



Asamblea General

Distr. general
23 de febrero de 2023
Español
Original: inglés

Consejo de Derechos Humanos

52º período de sesiones

27 de febrero a 31 de marzo de 2023

Tema 3 de la agenda

**Promoción y protección de todos los derechos humanos,
civiles, políticos, económicos, sociales y culturales,
incluido el derecho al desarrollo**

Comunicación escrita del Defensor de los Derechos Humanos de Eslovenia*

Nota de la Secretaría

La Secretaría del Consejo de Derechos Humanos transmite adjunta la comunicación presentada por el Defensor de los Derechos Humanos de Eslovenia**, que se reproduce a continuación de conformidad con el artículo 7 b) del reglamento que figura en el anexo de la resolución 5/1 del Consejo, según el cual la participación de las instituciones nacionales de derechos humanos se basará en las disposiciones y prácticas convenidas por la Comisión de Derechos Humanos, incluida la resolución 2005/74.

* La institución nacional de derechos humanos tiene la acreditación de la categoría “A” ante la Alianza Global de las Instituciones Nacionales de Derechos Humanos.

** Se reproduce en el anexo tal como se recibió, en el idioma en que se presentó únicamente.



Anexo

Comunicación escrita del Defensor de los Derechos Humanos de Eslovenia

Diálogo interactivo con el Relator Especial sobre los derechos humanos y el medio ambiente – Informe de la visita a Eslovenia

1. The Human Rights Ombudsman of the Republic of Slovenia (the Ombudsman) prepared this written statement for the 52nd Session of the Human Rights Council in relation to **the Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd on his visit to Slovenia from 29 September to 6 October 2022**. During the visit the Special Rapporteur met also with Human Rights Ombudsman of the Republic of Slovenia, Mr. Peter Svetina, on 4 October 2023.

2. The Human Rights Ombudsman of the Republic of Slovenian (the Ombudsman) is a constitutional body mandated to protect and promote human rights in Slovenia, with status A awarded according to Principles relating to the Status of National Institutions (Paris Principles).¹ Its mandate includes monitoring, research, addressing opinions and recommendations to authorities, human rights education, awareness-raising, and investigating complaints received by anyone who believes that their human rights or fundamental freedoms have been violated by state authority, local community authority, or a holder of public authority.² The Ombudsman reports to the National Assembly.

3. The Ombudsman welcomes the Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd on the visit to Slovenia (Report) and supports its conclusions and recommendations. **The Ombudsman calls upon the Government and other responsible authorities to implement the given recommendation and to present a clear timeline in this respect.**

4. Regarding the Special Rapporteur's recommendation that the Government should consider the **establishment of a special ombudsperson for the rights of children**, the Ombudsman would like to note that since 2002 the Ombudsman (Deputy Ombudsman responsible for Children Rights and since 2018 also for Child Advocacy) has been an associate member of the European Network of Ombudspersons for Children (ENOC). As such, the Ombudsman seeks for legislative changes of its mandate to meet all membership criteria in accordance with ENOC new Statute to gain full membership. The Ombudsman in this context fully supports the recommendation to the Government to advance children's right to a clean, healthy and sustainable environment.

5. The Ombudsman joins the observations from the Report that Slovenia deserves credit for leading the world in recognizing the right to a healthy environment and the right to water as well as that the Authorities should strive to further enacting and implementing strong, rights-based environmental laws, policies and programmes. A top priority should be to **leave no one behind**, as emphasized in the 2030 Agenda for Sustainable Development.

6. In this submission, the Ombudsman will **focus on those issues regarding the enjoyment of a safe, clean, healthy and sustainable environment in Slovenia where the Ombudsman has been for years calling upon changes. Considerable efforts will be required to implement our recommendations.** The Ombudsman welcomes that all of these issues are also included in the Report. Due to word-limitation, this submission should not be taken as an exhaustive list of systemic problems related to the subject matter.

¹ For more information about the activities see: <https://www.varuh-rs.si/en/>.

² When to turn to The Human Rights Ombudsman?, https://www.varuhrs.si/fileadmin/user_upload/pdf/zlozenke_nase/zlozenka_praviceANG_web.pdf.

6.1 The Ombudsman notes that its recommendation on the **ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights** has remained unimplemented for several years and that the Ombudsman so-far received no substantial clarification by the Government on the reasons for non-ratification.

6.2 While Slovenia is a State Party to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) from 2004, the Ombudsman also promoted **the ratification of The Council of Europe Convention on Access to Official Documents, signed in Tromsø on 18 June 2009**. The National Assembly adopted the act on ratification of the mentioned convention in January 2023. The ratification of this document would provide additional legal grounds for access to official documents, which is important for exercising the right on healthy and sustainable environment.

6.3 The Ombudsman needs to highlight that **the conduct of the drafters of regulations** (laws, administrative acts, municipal acts etc.) in the field of the environment and spatial planning, **has been all too often inconsistent with the right of the public to participate in the adoption of environmental regulations**. In Ombudsman's opinion, short deadlines for discussion, subsequent substantial supplementation of draft regulations and their insufficient explanations represent a significant devaluation if not a complete voiding of this right, which should be interpreted as a form of direct participation of citizens in the management of public affairs under Article 44 of the Constitution. The Ombudsman has also noted with concern the tendencies of the authorities, including of Local Authorities, not to actually ensure the participation of potentially affected individuals in specific administrative procedures. The Ombudsman regularly monitors the practice of the authorities, identifies violations and gives recommendations; however, there is still a lot to be done in implementing our recommendations.

6.4 In past years the Ombudsman has made **several recommendations to the National Assembly and the Government to adopt regulations in order to give meaning to the new Constitutional right – the rights to water (Article 70a)** – adopted in 2016 and also enshrined in the Environmental Protection Act, the Services of General Economic Interest Act, the Local Self-Government Act and elsewhere as soon as possible. This right designates water as a public good that must be used sustainably, and gives priority to drinking water and water for household use. However, there are no indications that this right would be implemented soon. In this respect, the Ombudsman supported the initiative of a resident of the village of Sveti Tomaž in the settlement of Velike Poljane in the Municipality of Ribnica, who has been unsuccessfully trying to gain access to clean drinking water for 23 years. Despite the inclusion of the right to drinking water in the constitution, the municipality did not undertake the preparation of municipal regulations with sufficient care. A more positive example is the Municipality of Rogašovci, where however only after the intervention of the Ombudsman, the municipality arranged that all residents in its area could be connected to the public water supply system.

6.5 The Ombudsman has made several calls at different occasions and levels and has been repeating the recommendations for more than 10 years that **the Government should adopt urgent measures to provide the access to safe drinking water and adequate sanitation facilities, as well as connections to the electricity grid for Roma settlements, especially Dobruška vas in the Dolensjka region**, and consequently better living conditions for numerous families, including children as such degrading living conditions also interfere with their right to education. For more than a decade there have been several international and national **initiatives, including by the Ombudsman, that Slovenia regularizes all Roma settlements** in order to provide security of tenure and ensure that all communities had access to safe drinking water and sanitation regardless of the legal status of the land on which they lived, and to ensuring that the most disadvantaged groups, such as women, people with disabilities, children and older persons, had access to safe water and sanitation. Also in this filed recommendations of several institutions and of civil society remain unimplemented.

6.6 The Ombudsman has made several recommendations related to the right of healthy environment. We particularly insist on recommendation that **the Government should prepare a regulation that would regulate emissions of stench (odour emissions) into the environment**. More than five year ago, the Ombudsman recommended for the first time that

the Ministry of the Environment and Spatial Planning should develop a systemic solution that would enable the measuring of emissions into the air and that it ensure the independent supervision and financing of such measurements. The Ombudsman also noted that the Slovenian Environment Agency lacked adequate human and financial resources to carry out effective monitoring of industrial pollution that may be affecting air, water and soil quality. The Ombudsman also called on the Agency to ensure all relevant procedural safeguards in the proceedings it conducts.

6.7 In the field of the environment and spatial planning, the Ombudsman also emphasized **the unacceptability of excessively long inspection and other administrative procedures**. Since 2007, the Ombudsman has given attention to the issue of the inefficiency of inspections under the competence of the Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning (IRSOP).

6.8 The Ombudsman has also raised concerns that according to the Environmental Protection Act, the **state should prepare a national report on the state of the environment in the country every four years**; however, since 2008 there has been no such report.

6.9 The Ombudsman is concerned on **lack of activities in the field of the rehabilitation of degraded areas**. The Ombudsman alerted the authorities to the necessary solutions at several occasions, including in the National Assembly, regarding the problems of the Anhovo and Soška valleys. The Ombudsman has dealt with these degraded areas several times and for years. Although the use of asbestos is banned, the environmental situation is not improving. We have emphasized that it is necessary to protect the entire surrounding population, to adopt a plan for the effective implementation of long-term measures, while carefully monitoring the situation and preventing pollution. Additional pollution of an already stressed environment is inadmissible. Solving the problem of the Celje Basin, which ranks among the most degraded areas, should be another priority. The Ombudsman advocates immediate comprehensive rehabilitation, as the local residents live in a highly polluted, health-threatening environment. In particular, we urge the authorities to speed up activities for the remediation of contaminated soil in the kindergartens of the Municipality of Celje as soon as possible. The Ombudsman also expects the continuation of the rehabilitation of the upper Mežica valley with special attention or care to prevent new pollution.

6.10 In 2020, the Ombudsman held a session of its advisory body the Human Rights Council of Ombudsman, which was dedicated to the discussions on the climate changes and the needed action of Slovenia. We urged relevant authorities to do more and **to address the climate emergency in an urgent manner**.

6.11 The Ombudsman has also been paying close attention to the broader issue of noise for years now and regularly reported on it in its Annual Reports. Already in 2016 the Ombudsman has for example pointed out that certain types of irritating noise are not in any way regulated on legislative level (e.g. low-frequency noise, dog barking, church bells, airconditioning devices, etc.). Up to this day there was no adequate legislative response to these Ombudsman's findings.

6.12 The Ombudsman also notes that the **European Commission has commenced many infringement procedures against Slovenia**, because it failed to comply with European Union directives related to air quality, wastewater treatment, the protection of endangered birds, the prevention of major accidents involving dangerous substances, waste management and others. **The Ombudsman calls for a timely transpose EU directives in the field of environment into national law**.

7. The Ombudsman fully shares the observation of the Special Rapporteur that **implementation of laws and policies is an area where Slovenia faces major challenges**. It is worrying that the Ministry of the Environment and Spatial Planning has been for years among the Ministries with the highest number of violations found by the Ombudsman and at the same time with extremely low implementation rate of Ombudsman's recommendations.