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**Promotion and protection of all human rights, civil,
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including the right to development**

Report of the Special Rapporteur on minority issues on his visit to Slovenia

Comments by the State*

* The present document is being issued without formal editing.



Slovenia's comments on the report by the Special Rapporteur on minority issues

1. Slovenia would like to thank the Special Rapporteur on minority issues, Dr Fernand de Varennes, for visiting Slovenia and for his report on the visit. We highly appreciate his choice of Slovenia as his first mission and his scrutiny of the normative framework for the protection of national or ethnic, religious and linguistic minorities in the country. While commending Slovenia for a number of best practice examples, his report points to several challenges facing Slovenia.

2. In his dialogue with Government representatives and in his report, the Special Rapporteur expressed his position on minority issues, which differs slightly from Slovenia's view and from the established practice of monitoring mechanisms under CoE instruments for the protection of national and linguistic minorities. The issue mainly concerns his broader understanding of the term 'minority', which also includes those national, religious and linguistic communities that are not recognised as national or linguistic minorities in Slovenia. We would like to thank the Special Rapporteur for his insight into minority issues in Slovenia and, at the same time, give some additional explanations.

3. It should be underlined that inter-ethnic tensions are not perceived as a major problem in Slovenian society; however, as in any country, isolated ethnically motivated incidents at the local level or indeed criminal offences involving people of different nationalities do occasionally occur.

4. Explanations on the use of terms, hate speech, Roma issues, the issue of persons erased from the register of permanent residents, teaching in minority languages and bilingualism at the local level are given below.

Use of terms

5. In the Constitution of the Republic of Slovenia, the terms "autochthonous Italian and Hungarian national communities" (Article 64) and "Roma community" (Article 65) are used. In colloquial use, these three communities are often referred to as 'minorities' or 'national minorities'. In his report (para. 6), the Special Rapporteur understands the term 'minorities' to refer to any ethnic, linguistic or religious group, not distinguishing between autochthonous (traditional) national communities that have remained in a certain area due to the changing boundaries of the Republic of Slovenia through centuries¹ and immigrants that have come to Slovenia in recent years for economic reasons and spread throughout the country. The report further proposes the adoption of comprehensive legislation, while respecting the currently established constitutional prominence and status of the Hungarian, Italian and Roma minorities (para. 66(a)), as well as fair and proportionate funding of cultural and other activities (para. 66(c)), without making a distinction between autochthonous national communities and immigrant communities.

6. It should be noted that in policy planning, Slovenia takes into account the different needs of autochthonous national communities on the one hand and persons belonging to immigrant communities, whose primary objective is integration, on the other. Simultaneously, it guarantees non-discrimination, free expression of national affiliation, fostering and expression of their culture and the right to use their language and script to the entire Slovenian population pursuant to Articles 14, 61 and 62 of the Constitution².

¹ As a result of border changes in the 20th century, a few thousand Italians and Hungarians remained in Slovenia, and many more (almost twenty times as many) Slovenes in the neighbouring areas of Italy, Austria and Hungary. Since late 1950s, Slovenia has endeavoured – also pursuant to its obligations with Italy under international law – to guarantee an exemplary high level of legal protection to the Italian and Hungarian minorities, and since 1975 also to guarantee the legal protection of the Roma community. Until the 1990s, no other national minorities in Slovenia were even mentioned or raised as an issue.

² Articles 14, 61 and 62 of the Slovenian Constitution guarantee everyone equal human rights and

7. In his report, the Special Rapporteur devotes particular attention to members of national communities from the former Yugoslavia and to the German-speaking group. In this context, it should be underlined that regarding the rights of the former, the legislator adopted in 2011 the Declaration of the Republic of Slovenia on the Status of National Communities of Members of Nations of the Former SFRY in the Republic of Slovenia, proposing the establishment of a consultative body at a government level. Accordingly, in 2013, the Council for Issues of National Communities of Members of Nations of the Former SFRY in the Republic of Slovenia was set up. Its operation accelerates and facilitates dialogue with the all-round aim of preserving, developing and promoting the identities of members of nations of the former SFRY in all forms.

8. The issue of the German-speaking ethnic group in the territory of the Republic of Slovenia is dealt with by the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Austria on Cooperation in Culture, Education and Science. Article 15 of the Agreement stipulates that the Parties will regularly include projects tailored to the cultural, educational and scientific needs and requirements of members of the German-speaking ethnic group in Slovenia. Based on the Agreement and the relevant work programmes, the Ministry of Culture has been issuing since 2008 a separate call for applications exclusively for persons belonging to the German-speaking ethnic group.

9. Members of the above-mentioned national groups may apply for dedicated financing of cultural projects and are partly guaranteed funding and premises for the teaching of their respective mother tongues.

Hate speech

10. Cases of hate speech constituting public incitement to hatred, violence or intolerance which are defined as a criminal offence under Article 297 of the Penal Code are handled by the State Prosecutor's Office. Statistics on the number of cases investigated pursuant to this Article, including the number of cases submitted for prosecution, reveal that the number of prosecuted cases as a percentage of population corresponds to that in other European countries. We therefore disagree with para. 49 of the report that the current wording of article 297, and consequently its current interpretation, has helped to create an environment of impunity and discouragement.

11. However, it should be noted that the Government is planning further measures to sanction milder forms of hostile activities and the spreading of intolerance which do not qualify as criminal offences under the Penal Code. A related amendment to the Media Act is being drafted. It should classify hostile acts and intolerance in media content as a minor offence and clearly define the elements that constitute it.

12. The Government strives to take appropriate measures in order to prevent any manifestations of hate speech or acts.

Roma

13. Since gaining independence, Slovenia has accorded a great deal of attention to the Roma community. In 2007, the Roma Community Act was adopted on the basis of Article 65 of the Constitution. The Act provides for the duty of state and local authorities in exercising special rights of the Roma community, for the organisational structure of the Roma community at the state and local levels and for its financing. Last year, because of early elections, the amended Act could not be adopted; the adoption procedure is to be

fundamental freedoms irrespective of his national origin (Article 14); the right to freely express affiliation with his nation or national community, to foster and give expression to his culture, and to use his language and script (Article 61); and the right to use his language and script in a manner provided by law in the exercise of his rights and duties and in procedures before state and other authorities performing a public function (Article 62).

relaunched in 2019. Several programmes of measures to improve the status of the members of the Roma community and their social inclusion have been adopted and are being implemented in areas inhabited by Roma. The latest was the National Programme of Measures for Roma for the Period 2017–2021. The Government Commission for the Protection of the Roma Community monitors the situation of the Roma community in Slovenia.

14. Much has been done to improve Roma housing conditions, particularly regarding access to drinking water and sanitation. As shown by the recent work of the Inter-ministerial Working Group tasked to resolve housing problems of Roma settlements, in 2017, 83 Roma settlements³ in Slovenia had 6,631 inhabitants, all of whom had been provided access to drinking water – 5,398 (81.4%) from the public water supply (for the entire population, this percentage stands at 88.6%), and 1,201 from alternative water sources (cisterns, reservoirs, public faucets). Some 32.2% Roma were connected to the public sewage system (compared to 62% of the entire Slovenian population)⁴. According to the report, representatives of the Roma community (Union of Roma of Slovenia, Roma Community Council) did not respond to the invitations to attend any of the nine meetings of the Working Group. Slovenia will actively pursue more engagement on the part of Roma, which is essential for the adoption of effective measures.

The ‘Erased’

15. In Slovenia’s opinion, the statutory regulation of a compensation scheme under the Act Regulating the Compensation for Damage Sustained as a Result of Erasure from the Register of Permanent Residents is appropriate, as, in essence, confirmed by the European Court of Human Rights in the case *Atanasov v. Slovenia*. Injured parties who are not satisfied with the amount of the flat rate compensation may seek redress in court, which proceeds on a case-by-case basis. Based on the decision of the Constitutional Court of March 2018, which abrogated (in part effective immediately and in part with a nine months’ suspensive effect) the unconstitutional limit of compensation to three times the amount set in an administrative procedure, in December 2018 the Parliament adopted amendment under an expedited procedure with a view to resolve this issue. Thereby, Article 12 was amended so as to limit only the maximum amount of default interest (i.e. up to the amount of the principal sum) on the financial compensation for the material and non-material damage sustained due to the deletion from the Register of Permanent Residents; and the disputed amount of financial compensation is no longer limited.

Teaching in minority languages

16. With reference to the observation made by the Special Rapporteur while visiting school in Lendava (para. 47) that the proportion of teaching in Slovenian and Hungarian is 80-20, and not even remotely close to 50-50, the following must be noted: the secondary school in Lendava is attended by a large proportion of pupils from schools in which the language of instruction of primary education is Slovenian. Only about a half of the students are from a bilingual area; the remainder are from strictly Slovenian-speaking areas, which means it is difficult to provide for a 50-50 proportion of teaching in both languages.

17. In the school system, it is impossible to make up for the faulty knowledge of the minority language among children entering education. The competent ministry is well aware of the problem. For this reason, a large part of the professional training of teachers in the bilingual area is dedicated to working with heterogeneous groups and to working with children who are not native speakers of Hungarian or have a poor command of the language.

³ Roma settlements of at least three houses were deemed to constitute a settlement by the Inter-ministerial working group, without distinction between "autochthonous" and "non- autochthonous" Roma.

⁴ Data on public records (e.g. records from social services on the number of inhabitants of Roma settlements) and answers to questionnaires submitted by municipalities.

Bilingualism at the local government level

18. With reference to bilingualism at the local government level (bilingual services, lack of, or lack of fluency of, bilingual officials and teachers – para. 67) it should be noted that the ministry responsible for local self-government organises regular symposiums on implementing bilingualism at the local government level.

19. The Italian and Hungarian national communities live in the territory of the Izola, Koper and Piran (Italians), and Lendava and Murska Sobota municipalities (Hungarians), respectively. The knowledge of the language of the national community is a statutory condition for employment in these administrative units. Job candidates must provide proof of knowledge from a competent institution that issues a verified certificate. The Ministry of Public Administration has received no recent customer complaints on failure or inability to provide bilingual services at these five administrative units.

20. To conclude, we wish to underline that Slovenia will continue to firmly support the mandate of the Special Rapporteur and foster the protection and promotion of rights of persons belonging to national or ethnic, religious and linguistic minorities at home and around the world.
