

Council of Europe contribution for the 20th UPR session regarding Slovenia

Prevention of torture

On 19 July 2013, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its visit to Slovenia from 31 January to 6 February 2012, together with the response of the Slovenian authorities (both documents are attached below).

In the course of the visit, the Committee's delegation examined the treatment and conditions of detention of persons held in police facilities, prisons and psychiatric establishments.

The CPT received only a few isolated allegations of police ill-treatment; they concerned excessive use of force in the context of apprehension and threats of physical ill-treatment during police questioning. The material conditions of detention in police facilities were, on the whole, satisfactory.

As regards the prison system, the CPT acknowledges the efforts made by the Slovenian authorities to increase the capacity of the prison estate; however, overcrowding continued to be a problem in some prisons. In other aspects, the material conditions of detention were generally adequate. The Committee gained a particularly positive impression of the two newly-opened blocks at Dob Prison.

Particular attention is paid in the report to the regime of activities provided to inmates. In this respect, the Committee expresses concern about the situation of remand prisoners at Celje and Ljubljana Prisons, as well as of prisoners held under the reinforced security regime at Celje and Dob Prisons. The majority of these inmates spent most of the day locked-up in their cells, with little to occupy themselves. In their response, the Slovenian authorities assure the Committee that efforts will be made to improve the existing arrangements. By way of example, in the second half of 2012, the regime for remand prisoners at Ljubljana Prison was relaxed so that now the inmates concerned may spend four hours a day on weekdays out of their cells.

With respect to psychiatry, the CPT welcomes the adoption in July 2008 of the new Mental Health Act which *inter alia* reinforces the legal protection of patients in psychiatric/social care institutions.

At Maribor Psychiatric Department, the overwhelming majority of patients interviewed by the CPT's delegation indicated that hospital staff had a caring attitude towards them. However, the delegation received a few allegations of physical ill-treatment of patients by nursing staff shortly after having been fixated to a bed. The CPT also expresses misgivings about the fact that mechanical restraint was not always applied as a measure of last resort and that patients were on occasion subjected to fixation for prolonged periods. In their response, the Slovenian authorities state that a clear message has been delivered to nursing staff that no ill-treatment whatsoever of patients will be tolerated and that special training is being provided in handling aggressive and/or agitated patients.

A complete list of the CPT's recommendations, comments and requests for information is contained in Appendix I to the report.¹



Slovenia 2012
report.pdf



Slovenia 2012
response.pdf

¹ pp. 43 - 52.

Council of Europe Commissioner for Human Rights

On 29 January 2013, the Commissioner for Human Rights, Nils Muižnieks, published his letter addressed to the Prime Minister of Slovenia, Mr Janez Janša. The Commissioner said that "the "erasure" of thousands of people from the Register of Permanent Residents of Slovenia in 1992 continues to adversely affect the human rights of many 'erased' persons. The Slovenian Government should step up its efforts and provide adequate reparation to all victims"

The Commissioner called on the Slovenian authorities to review the 2010 Legal Status Act in order to facilitate the re-inclusion into Slovenian society of those "erased" persons who still wish to have their residence status restored. He was particularly concerned at the low number of applications and granted requests under this law, which may indicate a lack of effectiveness. "It would be useful to extend the deadline for the submission of applications for permanent residence, which expires next July, and to exempt the "erased" persons from the payment of the relevant administrative fees."

"I have noted with satisfaction that the Slovenian authorities translated a brochure aimed at informing the "erased" persons about the procedure that may lead to the granting of permanent residence into several regional languages. Additional efforts are necessary to ensure wider dissemination of such information."

In addition, the Commissioner raised his particular concern about the plight of those, especially children, who became and may still be stateless following the "erasure". "The right to a nationality is a human right and member states have the obligation to prevent statelessness. Slovenia should provide a remedy and accede to the Council of Europe Conventions on Nationality and on the Avoidance of Statelessness in Relation to State Succession."

The Commissioner's letter to the Slovenian Prime Minister and the reply from the Slovenian authorities are attached below.



Letter Slovenia.pdf



Reply to CHR
letter.pdf

Fighting corruption

On 30 May 2013, the Council of Europe's Group of States against Corruption (GRECO) published its fourth evaluation report on Slovenia. In the report attached below GRECO acknowledges that Slovenia has improved the integrity rules for Members of Parliament, judges and prosecutors. However it also finds that much remains to be done to educate them about integrity and conflicts of interest, and to ensure a better implementation of the corruption prevention legal framework.

GRECO concludes that in Slovenia there are clear rules in place for issues such as the acceptance of gifts and incompatibilities of posts and functions with regard to parliamentarians, judges and prosecutors. It also notes that a new online asset declaration system seems to offer guarantees for improved compliance in the future. On the other hand, GRECO points out the need to establish a set of rules of conduct, accompanied by a mechanism of supervision and sanction for misconduct.

GRECO also calls for a reinforcement of the role of the governing bodies of the judiciary and the prosecution service in developing integrity and managing corruption risks. Finally, the Group expresses concern that the responsibilities over the prosecution service have been transferred from the Ministry of Justice to the Ministry of the Interior, and that this may lead to a reduction of the independence of prosecutors.

The implementation of the 19 recommendations addressed to Slovenia will be assessed by GRECO in the second half of 2014.



GrecoEval4(2012)1_
Slovenia_EN.pdf

Execution of judgments and decisions of the European Court of Human Rights

At 31 December 2013, there were 271 cases pending before the Committee of Ministers for supervision of their execution. 17 of these cases were a “leading case”, i.e. raising a new structural/general problem and requiring the adoption of general measures. The main case or group of cases revealing such structural problems is listed below:

- ❖ Poor conditions of detention due to overcrowding and lack of effective remedy – *Mandic v. Slovenia, application No.5774/10, judgment final on 20/01/2012*

The document attached presents a brief description of the violations and the latest detailed decisions taken by the Committee of Ministers and the responses given thereto by the respondent state.



Contributions
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Fight against racism and intolerance

The European Commission against Racism and Intolerance (ECRI) visited Slovenia from 22 to 26 April 2013. The fourth monitoring report will be adopted in March and published in May 2014.

In its 2007 report, ECRI highlighted the following concerns: the failure to resolve the situation of persons unlawfully erased from the register of permanent residents in February 1992; the absence of a strategy to address all areas where Roma experience disadvantage and discrimination; and negative attitudes towards members of Muslim communities, notably in connection with the construction of a mosque in Ljubljana.

Protection of minorities

On 4 July 2012, the Council of Europe’s Committee of Ministers adopted a resolution on the protection of national minorities in Slovenia (attached below). The resolution contains conclusions and recommendations, highlighting positive developments² but also mentioning issues of concern³. Moreover, it mentions a number of areas where further measures are needed to advance the implementation of the Framework Convention for the Protection of National Minorities.

In addition to the measures to be taken to implement the detailed recommendations contained in Sections I⁴ and II⁵ of the Advisory Committee’s opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention.

² Part 1.a) of the resolution.

³ Part 1.b) of the resolution.

⁴ paras. 6 - 24 of the third Opinion of the Advisory Committee on the Framework Convention on Slovenia.

⁵ paras. 25 - 140 *ibid*

Issues for immediate action⁶

- intensify measures to ensure that effective remedies are available to potential victims of discrimination; intensify actions to raise awareness of discrimination-related issues in society, including in the judiciary and law enforcement agencies;
- ensure that Roma representatives are able to take part in public affairs at local level in all the municipalities in which they live in substantial numbers; take further steps to provide elected Roma councillors with all the support they need to carry out their tasks effectively, including adequate training; ensure that the Roma Community Council adequately represents the diversity of groups within the Roma community;
- ensure effective involvement of national minority representatives in discussions on any administrative change that could have an impact on minority protection; in particular, take measures to guarantee that the protection of persons belonging to national minorities will not diminish as a result of the creation of the municipality of Ankaran/Ancarano.

Further recommendations⁷

- consolidate measures to improve the housing conditions of the Roma in accordance with National Programme for Roma 2010-2015. Continue efforts to overcome the difficulties faced by Roma pupils in the education system. Firmly condemn and sanction any form of discrimination against Roma in these areas;
- identify effective ways of improving the implementation of the existing legislative framework for the protection of the culture and languages of national minorities, in close consultation with minority representatives. Pay particular attention to securing sustainability of the activities aiming at preserving and promoting minority culture;
- promote an inclusive interpretation of the new Act Regulating the Legal Status of Citizens of Former Yugoslavia living in the Republic of Slovenia with a view to giving retroactive access to permanent residence to as many as possible of those who were “erased” in 1992 and are consequently living abroad;
- continue ensuring that no discrimination arises in practice for persons belonging to other national groups (e.g. “new national communities”, the German-speaking community) and that adequate resources are allocated for the preservation of the languages and culture of these persons;
- make further efforts to combat all forms of intolerance and hate speech targeting persons belonging to minorities and other groups, including in the political life and the media. Encourage public media to provide the general public with further, unbiased information on the history, culture and languages of the national minorities;
- continue support of the media broadcasting in Romani and on Roma issues, including through private media outlets at the local level; consider additional training of Roma to become journalists;
- provide teachers working in bilingual (Hungarian-Slovene) and Italian language institutions with improved training. Redouble efforts to develop the teaching of Romani and in Romani at school;
- guarantee a more effective and timely participation of national minority representatives in decision making on projects aiming at supporting minority culture and on laws having an impact on persons belonging to national minorities, so as to better cater for their needs.

The Committee of Ministers’ resolution is largely based on the corresponding third Opinion of the Advisory Committee on the Framework Convention on Slovenia⁸. The concluding remarks, contained in Section III⁹, serve as the basis for the Committee of Ministers’ Resolution. The Opinion of the Advisory Committee is also attached below.



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⁶ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

⁷ *Idem*.

⁸ A summary of the report can be found on pp. 1 - 2.

⁹ paras. 141 - 157.

European Charter for Regional or Minority Languages

On 26 May 2010, the Council of Europe Committee of Ministers made public the third report on the application of the European Charter for Regional or Minority Languages by Slovenia. The report drawn up by a committee of independent experts, which monitors the application of the Charter, is contained in the attachment below.

Slovenia has a very high legal standard of protection for the Hungarian and Italian languages. However, there are considerable difficulties concerning the use of Hungarian and Italian in relations with local branches of State administration and public service providers as well as in social and economic activities. There is a clear need for a pro-active approach by the authorities with a view to ensuring a more systematic enforcement of the applicable legislation. Moreover, the Committee of Experts reiterated that the Charter puts an obligation on the Slovenian authorities to recognise Croatian and German as regional or minority languages in their domestic legal order and to define the respective traditional language areas. Slovenia should also develop the teaching in and of Croatian and German and promote their use in the broadcasting media. There have been encouraging developments regarding the protection and promotion of Romani. Steps have been taken to introduce the subject of "Roma language and culture" at schools. Still, there is a need for continued efforts to increase the awareness and acceptance of Romani as an integral part of Slovenia's cultural wealth.

On the basis of this report, the Committee of Ministers in its Recommendation on the application of the European Charter for Regional or Minority Languages by Slovenia recommends the authorities to:

- define the areas where German and Croatian have been traditionally spoken in Slovenia and apply the provisions of Part II to German, Croatian and Serbian, in co-operation with the speakers;
- clarify, in co-operation with the speakers, the issue of the traditional presence of the Bosnian language in Slovenia;
- develop the teaching of the Romani language and Roma culture at all appropriate stages;
- take proactive measures to reduce the gap between the legislative framework and practical implementation regarding the use of Hungarian and Italian in the provision of public services, in economic and social activities, as well as in relations with local branches of State administration;
- intensify measures to raise public awareness of the regional or minority languages in mainstream education and in the mass media.



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Action against trafficking in human beings

On 7 January 2014, the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) published its first evaluation report on Slovenia¹⁰, together with the final comments of the Slovenian Government. Both documents are contained in the attachment below.

GRETA concludes¹¹ that the legal and institutional framework for combating trafficking in human beings (THB) put in place by the Slovenian authorities is comprehensive and provides a good basis for tackling this phenomenon from a human rights-based perspective.

¹⁰ A summary of the report can be found on pp. 7-8.

¹¹ paras. 180 - 184.

GRETA considers that the Slovenian authorities should take further steps to ensure that the human rights-based and victim-centred approach underpinning the Convention is fully reflected and applied in the national policy to combat THB, from prevention to protection, prosecution and redress. This includes taking measures to strengthen the aspect of prevention amongst groups vulnerable to THB and increasing awareness about trafficking for the purposes of non-sexual exploitation, such as forced labour, forced begging and forced criminality. Further training of law enforcement officials, prosecutors, judges, labour inspectors, social workers and other relevant professionals should stress the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Anti-Trafficking Convention and the case-law of the European Court of Human Rights.

The human rights-based approach to THB also requires taking further steps to secure that all victims of THB are properly identified and protected. The current practice of making the formal identification of victims of trafficking and their access to long-term assistance dependent on their participation in the criminal investigation is not consistent with the human rights-based approach to combating THB and may leave some trafficked persons without the protection and assistance they are entitled to under the Convention.

Further, more should be done to empower victims of THB by providing them with effective access to compensation. To this end, victims need to be provided with information concerning ways they can claim compensation, as well as legal aid.

GRETA invites the Slovenian authorities to keep it regularly informed of developments as regards the implementation of the Council of Europe Anti-Trafficking Convention and looks forward to continuing its good co-operation with the Slovenian Government for achieving the purposes of this Convention.

In its report, GRETA provides a complete list of proposals to the Slovenian authorities.¹²



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Preventing and combating violence against women and domestic violence

Slovenia has signed but not yet ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. For this reason, it is not yet concerned by the monitoring procedure which is to be carried out once the Convention will enter into force.

Social and economic rights

Slovenia ratified the Revised European Social Charter on 07/05/1999 accepting 95 of the Revised Charter's 98 paragraphs.

Slovenia ratified the Additional Protocol providing for a system of collective complaints on 07/05/1999, but it has not yet made a declaration enabling national NGOs to submit complaints.

¹²Appendix I.

Cases of non-compliance

Thematic group 1: "Employment, training and equal opportunities"

► Article 15§4 (and 15§3) – Right to work – Vocational guidance, training and rehabilitation - Right of persons with disabilities to independence, social integration and participation in the life of the community-Integration and participation of persons with disabilities in the life of the community
It has not been established that the right of children with disabilities, and particularly children with intellectual disabilities, to mainstream training is effectively guaranteed.
(Conclusions 2012, p. 11)

► Article 20 – Right to equal opportunities and treatment in employment and occupation without sex discrimination
Women are prohibited from working in underground mines, and in principle are prohibited from night work in industry and in the construction sector.
(Conclusions 2012, p. 38)

Thematic group 2: "Health, social security and social protection"

► Article 35§3 – Right to safe and healthy working conditions - Enforcement of safety and health regulations
1. Manifestly high level of fatal occupational accidents.
(Conclusions 2009)

► Article 35§4 – Right to safe and healthy working conditions - Occupational health services
It has not been established that there are adequate occupational health services.
(Conclusions 2009)

► Article 12§1 – Right to social security - Existence of a social security system
- the rate of minimum sickness benefit is manifestly inadequate.
- the rate of minimum unemployment benefit is manifestly inadequate.
- the rate of minimum old age benefit is manifestly inadequate.
- the rate of minimum invalidity benefit is manifestly inadequate.
- the rate of minimum survivors' benefit is manifestly inadequate.
(Conclusions 2009)

► Article 12§4 – Right to social security Social security of persons moving between states
Equal treatment of nationals of other States Parties which are not covered by community regulations is not ensured in respect of several benefits (pension and disability insurance, parental allowance and partial payment for lost income)
(Conclusions 2009)

► Article 23 - Right of the elderly to social protection
- the level of the minimum contributory old-age pension and the social pension for low-income elderly persons are manifestly inadequate;
- the length of residence requirement for entitlement to the social pension is excessive.
(Conclusions 2009)

Thematic group 3: "Labour rights"

► Article 4§1 - Right to a fair remuneration - Decent remuneration
The minimum wage is manifestly unfair.
(Conclusions 2010, p. 9)

Thematic group 4: "Children, families and migrants"

► Article 7§5 - Right of children and young persons to protection - Fair pay

- it has not been established that young workers receive a fair pay; and
- it has not been established that apprentices receive a fair allowance.

(Conclusions 2011, p. 7)

► Article 16 – Right of the family to social, legal and economic protection

- it has not been established that Roma families have sufficient legal protection;
- equal treatment of nationals of other States Parties to the 1961 Charter or the Charter in the payment of family benefits is not ensured because the length of residence requirement is excessive.

(Conclusions 2011, p. 16)

► Article 17§1 – Right of children and young persons to social, legal and economic protection – Assistance, education and training

Corporal punishment in the home is not prohibited.

(Conclusions 2011, p. 18)

► Articles 19§1 and 19§10 – Right of migrant workers and their families to protection and assistance - Assistance and information on migration; - Equal treatment for the self-employed

It has not been established that Slovenian authorities took appropriate steps against misleading propaganda relating to emigration and immigration.

(Conclusions 2011, pp. 21 and 25)

► Article 19§3 – Right of migrant workers and their families to protection and assistance - Co-operation between social services of emigration and immigration States

It has not been established that Slovenian authorities promoted co-operation between social services, public and private, in emigration and immigration countries.

(Conclusions 2011, p. 22)

► Articles 19§4 and 19§10 – Right of migrant workers and their families to protection and assistance - Equality regarding employment, right to organise and accommodation; - Equal treatment for the self-employed

- it has not been established that concerning remuneration, employment and other working conditions, the treatment of migrant workers is not less favourable than that of nationals;
- it has not been established that concerning membership of trade union and enjoyment of the benefits of collective bargaining the treatment of migrant workers is not less favourable than that of nationals;
- equal treatment and adequate conditions are not secured for migrant workers with respect to access to housing.

(Conclusions 2011, pp. 23 and 25)

► Articles 19§11 and 19§10 – Right of migrant workers and their families to protection and assistance -Teaching language of host State; - Equal treatment for the self-employed

A two year residence requirement for access to free Slovenian language classes is excessive.

(Conclusions 2011, pp. 25 and 26)

► Article 31§1 – Right to housing - Adequate housing

- the criteria for adequate housing concerning size do not apply to housing available for rent on the free market resulting in substandard housing conditions for some migrant workers;
- insufficient measures were taken by public authorities to improve the substandard housing conditions of a considerable number of Roma in Slovenia;
- the inadequate legal solutions for tenants of denationalised flats prevent them from effectively exercising their right to housing.

The last ground of non conformity is the one which led to the finding of violation in FEANTSA v. Slovenia. The Committee holds that during the reference period the follow-up to these findings was unsatisfactory.

(Conclusions 2011, p. 33 and Complaint No. 53/2008)

► Article 31§2 – Right to housing - Reduction of homelessness

The measures currently in place to reduce the number of homeless persons are inadequate in quantitative terms.

(Conclusions 2011, p. 36)

► Article 31§3 – Right to housing - Affordable housing

- nationals of other Parties to the Charter and to the 1961 Charter lawfully residing or working regularly in Slovenia are not entitled to equal treatment regarding eligibility for non-profit housing;

- the supply of non-profit housing is inadequate and the remedies in case of excessive length of waiting period are not effective;

- the specific situation of tenants living in restituted denationalised flats is not sufficiently taken into account, thus hindering their effective access to affordable housing.

The last ground of non conformity is the one which led to the finding of violation in FEANTSA v. Slovenia. The Committee holds that during the reference period the follow-up to these findings was unsatisfactory.

(Conclusions 2011, p. 38 and Complaint No. 53/2008)

Please find attached below the Conclusions regarding Slovenia from 2009, 2010, 2011, 2012 and 2013, as well as the country fact sheet.



Slovenia2009_en.pdf Slovenia2010_en.pdf Slovenia2011_en.pdf Slovenia2012_en.pdf Slovenia2013_en.pdf



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Slovenia fact sheet.pdf