this respect, ECRI again draws attention to its General Policy Recommendation N° 7 on national legislation to combat racism and racial discrimination, which provides guidelines on suitable civil and administrative law provisions in this field.

#### **E. Specialised bodies and other institutions**

16. The Human Rights Ombudsman began exercising its functions in 1994. The Ombudsman is charged with ensuring that the rights of individuals are not violated by organs of the state, local administration or other public authorities. The Ombudsman is empowered to investigate individual complaints and to propose the rectification of the irregularity if the complaint is found to be justified. ECRI welcomes the work of this institution and encourages the authorities to undertake measures to raise awareness among the general public of this institution and the role it may play in offering a means of recourse alongside the judicial system, notably in addressing discrimination cases.
17. The Office for Equal Opportunity is an inter-ministerial body which deals principally with the question of gender equality. ECRI is aware of the setting up of a working group by this organ in order to analyse the situation regarding the future implementation of Directive 2000/43/EC of the Council of the European Union implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and Directive 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation. This extends the scope of interest of the Equal Opportunity Office to areas such as discrimination on the grounds of race, colour, national origin and others. ECRI hopes that, in the future, Government responsibility for these matters will be exercised by a body with an equally wide remit.
18. In this connection, ECRI stresses the desirability of an independent specialised body charged specifically with competence to deal with cases of racial discrimination and intolerance, whether or not as part of an overall remit to deal with human rights abuses in general. It encourages the Slovenian authorities to draw inspiration from ECRI's General Policy Recommendation N° 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, in order to establish such a body or to create a special

competence in this field within the existing Office of the Human Rights Ombudsman.

#### **F. Education and training/awareness-raising**

19. ECRI welcomes the existence of a compulsory citizenship education and ethics course and an optional course in civic education, alongside numerous other positive measures. It encourages the Slovenian authorities to give considerable emphasis in this course to teaching pupils about human rights and tolerance.
20. In its General Policy Recommendation N° 1 on combating racism, xenophobia, antisemitism and intolerance, ECRI recommends that member states “ensure that school curricula, for example in the field of history teaching, are set up in such a way as to enhance the appreciation of cultural diversity”. ECRI urges the Slovenian authorities to ensure that high priority is given to education in tolerance and respect for diversity. ECRI further considers that there is a strong case for making pupils aware, through the school curriculum, of how Slovenia has benefited from immigration and cultural diversity.
21. ECRI is pleased to note that courses in human rights are being organised for police officers, prison staff and judicial personnel. It encourages the authorities to make sure that these courses include aspects more specifically concerned with the problems of racism and discrimination. It also encourages the authorities to extend the training in human rights and tolerance to all civil servants who are in contact with minority groups, such as customs officials.

#### **G. Reception and status of non-citizens**

##### **- *Refugees and Asylum seekers***

22. At the time of the adoption of ECRI's first report, Slovenia did not have any legislation on asylum. ECRI is pleased to note that, in 1999, an Act implementing the 1951 Geneva Convention relating to the Status of Refugees was adopted. This Act was further amended in 2001, principally to conform with European Union standards in the context of Slovenia's candidature. Since 1990, only 41 asylum seekers have been granted refugee status. While the number of applications is quite high (for instance, 10 000 in 2001), ECRI notes that a large majority of cases are closed because applicants have given up the procedure, possibly because they have moved to another country.
23. After a period of sharp increase, the number of applications submitted by asylum seekers has recently started to decrease. This seems to be mainly the result of changes in the migration flow. ECRI is pleased to learn that the Slovenian authorities in cooperation with the UNHCR and an NGO have published a booklet on asylum. This booklet exists in various languages and contains all information on filing an asylum application and on the rights and duties of asylum seekers. However, ECRI expresses its deep concern about allegations of non-citizens arriving at the border, who would like to apply for asylum but who are not always duly informed by certain police officers or customs officials about the procedure to follow, and are even taken back to the border without having time to apply. ECRI strongly encourages the Slovenian authorities to monitor the situation at the borders, in order to ensure that non-citizens who wish to apply for asylum are given the opportunity to present their

cases. ECRI considers that further training of officials working in this field could greatly improve this situation<sup>4</sup>.

24. ECRI is concerned at the situation regarding the accommodation of asylum seekers. While the problem of overcrowded centres is easing, ECRI has been informed of very harsh living conditions in certain remaining centres. ECRI urges the authorities to ensure that asylum seekers are treated in an humane way, which includes access to decent living conditions. In this regard, ECRI notes with interest that the Ministry of Interior has undertaken the building of a new asylum centre by 2004.
25. Around 70 000 refugees from Bosnia-Herzegovina arrived in Slovenia during the first half of the nineties and 2 500 refugees arrived from Kosovo in 1999. Since then, the majority of refugees from these regions have left Slovenia or have become permanent residents or/and citizens but there are still approximately 2 150 refugees living in the country, who for various reasons cannot return to their country of origin. After a long period of uncertainty as regards the legal status of these refugees, the Law on Temporary Refugees adopted in 1997 granted a special status to these persons, including certain rights such as the right to health care and access to accommodation centres. However, their right to work was very limited as they could only work for 60 days a year, which does not provide for their basic needs. ECRI notes also that this law provided neither a permanent solution nor any means of integrating the refugees into Slovenian society. Therefore, ECRI is pleased to learn that an amendment to the 1997 Law was adopted in 2002, offering the possibility to all persons enjoying a temporary protection status to obtain a permanent residence permit, which gives full access to a wide range of rights, on an equal footing with Slovenians. By the end of 2002, 1 839 persons out of 2 150 temporary refugees filed an application for a permit for permanent residence. Until that time, 1 661 temporary refugees were issued with a permit for permanent residence. ECRI welcomes such developments and encourages the Slovenian authorities to monitor closely the situation of these persons to ensure their full integration into society.

- ***Illegal immigration***

26. Slovenia is a crossing point for illegal immigrants coming from the East to Western Europe. The Slovenian authorities are responding by tightening border controls, particularly along the border with Croatia. Taking into account some reports indicating that certain officials do not always fully apply the relevant regulations as regards migrants' rights<sup>5</sup>, ECRI urges the Slovenian authorities to ensure that no discriminatory behaviour takes place in this field. Persons found to be staying illegally in Slovenia are taken to "Centres for Removal of Aliens". Three different bodies, namely, the police, the judge for minor offences and the criminal court, are competent to decide on breaches of law as regards entrance and sojourning illegally in the country. It has been reported that such an overlapping of competences may lead to complex situations, impeding the full respect of the rights of the concerned persons. ECRI notes that the Slovenian authorities are aware of the problem and are seeking solutions. ECRI urges the authorities to do everything possible to tackle fully the problem of illegal

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<sup>4</sup> See also above, *Education and training/awareness-raising*.

<sup>5</sup> See above, *Asylum seekers*.

immigration and especially to ensure that all officials who deal with illegal immigrants receive special training, particularly in the area of human rights and tolerance. In general, ECRI considers that the national authorities should increase transparency in the handling of individual cases at border controls, for instance by further work in close cooperation with the UNHCR office and local NGOs working in this field.

- ***Integration of persons of immigrant origin***

27. At the beginning of the nineties, Slovenia received a major influx of refugees from Croatia and Bosnia-Herzegovina. That situation resulted in the creation of the Office for Immigration and Refugees, an independent government agency, in 1992. Its tasks consisted of organising the accommodation and the supply of food for refugees, as well as other activities such as education, humanitarian aid and health care. Recently, the Office for Immigration and Refugees has started to work on the development of the concept of integration of non-citizens in Slovenia. At present, the main target groups of this policy are the temporary refugees from Bosnia and Herzegovina. ECRI considers, however, that the Slovenian authorities should include not only refugees and asylum seekers but also migrants who come to Slovenia to work in the integration policy. This is particularly important in the light of the future accession of Slovenia to the European Union and the resulting opening up of the Slovenian labour market to European Union citizens. ECRI considers that this government agency can play an important role in improving the integration of non-citizens in Slovenia and encourages the authorities to give all the human and financial means necessary to carry out its tasks in an independent way.
28. ECRI welcomes the other positive initiatives taken by the Slovenian authorities to integrate non-citizens into Slovenian society, such as the adoption of the Local Elections Act (n° 52/2002), which allows foreigners possessing a permanent residence permit to take part in local elections. As mentioned previously, ECRI encourages the Slovenian authorities to move further into this direction and to become party to the European Convention for the Participation of Foreigners in Public Life at Local Level<sup>6</sup>.

**H. Access to public services**

- ***Access to social services such as health care, welfare and housing***

29. ECRI expresses its concern at allegations of discrimination against minority groups, including Roma and ex-Yugoslav citizens, in the field of access to public services. Although the law is not discriminatory in nature in Slovenia, it appears that its implementation is far less satisfactory. ECRI is aware that there has been a great number of regulations adopted since the accession to independence and that their implementation is not always easy. However, it emphasises the need further to implement legislation to give to the social and economic rights granted to minority groups their full meaning. It strongly encourages the national authorities to monitor the situation in this field and to ensure, for instance, that secondary legislation is used whenever necessary in order to ensure that primary legislation does not stay a dead letter.

<sup>6</sup> See also above, *International legal instruments*.

- **Access to education**

30. Article 57 of the Constitution guarantees equal opportunity to education for all Slovenian citizens. The Hungarian and Italian national minorities benefit from special education provisions, which guarantee them education in their mother tongue from pre-school education to the end of secondary education. The curricula of these schools, in addition to teaching the minority and the Slovenian language, pay special attention to familiarising students with the culture, geography and history of their country of origin. ECRI notes with satisfaction the recent initiative taken to favour access to education for Roma children, including the setting up of Romani language courses. ECRI expresses its concern at the high number of Roma children attending classes for children with "special needs". The Slovenian authorities are aware of the problem and have set up a commission to decide in a non-discriminatory manner whether a child should attend such classes or not. ECRI welcomes this initiative and hopes that the Slovenian authorities will continue to monitor the situation and improve the condition of Roma as regards education. ECRI is also aware that the Slovenian authorities are planning to give the children of migrant origin and children belonging to ex-Yugoslav minority groups the opportunity to learn their mother tongue at school. It strongly encourages the Slovenian authorities to continue and strengthen their efforts in this field.

I. **Employment**

31. ECRI takes note of the adoption of the Employment of Foreign Nationals Act, which entered into force in August 2000 and which makes it easier for non-citizens to get a work permit, as the refusal of citizenship is no longer an obstacle to the issuing of a work permit. ECRI is also aware of the adoption of the 2002 Employment Relationships Act<sup>7</sup>. However, it notes that discrimination in employment remains a serious barrier to the full integration of members of many minority groups into the social and economic life of Slovenia. Such discrimination affects both immigrant minority groups and national minority groups, particularly the Roma/Gypsy community<sup>8</sup>. It seems that unemployment among minority groups remains significantly higher than among the majority population, while members of many minority groups are over-represented in the lower-status sectors of the employment market, such as manual work. ECRI feels that further concerted efforts remain necessary to combat discrimination in employment, including the full and effective implementation of the legislation in force and awareness-raising among minority groups concerning their rights and among the majority population concerning the prohibition of discrimination. Furthermore, in addition to legislative measures, other means and strategies should be employed to combat discrimination.

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<sup>7</sup> See above, *Civil and administrative law provisions*.

<sup>8</sup> See below, *Roma/Gypsies*.

## J. Vulnerable groups

***This section covers certain minority groups which may be particularly vulnerable to problems of racism, discrimination and intolerance in the country in question. It is not intended to provide an exhaustive overview of the situation of all minority groups in the country, nor to imply that groups not mentioned face no problems of racism and discrimination.***

### - Roma/Gypsies

32. The precise number of Roma in Slovenia is not known. Only 2 293 persons registered themselves as Roma in the 1991 Slovenian census, though estimates range from 3 000 to 10 000.
33. The Law on Local Self-Government provides that Roma communities elect at least one representative to the municipal council in areas where autochthonous Roma communities are settled. As the notion of autochthonous Roma was not initially clearly specified in the law, the Slovenian Parliament adopted an amendment to indicate which were the municipalities where a Roma representative should be elected. Twenty municipalities have been identified and, although certain municipalities at first put up a certain resistance, by the end of 2002 all municipalities will have a Roma representative. ECRI welcomes this initiative, which allows Roma/Gypsies to become involved in local public life and decision-making. It also notes with interest that one municipality (Maribor), which was not obliged by the law to grant the right to elect a Roma representative, has nevertheless accorded this possibility to the Roma community on a voluntary basis. ECRI strongly encourages such good practices.
34. ECRI has noted that the use of the notion of "autochthonous" and "non-autochthonous" Roma in the Law on Local Self-Government has led to a certain confusion, especially given that Article 65 of the Constitution does not make such a distinction<sup>9</sup>. Some representatives of the Roma community have expressed their preference for the notion of "traditionally settled" and "non-traditionally settled" Roma or even for the removal of such a distinction. It is, in particular, unclear what the consequences of the distinction between autochthonous and non-autochthonous Roma means from a legal point of view. ECRI has been informed that a working group was set up to further reflect on this notion and its possible implications. ECRI considers that the Slovenian authorities should avoid as far as possible the utilisation of this distinction and should instead take an inclusive approach as regards Roma when they adopt laws or programmes concerning them. This will ensure that no discrimination occurs in the implementation of the provisions concerning Roma.
35. In some areas, the living conditions of Roma give rise to deep concern. Their settlements lack basic amenities such as running water, heating and sanitation. Unemployment is extremely widespread. This situation is due to several factors which include a general low level of education and a lack of awareness among Roma of their rights. Roma also suffer discrimination in many fields of life, such as housing, employment and health care. One reason for this is linked to the fact that many Roma come from other territories of the former Socialist Federal

<sup>9</sup> See above, *Constitutional law provisions and other basic provisions.*

Republic of Yugoslavia (SFRY) and do not have Slovenian citizenship. They are therefore particularly affected by the problems faced by persons who did not manage to regularise their legal status in Slovenia<sup>10</sup>.

36. The Slovenian authorities are aware of the difficulties encountered by the Roma population and have taken a number of initiatives aimed at improving this situation. ECRI notes in particular the 1995 “Programme of Measures of the Protection of Roma in the Republic of Slovenia” and the 2000 “Programme for the Employment of Roma in Slovenia”, which analysed the living conditions and the economic situation of Roma, and provided proposals for the inclusion of Roma in the work force. Measures taken under these programmes include preparation for employment and training, establishment of Roma co-operatives, a public work scheme and subsidised employment. There are also initiatives at the level of education and the promotion of the Romani language through radio and TV programmes and through Romani language courses at school. ECRI welcomes such initiatives but draws attention to reports according to which these programmes are not sufficiently implemented and need more financial support from the public authorities in order to be fully efficient. Therefore, ECRI strongly encourages the Slovenian authorities to continue and strengthen their efforts to improve the situation of the Roma population. In this context, it draws attention to its General Policy Recommendation N° 3 on combating racism and intolerance against Roma/Gypsies.

37. ECRI is concerned about stereotypes and prejudices towards Roma on the part of the general public, sometimes reflected in the media. It urges the Slovenian authorities to monitor the situation in this field and to encourage awareness-raising among the general public, so as to reduce prejudice against Roma.

- ***Minority groups from the other territories of the former Socialist Federal Republic of Yugoslavia***

38. Unlike the Hungarian, Italian or Roma communities, ethnic Serbs, Croats, Bosnians or Kosovar Albanians are not protected by special provisions of the Constitution, except for Article 61<sup>11</sup>, and are faced with some governmental and societal discrimination. Most of these people from the former Yugoslavia (mainly Bosnia, Serbia, and Kosovo) migrated internally to Slovenia during the decades leading to independence because of economic opportunities. ECRI notes that according to the last census, Croats make up around 2.7%, Serbs 2.4%, and Bosnians 1.3% of the population while Hungarians represent 0.4% and Italians 0.16% of the population. Although the minority groups from the territories of former Yugoslavia greatly outnumber the traditional national minorities, they do not benefit from special cultural rights. ECRI feels that the Slovenian authorities should devote special efforts to improving the opportunities for these minority groups to express their culture. In this context, ECRI welcomes the project aimed at giving children belonging to such groups the opportunity to learn their mother tongue at school<sup>12</sup>.

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<sup>10</sup> See below, *Issues of particular concern*.

<sup>11</sup> See above, *Constitutional law provisions and other basic provisions*.

<sup>12</sup> See above, *Access to education*.

- **German speaking minority**

39. The German-speaking minority is numerically small. ECRI is concerned at reports according to which the German-speaking minority is still subject to some residual prejudice and stereotyping linked to the events of the Second World War. ECRI addresses the issue of the climate of intolerance in a general way below (see climate of opinion) and hopes that the Slovenian authorities will make every effort to solve the problem of negative attitudes towards the German-speaking minority. In this context, ECRI notes with satisfaction that on 30 April 2001 Slovenia and Austria signed a bilateral agreement on Culture, Education and Science, which is giving German-speakers special individual facilities.

- **Small religious groups**

40. Catholics represent the large majority of the whole population in Slovenia. Small religious groups exist such as Muslims (around 30 000 persons) or Jews (around 200 persons). The size of the Muslim community has increased since the arrival of refugees, particularly from Bosnia and Kosovo. ECRI notes that there are some issues of concern as regards, for example, adequate places of worship for the Muslims. The Muslim community does not have a mosque and the premises currently used for religious events and activities are not very appropriate for such purposes. ECRI has been informed that the Muslim community has been applying for a place to build a mosque for several decades. Although such a place has already been granted by the authorities, the construction of the mosque has not started yet, apparently due to administrative delays. ECRI strongly urges the authorities to take steps to ensure that suitable premises are allocated to the Muslim community and to any small religious groups. Given the existence of manifestations of intolerance towards Muslims on the part of the majority population<sup>13</sup>, encouraged also by the media, ECRI feels that this would help to promote understanding and tolerance towards and between the different religious groups in Slovenia. More generally, it draws attention to its General Policy Recommendation N° 5 combating intolerance and discrimination against Muslims, which sets out a series of guidelines and principles to be followed in this field.

**K. Conduct of certain key institutions at national and local level**

- **Law enforcement officials**

41. The Slovenian authorities are aware of cases of excessive use of force from the part of certain police officers against Roma/Gypsies or non-citizens. ECRI notes that a wide range of initiatives have been taken in the field of human rights training of the members of the police. Such training includes raising awareness of the need to fight against racism and intolerance. ECRI welcomes such initiatives and considers that the Slovenian authorities should take further action to improve relations between the members of the police and minority groups.
42. In the case of discrimination or racist behaviour by a police officer, Article 148-4 of the Code of Criminal Procedure provides for the possibility of lodging a complaint with the public prosecutor. ECRI notes that complaints about illegal

<sup>13</sup> See below, *Climate of opinion*.

behaviour by the police, including discriminatory acts, may also be lodged with the Human Rights Ombudsman. In accordance with its General Policy Recommendation N° 1, ECRI nevertheless suggests that the Slovenian authorities keep in mind the need for an agency, independent of the police authorities, to be given the responsibility of investigating any future incidents and areas of conflict between police and minority groups.

#### **L. Climate of opinion**

43. The reactions of Slovenes to the rise in the number of immigrants over the past ten years have sometimes been of a nationalistic and even of a xenophobic nature. ECRI notes with concern reports according to which many racist expressions are heard in the streets and published in the press. In extreme cases, some persons belonging to minority groups have been victims of physical violence. Noting that the general attitude of Slovenes is often described as an acceptance of "others" as long as they do not live in "their backyard", ECRI fears that in the case of a worsening of economic conditions in the country in the future, the first scapegoats might be the persons belonging to minority groups in Slovenia. The current targets of hate-speech are particularly the Roma/Gypsies, Africans, people coming from other parts of the territory of SFRY (sometimes called "Southerners", in a implied pejorative way), Muslims and asylum seekers. ECRI urges the authorities to monitor closely such manifestations of intolerance and to take the necessary measures in case of use of violence as mentioned above<sup>14</sup>. In view of the increasing migratory flow due to the forthcoming accession of Slovenia to the European Union, ECRI wishes to draw particular attention to the need to improve the climate of tolerance in the country. Therefore, ECRI strongly urges the Slovenian authorities to take all relevant measures to raise awareness of the general public concerning issues relating to racism and intolerance, and to develop a culture of tolerance and respect for difference in Slovenia. This would help to reinforce and preserve the social cohesion of the people living in the country in the future.

#### **M. Monitoring the situation in the country**

##### **- Data and statistics**

44. There seems to be a lack of data on the situation of non-citizens in fields such as employment, housing and education. Moreover, there is at present no systematic or specific collection of data concerning racist acts, reports to the police on such incidents and the follow-up and outcome given to such reports. In particular, ECRI notes that the last census carried out in Slovenia was conducted in 1991, when Slovenia gained independence. ECRI understands that a new census has been carried out in 2002, the result of which was not available at the time of drafting this report. ECRI encourages the Slovenian authorities to develop systems for monitoring the situation of non-citizens in fields such as employment, housing and education, paying due respect to the principles of confidentiality and the voluntary self-identification of persons as belonging to a particular group. ECRI also recommends the development of a system for monitoring the incidence of racist and discriminatory acts, including

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<sup>14</sup> See above, *Criminal law provisions*.

reports made to the authorities and the follow-up and outcome given to such reports.

## **N. Media**

45. As already noted in ECRI's last report, the Hungarian and Italian minorities are guaranteed, in very detailed provisions, the publication of newspapers and magazines in their own languages and access to radio and television broadcasting. Through the Office for Nationalities, the Republic of Slovenia also co-finances some of the publishing activities, radio and TV programmes for the Roma. The Roma community publishes a magazine "Romano them - Romany world", with contributions in the Slovenian and Romani languages, and runs its own radio programmes on local radio stations in Novo Mesto and Murska Sobota. ECRI welcomes such initiatives in favour of national minorities and Roma. It also encourages the Slovenian authorities to support initiatives aiming at improving the presence in the media of other minority groups and languages, such as the German-speaking minority or the ethnic Croats, Serbs, Bosnians and other minority groups present in the country.
46. ECRI notes that certain prejudices and negative stereotypes concerning members of minority groups such as the Roma/Gypsies have been reported in the media. ECRI notes that the Media Act (n° 35/2001) prohibits a large range of racist expressions such as incitement to racial hatred or discrimination, and urges the national authorities to use, when necessary, such means to combat racism and intolerance. Moreover, ECRI is concerned by the fact that, according to different sources, the media tend to report crimes as being committed by persons of a certain nationality, including in cases where the background of the alleged perpetrator is not relevant to the report. ECRI notes that such reporting may create or exacerbate prejudices and stereotypes in the public opinion. ECRI considers that media professionals should be warned of the danger of negative reporting and also strongly supports the implementation by media professionals of codes of conduct which favour a more responsible type of reporting.

## **SECTION II: ISSUES OF PARTICULAR CONCERN**

In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues which in its opinion merit particular and urgent attention in the country in question. In the case of Slovenia, ECRI would like to draw attention to the situation of the ex-Yugoslav minority groups.

### **O. Situation of the ex-Yugoslav minority groups**

47. In Slovenia, the disintegration of the SFRY has raised important issues relating to the States' succession and to citizenship. Before accession to independence in 1991, the Slovenian authorities stated that the right to citizenship would be guaranteed to everyone who was a legal resident of Slovenia at that time. Therefore, a law on citizenship was adopted in 1991 in order to grant Slovenian citizenship to the persons who had a permanent residence in Slovenia prior to independence and who applied within a time-limit of six months after the publication of the law. Around 171 000 people obtained citizenship of Slovenia thanks to this law.

48. However, a number of factors (including the short time-limit for applying, the lack of information and the fact that the situation of the States successors of the SFRY was rather uncertain) resulted in a large number of persons who met the conditions set out in the law either not applying for citizenship at that time or finding that their application was rejected. Due to the conflicts in other ex-Yugoslav countries, their legal status became unclear and, even though they should have been considered as aliens according to Slovenian law, many of them considered themselves as citizens of Slovenia because they have lived there for a very long time or were even born in Slovenia. Many did not apply for a residence permit in Slovenia, while the authorities, for their part, did not inform them on a case-by-case basis that they had to do so. This explains why many people remained in a legal limbo for years. A number of persons only realised some months or years later that they no longer had a legal status, for example at the moment of applying for documents for administrative purposes. In such a situation, ECRI understands that they could not obtain such documents, given that their names did not appear in any official register held by the Slovenian authorities.
49. This situation gives rise to many complex issues in the daily lives of the persons concerned. Given the absence of any legal status, they are deprived *de facto* of essential human rights such as the right to work or the right to health care. They cannot receive their pensions and encounter difficulties in all administrative procedures such as recognising a child. While some of them chose to leave to find a means of existence in other countries such as member States of the European Union or other ex-Yugoslav States, others were deported by the Slovenian authorities on the grounds that they were non-citizens staying illegally in the country. Even if these persons have applied for citizenship under the 1991 Law, they were faced with insurmountable difficulties in complying with the requirements such as proving they lived in the country prior to independence. Although some of them have brought a complaint before national courts, they have been confronted with the heavy backlog of cases in Slovenian courts, which extends to the citizenship cases.
50. In 1999, following case-law of the constitutional court and in order to solve this situation, the Parliament decided to grant the persons with no legal status the opportunity to apply for a permanent residence permit under certain conditions and within a period of three months. The conditions for obtaining such a permit, laid out in the 1999 Law on the Regularisation of the Status of Citizens of the Former Yugoslav Republic, included the obligation to prove that one had been living in the country since 1991 without any interruption of more than three months. Out of the 14 000 individuals who applied for permanent residence, 11 000 have to date been granted a permanent residence permit, while 250 have met with a negative answer.
51. ECRI welcomes the 1999 Law as an attempt to solve the problem of the people living without legal status in Slovenia. However, ECRI notes with concern that the time-limit given to apply for such regularisation was very short and that it may have been very difficult to comply with certain conditions, such as proving actual residence in the country from 1991 to 1999. Consequently, this law was not sufficient to deal with the situation of all the persons who lived in Slovenia prior to 1991. ECRI is also aware that this law does not grant citizenship but only the right to a permanent residence.

52. In 2002, the Parliament amended the Law on Citizenship to facilitate acquisition of citizenship for persons who could not regularise their situation under the 1991 and the 1999 laws. ECRI understands that these persons are entitled to apply for citizenship within a one-year period without having to pay for any expenses and through a simplified procedure. ECRI welcomes any initiative aiming at facilitating the acquisition of citizenship for people who have been living for a long time and who have family in the country. It notes, however, that a resolution of the problems of people in this category will depend very much on the speedy and efficient implementation of the legislation. ECRI also encourages the Slovenian authorities to consider extending the possibilities of keeping one's previous citizenship upon obtaining Slovenian nationality through naturalisation. In this context, ECRI draws attention to the European Convention on Nationality which lays down international and European standards in this field. It is pleased to learn that the Slovenian authorities are considering becoming party to this instrument which provides for the possibility of dual citizenship and strongly encourages them to do so.<sup>15</sup>
53. Furthermore, ECRI expresses its deep concern at reports of arbitrary deportations by the police of persons belonging to the ex-Yugoslav minority groups living in a non-legalised situation in the country. Normally, when the police identify a person without legal documents, this person is taken to the court of minor offence to pay a fine for infringement of the Aliens Act. According to certain reports, people with dark complexions such as Roma people, or those who are poorly-dressed, are often the target of discriminatory checks on the part of police officers. Furthermore, ECRI takes note of reports according to which it is not rare that, on the same day of arrest and sentencing, the police take the person to the Hungarian border, preventing them from introducing the suspensive appeal to which they are normally entitled. ECRI is very concerned to learn that, although some of the persons were born in Slovenia or have been living since their childhood in the country and/or have close family links in Slovenia, it appears that they might have been deported. ECRI draws attention to Article 8 of the European Convention on Human Rights and the case-law of the European Court of Human Rights according to which deportation of a foreigner should not infringe his/her right to family life. ECRI also considers that any non-citizen who is deported or threatened with deportation should be given the possibility of exercising all the rights guaranteed by national and international law, including a suspensive appeal against deportation before a court and all means of defence before this court such as the right to a free interpreter and to free legal aid if needed. ECRI therefore strongly urges the Slovenian authorities to investigate such allegations of arbitrary deportation and, if necessary, to take all appropriate measures to prevent them and to repair any infringement of human rights which may have occurred through arbitrary deportation.
54. In general, ECRI encourages the national authorities to adopt an approach which is as generous as possible, in order to counter the strong feelings of injustice experienced by people whose name has been removed from the registry of permanent residence. As regards all persons belonging to the ex-Yugoslav minority groups, ECRI considers that persons who were born in Slovenia and/or

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<sup>15</sup> See also above, *International legal instruments*.

who have lived the main part of their life in Slovenia should not be considered as foreigners or as nationals of another country where, in many cases, they have not even even lived. Such an approach would help to guarantee in the future a peaceful coexistence in Slovenia between the majority and these minority groups. Any measures taken in this direction would not only benefit the persons directly concerned by removing their strong feelings of insecurity and injustice but also the population as a whole by promoting mutual dialogue.

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