



# Assemblée générale

Distr. générale  
4 janvier 2023  
Français  
Original : anglais

## Conseil des droits de l'homme

### Cinquante-deuxième session

27 février-31 mars 2023

Point 3 de l'ordre du jour

**Promotion et protection de tous les droits de l'homme,  
civils, politiques, économiques, sociaux et culturels,  
y compris le droit au développement**

## Visite en Slovénie

### **Rapport du Rapporteur spécial sur la question des obligations relatives aux droits de l'homme se rapportant aux moyens de bénéficier d'un environnement sûr, propre, sain et durable, David R. Boyd\***

#### *Résumé*

Le Rapporteur spécial sur la question des obligations relatives aux droits de l'homme se rapportant aux moyens de bénéficier d'un environnement sûr, propre, sain et durable, David R. Boyd, a effectué une visite en Slovénie du 29 septembre au 6 octobre 2022, à l'invitation du Gouvernement slovène. Au cours de sa visite, il a relevé des exemples inspirants d'initiatives et de bonnes pratiques en matière de protection de la nature, de gestion des déchets solides et de fiscalité environnementale et a constaté des problèmes tels que des foyers de pollution, la mauvaise qualité de l'air et le manque d'empressement à lutter contre l'urgence climatique. Dans ses recommandations visant à donner effet au droit à un environnement propre, sain et durable, il encourage la Slovénie à réduire les émissions des véhicules automobiles, à accélérer la fermeture des centrales électriques alimentées au charbon, à subventionner le remplacement des moyens de chauffage alimentés au bois, au charbon ou à d'autres combustibles par des pompes à chaleur électriques et à prendre sans tarder des mesures pour connecter à l'infrastructure locale d'approvisionnement en eau potable et d'assainissement les zones d'habitation roms qui ne le sont pas encore.

\* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le corps du rapport, annexé au résumé, est distribué dans la langue de l'original seulement.



## Annexe

### **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**

#### **I. Introduction**

1. The Special Rapporteur on the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, visited Slovenia from 29 September to 6 October 2022, at the invitation of the Government. The purpose of the visit was to examine the progress of Slovenia in implementing the right to a clean, healthy and sustainable environment, to identify good practices and to consider the environmental challenges that the country faces.

2. Slovenia has played a leadership role in the recognition of the right to a healthy environment. Former Yugoslavia, of which Slovenia was part, recognized this right in its Constitution, as a pioneer, already in 1974. Slovenia also played a central role in the recognition of the human right to a clean, healthy and sustainable environment at the international level, championing the adoption of historic resolutions by the Human Rights Council in 2021 and the General Assembly in 2022.<sup>1</sup> Credit is also due to Slovenia for persuading the United Nations to declare 20 May as World Bee Day, as pollinators are essential for ensuring human rights and a healthy environment.<sup>2</sup>

3. During his visit, the Special Rapporteur learned about inspiring examples of Slovenian leadership and good practices in the field of human rights and the environment, related to nature conservation, solid waste management, environmental taxation and environmentally friendly initiatives in the sparkling green capital of Ljubljana. However, he also learned about challenging issues where the right to a healthy environment is not being respected, such as pollution hotspots, inadequate air quality, Roma communities without access to safe drinking water or sanitation, and a lack of urgency in addressing the climate emergency.

4. The Special Rapporteur would like to thank the Government of Slovenia for its invitation and cooperation throughout the visit. Over the course of his visit, the Special Rapporteur met with the Minister of the Environment and Spatial Planning, the Minister of Foreign Affairs, the Minister of Justice, the Minister of Health, the Minister of Economic Development and Technology, State Secretaries from the Ministries of Agriculture, Forestry and Food, Environment and Spatial Planning, and Finance, the State Secretary for International Affairs at the Office of the Prime Minister, a representative from the Ministry of Infrastructure, the Secretary-General of the Slovenian National Commission for the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Human Rights Ombudsman, the Mayor and Deputy Mayor of Ljubljana, representatives from civil society, representatives from Roma communities, academics, medical doctors, youth, environmental human rights defenders and members of the private sector.

5. In addition to several days in Ljubljana, the Special Rapporteur conducted field visits in Anhovo in Kanal ob Soči municipality, speaking to people living close to the site of the Anhovo Salomit cement factory and visiting the factory itself, the Dobruška Vas Roma settlement in Škocjan municipality and the sites of existing and proposed hydroelectric dams on the Sava River near Brežice. In addition, the Special Rapporteur visited several of the country's most beautiful places, including Triglav National Park, Lake Bled and Kostanjevica na Krki.

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<sup>1</sup> Human Rights Council resolution 48/13 and General Assembly resolution 76/300.

<sup>2</sup> See <https://www.un.org/en/observances/bee-day>.

## II. Legal and policy framework

### A. International law and policy

6. The Special Rapporteur would like to commend Slovenia for being a party to almost all the major global human rights treaties, with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Environmental protection is essential to fulfilling many of the rights recognized in these agreements, including the rights to life, health, food, water and sanitation, and cultural rights. Of critical importance is protecting the rights of those who are the most vulnerable to environmental harms and climate change, including women, children, older persons, marginalized racial and ethnic minorities, and persons with disabilities.

7. The Special Rapporteur encourages Slovenia to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, so that Slovenians have access to justice in cases of potential violations of their economic, social and cultural rights.

8. Furthermore, Slovenia has joined all the major global environmental treaties and is a party to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention). Fulfilling the procedural or participatory rights set out in the Aarhus Convention is often a prerequisite to environmental protection and sustainable development.

9. In 2021, the Parliamentary Assembly of the Council of Europe recommended the development of a new additional protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), recognizing the right to a clean, healthy and sustainable environment. Given the leadership of Slovenia in advancing recognition of this right by the Human Rights Council and the General Assembly, it would be excellent if Slovenia served as a vocal champion for the proposed protocol.

10. Slovenia is a party to many international investment and trade treaties that include investor-State dispute settlement mechanisms. These mechanisms enable foreign businesses to bypass national court systems and make huge damages claims against States before international arbitration panels for allegedly enacting and implementing laws and policies that reduce profits.

11. In this context, the Special Rapporteur was concerned to learn that the British company Ascent Resources has submitted an arbitration case against Slovenia to the International Centre for Settlement of Investment Disputes, seeking €500 million in damages for alleged violations of the Energy Charter Treaty and a bilateral investment treaty between Slovenia and the United Kingdom of Great Britain and Northern Ireland.<sup>3</sup> Ascent Resources sought to frack in the Petišovci oil and gas field near Lendava, but there was a controversy about the environmental permitting process. The Slovenian Environment Agency decided that Ascent Resources needed to conduct an environmental impact assessment and acquire an environmental permit for their proposed expansion of fracking. The company disagreed.

12. Slovenia later enacted legislation that prohibits fracking, based on legitimate concerns about the potential impacts on water, the environment and climate.<sup>4</sup>

13. While this particular case is unlikely to be concluded for several years, these types of cases are increasingly common and problematic because they discourage Governments from taking strong action to address the global climate and environment crisis.<sup>5</sup> Slovenia should consider renegotiating the investor-State dispute settlement provisions of all investment

<sup>3</sup> See <https://www.total-slovenia-news.com/business/10424-ascent-resources-file-claim-against-slovenia-over-fracking-ban-demands-500m>.

<sup>4</sup> See the web page for the law on amendments to the Mining Act, which sets out the reasons for adopting the law and also for banning fracking, available from <https://tinyurl.com/2z92yued> (in Slovenian).

<sup>5</sup> Kyla Tienhaara and others, "Investor-State disputes threaten the global green energy transition", *Science*, vol. 376, No. 6594 (5 May 2022).

treaties to which it is a party or withdrawing from such treaties. In November 2022, Slovenia announced that it is withdrawing from the Energy Charter Treaty, an important step also taken by other European States, including France, Germany, Italy, the Netherlands and Spain.<sup>6</sup> However, the Treaty contains a 20-year sunset clause, meaning corporations can continue to file cases against Governments for allegedly harming their investments or reducing their future profits. Sunset clauses should also be reconsidered by States, as they may discourage Governments from taking strong climate and environmental protection action even after their withdrawal from investment treaties.

## **B. National laws, policies and institutions**

14. The Constitution of Slovenia is the supreme law of the land, occupying the top of the Slovene legal system. As noted earlier, in 1974 the Government took the pioneering step of recognizing the human right to a healthy environment in the Constitution of the Socialist Republic of Slovenia (art. 240). In 1991, this right was included in the post-independence Constitution (art. 72). The Constitution of 1991 also places a duty on the State to promote the right to a healthy environment, including by regulating economic activities, creating rules regarding compensation to be provided when a person damages the environment and regulating the protection of animals from cruelty. In 2016, the right to water was added to the Constitution (art. 70a), designating water as a public good that must be used sustainably, and giving priority to drinking water and water for household use.

15. The right to a healthy environment is also incorporated in the Environmental Protection Act of Slovenia, which gives individuals and civil society organizations the right to go to court to stop projects that are causing environmental damage or present an imminent threat to human life or health. An injunction can be sought before a project begins if it is highly likely to cause such impacts. The Act also authorizes the Ombudsman to protect the right to a healthy environment.

16. Overall, Slovenia has a relatively strong set of environmental laws and policies, in part reflecting its accession to the European Union in 2004 and the requirement to comply with European Union directives on air, water, waste, chemicals, agriculture, climate change and nature protection. Among the most important national laws and policies are the Environmental Protection Act (2004), the Chemicals Act (1999), the Forest Act (1993), the Nature Conservation Act (1999), the Waters Act (2021), various decrees related to industrial air pollution and additions to the decree on the environmental tax on air pollution caused by carbon dioxide emissions.

17. National environmental policy is based on the sustainable development, precautionary and polluter pays principles, as set forth in the Environmental Protection Act. Domestic environmental laws and policies are implemented by the Slovenian Environment Agency within the Ministry of the Environment and Spatial Planning. The Inspectorate for the Environment and Spatial Planning, another body within the Ministry of the Environment and Spatial Planning, enforces environmental law.

18. The Criminal Code of Slovenia has a chapter dedicated to “crimes against the environment, space and natural resources” (arts. 332–347), which constitutes a good practice.<sup>7</sup> Among the crimes identified are dumping waste, causing serious pollution of air, water or soil, cruel treatment of animals and causing damage to a habitat within a protected area. Data provided by the Government indicate that on an annual basis there are between 150 and 200 complaints related to environmental crimes, approximately 40 indictments and roughly 20 convictions.

19. It is encouraging that the development of a framework law on climate change is under way. This law should confirm that a safe, liveable climate is a human right, require the Government to take a human rights-based approach to climate action, establish ambitious targets and timelines, and include strong accountability measures. In that connection, the

<sup>6</sup> See <https://www.gov.si/novice/2022-11-10-23-redna-seja-vlade-republike-slovenije/> (in Slovenian).

<sup>7</sup> An unofficial English version of the current Criminal Code is available from <http://www.pisrs.si/Pis.web/cm?idStrani=prevodi>.

Special Rapporteur draws the Government's attention to a recently published report<sup>8</sup> that provides recommendations for strong framework climate legislation drawn from good practices across the world.

20. Other important initiatives at the European level that merit support at the State level include directives on human rights and environmental due diligence for businesses and on limiting strategic lawsuits against public participation; revisions to the air quality directive; updates of directives related to climate action and agriculture; and the creation of a possible new additional protocol to the European Convention on Human Rights that protects the right to a clean, healthy and sustainable environment.

21. It is a matter of concern that the European Commission has repeatedly criticized Slovenia for failing to transpose European Union environmental directives into national law. Recent examples include directives related to single-use plastics, waste management, the energy performance of buildings, renewable energy, energy efficiency and industrial emissions.

22. Implementation of laws and policies is an area where Slovenia faces major challenges. Perhaps the most compelling evidence of this problem is the fact that, because of its failure 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 European Commission has commenced many infringement proceedings against Slovenia.<sup>9</sup>

23. For example, in 2021, the European Commission referred Slovenia to the European Court of Justice for failure to comply with the requirements of the Urban Waste Water Treatment Directive.<sup>10</sup> The Directive requires member States to ensure that urban agglomerations (towns, cities or settlements) properly collect and treat their wastewaters, thus eliminating or reducing risks to human health and the environment. Slovenia should have been fully compliant with the requirements of the Urban Waste Water Treatment Directive since 2016, in accordance with the State's commitments under the Treaty of Accession to the European Union. However, four communities with a population of over 10,000 (Ljubljana, Trbovlje, Kočevje, and Škofja Loka) do not comply with European Union requirements because urban wastewater is not subject to the appropriate level of treatment before being discharged.

24. As a second example, the European Commission decided in 2017 to bring a case against Slovenia in the European Court of Justice for the State's failure to close and rehabilitate 28 illegal landfills that posed a serious risk to human health and the environment. Despite warnings from the Commission, Slovenia failed to take timely actions to resolve issues at these 28 non-compliant landfills, as required by European Union rules.<sup>11</sup>

25. Third, in 2014, the European Commission decided to take Slovenia to court for its failure to comply with the requirements of European Union waste legislation. The Commission's concerns related to two illegal landfills in Celje and Bukovžlak containing large quantities of hazardous waste. High levels of toxic heavy metals had been detected at both sites. Landfills operating in breach of European Union waste legislation can be a serious threat to human health and the environment. Slovenia agreed to address the problem, but slow progress led the European Commission to bring Slovenia before the European Union Court of Justice.

26. One of the impediments to adequate implementation of environmental regulations is an inadequate level of government investment in environmental protection. For example,

<sup>8</sup> Catherine Higham and others, "Accountability Mechanisms in Climate Change Framework Laws", Policy insight (London, Grantham Research Institute on Climate Change and the Environment and the Centre for Climate Change Economics and Policy, 2021).

<sup>9</sup> See [https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/index.cfm?lang\\_code=EN&typeOfSearch=false&active\\_only=1&noncom=0&r\\_dossier=&decision\\_date\\_from=&decision\\_date\\_to=&EM=SI&DG=CLIMA&DG=ENER&DG=TREN&DG=ENV&title=&submit=Search](https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&typeOfSearch=false&active_only=1&noncom=0&r_dossier=&decision_date_from=&decision_date_to=&EM=SI&DG=CLIMA&DG=ENER&DG=TREN&DG=ENV&title=&submit=Search).

<sup>10</sup> Directive 91/271/EEC.

<sup>11</sup> Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste.

there are long delays in acquiring the necessary permits to install solar photovoltaic panels and connect them to the electricity grid. The Slovenian Environment Agency also lacks adequate human and financial resources to carry out effective monitoring of industrial pollution that may be affecting air, water and soil quality. The Human Rights Ombudsman recommended in 2016 that the Ministry of the Environment and Spatial Planning 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.<sup>12</sup>

27. According to the latest report of the European Commission on the implementation of environmental laws and policies in Slovenia, the lack of adequate financial resources is delaying the correct implementation of European Union environmental law and policies and ensuring financial resources to reduce the implementation gap should be considered as a priority for the country.<sup>13</sup> According to Eurostat, in 2019 average government environmental protection spending was 0.5 per cent of gross domestic product (GDP) in the European Union but only 0.3 per cent in Slovenia.<sup>14</sup>

28. On the other hand, Slovenia has the most ambitious environmental tax programmes in the European Union, with taxes on energy, transport and pollution generating the highest proportion of total tax revenue in the European Union.<sup>15</sup> More than €1.45 billion in environmental taxes were paid in Slovenia in 2021.<sup>16</sup>

29. Slovenia should increase spending on environmental protection in order to improve the implementation and enforcement of environmental laws and policies, thus ensuring that all persons enjoy their right to a healthy environment. Environmental tax revenues in 2021 were approximately ten times government spending on environmental protection, thus offering an obvious source of revenue to be dedicated to environmental programmes.

### C. Political structure and economy

30. Slovenia is a geographically small nation, with an area of 20,273 km<sup>2</sup>, whose neighbours include Austria, Croatia, Hungary and Italy. The population is 2.1 million, with almost 300,000 people living in the capital of Ljubljana. Approximately 60 per cent of Slovenia is covered by forests, while more than 40 per cent of the land has some form of protected status (mostly Natura 2000 areas).

31. Formerly part of Yugoslavia, Slovenia achieved independence in 1991, following the country's first free and democratic election in 1990. Slovenia is a parliamentary democracy with a proportional electoral system. The Constitution of Slovenia requires that all courts be impartial, independent and established by law. The judiciary consists of a Supreme Court and a system of lower courts. The first instance courts are composed of district and local courts, which hear both civil and criminal cases. The Constitutional Court has special powers.

32. In 1994, the first Slovenian Human Rights Ombudsman was elected. The task of the Ombudsman is to protect individuals in their contacts with State authorities, local governments and other holders of political authority. In addition, the Ombudsman affords protection to individuals by examining their complaints and, if the Ombudsman finds the complaint to be well-founded, proposing government actions to address rights violations. The Ombudsman reports to the National Assembly.

33. The national gross domestic product was \$61.53 billion in 2021, although the nation's strong post-pandemic recovery has been undermined by the war in Ukraine, higher energy prices and supply chain bottlenecks.

34. The agricultural sector in Slovenia is declining and contributes only 2 per cent of GDP. The industrial sector represents around 30 per cent of GDP and the manufacturing

<sup>12</sup> Annual Report of the Human Rights Ombudsman for the Republic of Slovenia for 2015, p. 106.

<sup>13</sup> The European Environmental Implementation Review 2019: Country Report – Slovenia, p. 28.

<sup>14</sup> Statistics from the “Statistics for the European Green Deal” database.

<sup>15</sup> See [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Environmental\\_tax\\_statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Environmental_tax_statistics).

<sup>16</sup> See <https://www.stat.si/statweb/en/News/Index/10595>.



sector around 20 per cent. The tertiary or service sector remains the most significant sector in the Slovenian economy, representing over half of the national GDP.

### III. Fulfilling the right to a clean, healthy and sustainable environment

35. The right to a clean, healthy and sustainable environment has both procedural and substantive elements. The procedural elements include the rights of access to environmental information, public participation in environmental assessments and decision-making, and access to justice and adequate remedies in cases where the right to a clean and healthy environment is being threatened or violated. The substantive elements include a safe climate, clean air, safe drinking water and adequate sanitation, healthy and sustainably produced food, non-toxic environments in which to live, work, study and play, and healthy biodiversity and ecosystems.

#### A. A safe climate

36. The world is embroiled in a climate emergency, which is already violating human rights across the planet and threatening to do so on an almost unimaginably vast scale in the coming years. The need for rapid decarbonization is clear – dependence on fossil fuels must be eliminated as quickly as possible, while safeguarding the human rights of all persons affected. In the words of Secretary-General Antonio Guterres, “We have a choice. Collective action or collective suicide. It is in our hands”.<sup>17</sup>

37. Like all nations, Slovenia is experiencing increasingly severe adverse impacts of climate change, including devastating wildfires, heat waves, worsening droughts and the increasing intensity of extreme weather events.<sup>18</sup> Slovenia is warming at twice the average global rate. Europe saw its worst drought in 500 years in 2022.<sup>19</sup> That same year, Slovenia endured its largest forest fire since independence, and the latest in a series of damaging floods.<sup>20</sup> Droughts in 2017 and 2022 affected agricultural productivity, reducing yields of corn, grass, potatoes, pumpkin, fruit and hops and jeopardizing the right to food.<sup>21</sup> This past summer (July–August 2022) it became necessary to transport drinking water to the Slovenian coast, where restrictions introduced due to water shortages were not sufficient.<sup>22</sup>

38. Despite these major impacts, Slovenia has not taken a leadership role in terms of climate action. Slovenia ranks a disappointing eighteenth in the European Union in terms of percentage of electricity generated from renewable sources (40 per cent), twentieth in the European Union in terms of installed solar photovoltaic capacity, and twenty-sixth in terms of installed wind power capacity.<sup>23</sup> New cars sold in Slovenia in 2020 still produced more carbon dioxide pollution than the European Union average.<sup>24</sup> In 2020, only 3.1 per cent of newly registered vehicles were zero emission vehicles.<sup>25</sup>

<sup>17</sup> Speech at the thirteenth Petersberg Climate Dialogue in Berlin in July 2022.

<sup>18</sup> See <https://podcrto.si/heatwaves-global-warming-threatens-more-than-100000-slovenes/>.

<sup>19</sup> See <https://www.swissinfo.ch/eng/europe-facing-its-worst-drought-in-500-years---study/47847566>.

<sup>20</sup> See <https://newseu.cgtn.com/news/2022-08-07/Clearing-up-and-replanting-after-Slovenia-s-largest-ever-forest-fire-1chLOOu14LS/index.html>. See also <https://podcrto.si/floods-in-slovenia-millions-of-euros-worth-of-damage-for-which-we-are-mostly-guilty/>.

<sup>21</sup> See <https://www.total-slovenia-news.com/business/10372-first-estimates-suggest-significant-drought-damage-to-crops>.

<sup>22</sup> See <https://www.total-slovenia-news.com/lifestyle/10350-trucks-taking-drinking-water-to-the-coast-to-combat-shortages>.

<sup>23</sup> International Renewable Energy Agency, “Renewable Capacity Statistics 2022”.

<sup>24</sup> See [https://ec.europa.eu/eurostat/databrowser/view/SDG\\_12\\_30/default/table?lang=en&category=sdg.sdg\\_12](https://ec.europa.eu/eurostat/databrowser/view/SDG_12_30/default/table?lang=en&category=sdg.sdg_12).

<sup>25</sup> Statistics from the Eurostat “Statistics for the European Deal” database.

39. Greenhouse gas emissions in Slovenia declined only 8 per cent between 1990 and 2019 (compared with 24 per cent for the European Union as a whole).<sup>26</sup> The country's per capita emissions, at 8.2 tons of carbon dioxide equivalent in 2019, were slightly below the European Union average, although the gap is narrowing in recent years. The largest sectors in terms of emissions are transport (32 per cent), energy production (27 per cent), industry (18 per cent) and agriculture (10 per cent).<sup>27</sup>

40. Future targets for climate action in Slovenia generally lack ambition.<sup>28</sup> For example, the 2030 target for total energy from renewable sources is only 27 per cent. The coal-fired power plant that provides approximately one third of the country's electricity is not scheduled to be closed until 2033. The unambitious goal for the agriculture sector is to reduce the levels of greenhouse gas emissions in 2005 by 1 per cent by 2030. On a more positive note, the national target for 2030 under the European Union Effort Sharing Regulation will be to reduce emissions from sectors outside the European Union emissions trading system by 20 per cent compared with 2005, which is higher than the European Union average of 15 per cent.

41. In February 2020, the Government adopted the Integrated National Energy and Climate Plan in accordance with the European Union Regulation on the Governance of the Energy Union and Climate Action.<sup>29</sup> The key objectives for 2030 identified in the Plan are:

- (a) A 36 per cent reduction in total greenhouse gas emissions;
- (b) At least a 35 per cent improvement in energy efficiency (which is higher than the target of 32.5 per cent adopted at the European Union level);
- (c) At least a 27 per cent share of renewable energy sources (which, due to the relevant domestic circumstances, is lower than the European Union target of 32 per cent), with a view to increasing the share of renewables in the next update of the Plan in 2023/24;
- (d) An expenditure of 3 per cent of GDP on research and development, 1 per cent of which will be from public funds.

42. Slovenia has had a National Adaptation Strategy in place since 2016, developed through its Strategic Framework for Climate Change Adaptation. The Strategic Framework provides a long-term vision and strategic guidelines for adaptation-related activities. Slovenia is currently in the process of developing a national action plan on climate change adaptation based on a comprehensive national climate change vulnerability assessment. The sectors that have devoted the most attention to climate change adaptation action are water management (in particular for the associated risks of flood and drought), agriculture and forestry.

43. A significant concern involves continued subsidies that encourage fossil fuel use, which are obviously not compatible with the imperative to reduce greenhouse gas emissions. According to the European Commission, the most problematic is the reimbursement of excise duties on diesel fuel used for commercial purposes. Although the Integrated National Energy and Climate Plan includes a long-term objective to significantly reduce fossil fuel subsidies, it fails to provide any timelines, figures or numerical objectives.<sup>30</sup>

44. Priority climate actions include investments in energy efficiency (e.g., heat pumps for heating and cooling, better insulation and windows for buildings); increased investment in public transport, rail and active transport (walking and cycling) instead of roads; rapid scaling up of solar, wind, and geothermal energy; and increasing support for climate-smart, precision, regenerative, local and organic agriculture, along with promotion of predominantly plant-based diets. It is encouraging that there are plans for some large solar power plants, and in 2021 the Government announced a €10 million allocation for small-scale photovoltaic

<sup>26</sup> Statistics from Eurostat "Key figures on Europe" database.

<sup>27</sup> European Parliamentary Research Service, "Climate Action in Slovenia: Latest state of play", briefing note, 2021.

<sup>28</sup> European Commission, "Assessment of the final national energy and climate plan of Slovenia", SWD(2020) 923 final, 14 October 2020.

<sup>29</sup> See <https://www.gov.si/en/news/2020-02-27-the-government-adopts-the-integrated-national-energy-and-climate-plan-of-the-republic-of-slovenia/>.

<sup>30</sup> European Commission, "Assessment of the final national energy and climate plan of Slovenia", p. 3.



facilities. A rights-based approach to climate action will ensure that policies and programmes focus on those who are most vulnerable or marginalized, such as people facing poverty who live in buildings that are not energy efficient.

## B. Clean air

45. Clean air is one of the basic elements of the right to live in a clean, healthy and sustainable environment.<sup>31</sup> Globally, air pollution causes 7 million premature deaths annually and harms billions of people. For example, exposure to fine particulate matter (PM<sub>2.5</sub>) causes respiratory illness, cardiovascular disease, stroke and lung cancer, as well as other adverse health effects.<sup>32</sup>

46. In recent decades, overall air quality in Slovenia has improved. For example, average annual concentrations of fine particulate matter declined from 25.8 micrograms per cubic meter in 1990 to 17.1 micrograms per cubic meter in 2019.<sup>33</sup> Emissions of ammonia, sulphur oxides and nitrogen oxides have all declined substantially since 2005.<sup>34</sup>

47. However, air quality remains unsatisfactory, as there are pollution hotspots with significantly elevated fine particulate matter concentrations. In addition, it is important to note that the World Health Organization (WHO) recently reduced its annual guideline for fine particulate matter: from 10 micrograms per cubic meter to 5 micrograms per cubic meter.<sup>35</sup> This was in response to new scientific information about the adverse health effects of air pollution, even at lower concentrations.

48. According to the State of Global Air initiative, there were 940 premature deaths in Slovenia caused by air pollution (including fine particulate matter and ozone) in 2020.<sup>36</sup> The European Environment Agency provides a higher estimate, 1,530 premature deaths, partially because this figure includes nitrogen dioxide.<sup>37</sup> The National Institute of Public Health of Slovenia identified Celje, Zagorje ob Savi, Murska Sobota, Maribor, Hrastnik and Trbovlje as communities with the worst air pollution in Slovenia.<sup>38</sup> The daily concentration of dust particles in the first three cities exceeds the statutory limit more than 35 times per year.

49. The European Environment Agency compares air quality in 344 European cities, ranking cities from the cleanest to the most polluted on the basis of average levels of fine particulate matter.<sup>39</sup> In 2022, Ljubljana placed 279th among 344 European cities, with its air quality categorized as poor.<sup>40</sup> The country's second largest city, Maribor, ranked 207th, having moderately clean air.

50. In 2020, the European Commission initiated an infringement proceeding against Slovenia for failing to comply with the requirements of the European Air Quality Directive.<sup>41</sup> Slovenia is required to reliably measure air quality, inform the public about pollution levels and take action to reduce air pollution.<sup>42</sup> According to the European Commission, Slovenia failed to comply with the limit values for particulate matter (PM<sub>10</sub>) and had not taken appropriate measures to keep exceedance periods as short as possible. In the past, the

<sup>31</sup> See A/HRC/40/55.

<sup>32</sup> See [https://www.who.int/news-room/fact-sheets/detail/ambient-\(outdoor\)-air-quality-and-health](https://www.who.int/news-room/fact-sheets/detail/ambient-(outdoor)-air-quality-and-health).

<sup>33</sup> See [https://stats.oecd.org/viewhtml.aspx?datasetcode=EXP\\_PM2\\_5&lang=en](https://stats.oecd.org/viewhtml.aspx?datasetcode=EXP_PM2_5&lang=en).

<sup>34</sup> See <https://www.eea.europa.eu/ims/emissions-of-the-main-air>.

<sup>35</sup> *WHO Global Air Quality Guidelines: Particulate Matter (PM<sub>2.5</sub> and PM<sub>10</sub>), Ozone, Nitrogen Dioxide, Sulfur Dioxide and Carbon Monoxide* (Bonn, Germany, WHO European Centre for Environment and Health, 2021).

<sup>36</sup> Statistics taken from the "health impacts" database, available from <https://www.stateofglobalair.org/data/#/health/plot>.

<sup>37</sup> See <https://www.eea.europa.eu/themes/air/country-fact-sheets/2021-country-fact-sheets/slovenia-1>.

<sup>38</sup> See <https://www.total-slovenia-news.com/lifestyle/5510-slovenia-s-worst-air-pollution-in-celje-zagorje-murska-sobota>.

<sup>39</sup> See <https://www.eea.europa.eu/themes/air/urban-air-quality/european-city-air-quality-viewer>.

<sup>40</sup> See <https://www.total-slovenia-news.com/lifestyle/10272-ljubljana-ranked-279-of-344-european-cities-on-air-quality-maribor-207>.

<sup>41</sup> See [https://ec.europa.eu/commission/presscorner/detail/EN/INF\\_20\\_859](https://ec.europa.eu/commission/presscorner/detail/EN/INF_20_859).

<sup>42</sup> Directive 2008/50/EC on ambient air quality and cleaner air for Europe.

Commission has successfully brought a case against Slovenia in the European Court of Justice for failing to ensure good air quality for its people.<sup>43</sup>

51. The European Environment Agency reports that additional actions are needed for Slovenia to fulfil its obligation under the National Emissions reduction Commitments Directive to reduce fine particulate matter, nitrogen oxides and sulphur dioxides by at least 50 per cent by 2030.<sup>44</sup> Meeting the current, more stringent WHO guideline for fine particulate matter would produce extensive health and environmental benefits, including extending the life expectancy of the average person in Slovenia by almost one year.<sup>45</sup>

52. Reducing emissions from road traffic in Slovenia would have major health benefits and would also make a significant contribution to reducing greenhouse gas emissions. Ljubljana created a large car-free zone in the centre of the city, where there are some electric vehicles offering public transport. This is a wonderful initiative, and worthy of replication in other cities around the world. Both national and municipal governments need to place greater emphasis on active transport (walking and cycling) and public transit. In particular, the rail network in Slovenia needs extensive investment to become an attractive alternative to private cars. More effective economic instruments should be used to discourage the purchase of diesel passenger vehicles and encourage the purchase of electric vehicles, including electric bicycles.

53. Another major source of air pollution in Slovenia is home heating using wood-burning stoves. Domestic heating was reported to be the second most important source driving exceedances of air quality standards across Europe.<sup>46</sup> Potential policies to address this challenge include incentives to switch to electric heat pumps and the creation of low-carbon district heating systems in urban areas, with priority being given to vulnerable populations such as those facing energy poverty.

54. Proposals to establish new waste incineration facilities, even if intended to produce heat and electricity, must be closely scrutinized to ensure that they do not exacerbate poor air quality that already threatens human health and human rights. Some areas, such as Ljubljana, appear to be geographically ill-suited due to vulnerability to existing air quality problems and temperature inversions during the winter, which trap air pollution in place instead of allowing it to disperse.

#### **Anhovo**

55. Air pollution has especially adverse effects on specific vulnerable populations, including children, older persons and those who suffer from existing respiratory or cardiovascular illnesses. An example involves the population living in proximity to the Salanit Anhovo cement plant in the Soča River valley, a pollution hotspot. According to data from the National Institute of Public Health, the local population has had elevated rates of cancer over a period of many years – substantially higher than regional or national incidence rates – largely because of an extremely high rate of mesothelioma.<sup>47</sup> For decades, many residents were exposed to asbestos fibres, both in the workplace and in the environment, resulting in elevated levels of deaths and illnesses from asbestosis, mesothelioma and lung cancer. Many of the people living in this area have lost family members and friends to these diseases and themselves are afflicted by asbestos-related diseases. They are now acutely vulnerable to air pollution, putting their health and their right to live in a healthy environment in jeopardy.

<sup>43</sup> For example, *Commission v. Slovenia* (case C-365/10), judgment of 24 March 2011.

<sup>44</sup> Directive 2016/2284 on the reduction of national emissions of certain atmospheric pollutants. See also <https://www.eea.europa.eu/publications/measures-to-reduce-emissions-of-national-emission-reduction-commitments-directive>.

<sup>45</sup> See Michael Greenstone, Christa Hasenkopf and Ken Lee, *Air Quality Life Index: June 2022 – Annual Update* (Chicago, Illinois, Energy Policy Institute at the University of Chicago, 2022), p. 26.

<sup>46</sup> See <https://www.eea.europa.eu/publications/managing-air-quality-in-europe>.

<sup>47</sup> See Vesna Zadnik and others, “Time trends and spatial patterns in the mesothelioma incidence in Slovenia, 1961–2014”, *European Journal of Cancer Prevention*, vol. 26 (September 2017). Data are taken from <https://obcine.nijz.si/obcine/kanal/44/2022/> (in Slovenian).

56. Slovenia should ensure that the volume and toxicity of emissions from cement plants and all industrial emitters decline over time, prioritizing known pollution hotspots like Anhovo. Co-incineration at cement plants should be subject to the same emission standards as waste incinerators, even if this is not mandatory under European Union law.

### Children

57. WHO has concluded that “children have a basic human right to breathe clean air in their homes, schools, and communities”.<sup>48</sup> A study examined the burden of respiratory diseases among children in the Zasavje (Central Sava Valley) region of Slovenia that can be attributed to outdoor air pollution. Researchers concluded that the prevalence of chronic respiratory diseases (e.g., asthma) and frequent acute respiratory symptoms (e.g., cough and shortness of breath) was directly related to the level of outdoor air pollution in the local environment. The percentage of children suffering from chronic respiratory diseases was 3.0 per cent in low pollution areas, 7.5 per cent in moderate pollution areas and 9.7 per cent in high pollution areas.<sup>49</sup> In other words, children in Slovenia living in areas with worse air quality are three times as likely to experience respiratory illnesses.

58. Indoor air pollution is also a potential threat to the right to a healthy environment. A study of 2020 that examined the air quality of two kindergartens in Slovenia found ventilation issues and/or indoor pollutant levels that exceeded recommended limits.<sup>50</sup>

## C. Safe and sufficient water and adequate sanitation

59. Slovenia is blessed by large volumes of clean water, and the people of Slovenia clearly treasure this rich natural heritage. In 2016, Slovenia amended its Constitution, adding a new article, 70a, on the right to drinking water, to clarify that:

Everyone has the right to drinking water.

Water resources shall be a public good managed by the State.

As a priority and in a sustainable manner, water resources shall be used to supply the population with drinking water and water for household use and in this respect shall not be a market commodity.

The supply of the population with drinking water and water for household use shall be ensured by the State directly through self-governing local communities and on a not-for-profit basis.

60. In a referendum held in 2021, an overwhelming majority of Slovenians (almost 87 per cent of those who voted in the referendum, with a turnout of 46.5 per cent) rejected changes to the national water legislation that posed a threat to the health of the nation’s drinking water and aquatic ecosystems.<sup>51</sup>

61. Thanks to major investments in recent decades, more than 99 per cent of the population in Slovenia has access to safe drinking water and more than 90 per cent of the population is connected to the public water supply system. A comprehensive system of water-quality testing is implemented at the national and municipal levels and the tap water in Slovenia meets European Union and WHO standards. In the early 2000s, only 23 per cent of the population was connected to wastewater treatment plants (of which nearly 50 per cent provided only primary treatment). Today around 70 per cent of the population is connected to public wastewater treatment systems with at least secondary treatment. Overall, 61 per

<sup>48</sup> “Air pollution and children’s health: a global health emergency”, background document prepared for the first WHO Global Conference on Air Pollution and Health, Geneva, 2018.

<sup>49</sup> Andreja Kuček and others, “A Prevalence Study on Outdoor Air pollution and Respiratory Diseases in Children in Zasavje, Slovenia, as a Lever to Trigger Evidence-based Environmental Health Activities”, *Archives of Industrial Hygiene and Toxicology*, vol. 64, No. 1 (March 2013).

<sup>50</sup> Tanja Rejc and others, “Microbiological and chemical quality of indoor air in kindergartens in Slovenia”, *International Journal of Environmental Health Research*, vol. 30, No. 1 (February 2020).

<sup>51</sup> See <https://balkangreenenergynews.com/slovenians-win-battle-for-drinking-water-in-referendum/>.

cent of the urban wastewater in Slovenia is treated according to the requirements of the Urban Waste Water Treatment Directive. This is below the European Union average of 76 per cent.<sup>52</sup>

62. In the context of this strong national commitment to clean water, the Special Rapporteur was shocked by conditions that he witnessed on a visit to a Roma settlement (Dobruška Vas) in the south-east region of Dolenjska. Numerous families lack access to safe drinking water and adequate sanitation facilities, as well as connections to the electricity grid. The situation has persisted for decades, leading to violations of the human rights to housing, water, sanitation and an adequate living standard, the rights of the child and the fundamental right to live in dignity. The unacceptable conditions reflect ongoing discrimination against Roma, contrary to human rights norms and standards. This is further damaging to Roma children, as it interferes with their right to education.

63. Back in 2011, following a country visit, the Special Rapporteur on the human right to safe water and sanitation recommended that Slovenia regularize 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 that it pay special attention to ensuring that the most disadvantaged groups, such as women, people with disabilities, and children, had access to safe water and sanitation.<sup>53</sup> Similar recommendations have been made repeatedly by the national Human Rights Ombudsman.<sup>54</sup>

64. Following his visit to the Dobruška Vas settlement in 2017, the Commissioner for Human Rights of the Council of Europe said: “Now is the time to go the extra mile and to ensure once and for all that no Roma in Slovenia experience severe deprivation”.<sup>55</sup> In his ensuing report on the visit, the Commissioner recommended that the Ministry of Environment and Spatial Planning urgently determine which of the settlements continued to pose problems, and that it work with local authorities to find solutions, either in the form of the regularization of the settlements or relocation after consultation with the concerned communities. In the meantime, he urged the authorities to ensure that all Roma families enjoyed access to water, electricity and sanitation on the land where they lived.<sup>56</sup>

65. The lack of access to water, sanitation and electricity has been resolved in many Roma settlements. It is important to note that there are some excellent examples of flourishing Roma communities, such as Pušča, a settlement in the municipality of Murska Sobota in north-eastern Slovenia. However, a recent government report indicated that 32 per cent of Roma still lack access to adequate sanitation, and eight settlements still lack a connection to the electricity grid.<sup>57</sup>

66. It is disheartening that so many years have passed and the situations in Dobruška Vas and other Roma settlements have not been resolved. The Government of Slovenia should take immediate action to provide connections to public water systems and the electrical grid, while ensuring access to adequate sanitation, for all remaining households in Dobruška Vas and any other Roma settlements where people lack these essential services. In situations where municipal governments have failed to find solutions for such a prolonged period of time, the national Government must step in to solve the problem, pursuant to their obligations under international human rights law, article 70a of the Constitution and the Roma Community Act (art. 5).

<sup>52</sup> See

[https://ec.europa.eu/eurostat/databrowser/view/SDG\\_06\\_20/default/table?lang=en&category=sdg.sdg\\_11](https://ec.europa.eu/eurostat/databrowser/view/SDG_06_20/default/table?lang=en&category=sdg.sdg_11).

<sup>53</sup> See A/HRC/18/33/Add.2.

<sup>54</sup> See, for example, Annual Report of the Human Rights Ombudsman for the Republic of Slovenia for 2015.

<sup>55</sup> See Council of Europe, “Slovenia: More should be done to ensure that Roma, migrants and those in poverty are not left behind” Commissioner for Human Rights country report, Ljubljana, 23 March 2017.

<sup>56</sup> See “Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Slovenia from 20 to 23 March 2017”.

<sup>57</sup> Interministerial working group on the spatial issues facing the Roma, final report, 2020 (in Slovenian).

67. Another community facing serious, chronic problems with their drinking water is in Anhovo, where more than 1,000 people receive their drinking water from the Močila water treatment facility. Residents often have to boil the water to make it safe for human consumption. An industrial accident in 2020 led to the contamination of the local drinking water from the Močila water treatment facility with high concentrations of toxic substances, including chromium, aluminium and lead.<sup>58</sup> Other challenges facing this water supply include oil spills from industrial facilities, contamination with polycyclic aromatic hydrocarbons, and high turbidity. The Government of Slovenia should work closely with the local community to ensure a safer water supply that fully addresses their concerns.

68. Slovenia also has rules regarding water-protection zones, which restrict or prohibit certain activities in the protected areas in order to prevent the contamination of water sources by agriculture, industry and other activities. However, during the visit information was received that there have been problems with respect to the designation and implementation of the water protection zones.

## **D. Healthy and sustainably produced food**

69. The Constitution of Slovenia does not explicitly guarantee the right to adequate food. However, Slovenia is implementing agricultural policies that could be beneficial for the creation of more sustainable food systems. For example, on 1 January 2023, Slovenia commenced implementation of its Common Agricultural Policy Strategic Plan for 2023–2027. This is the Government’s key agricultural policy, in line with the European Union Common Agricultural Policy. The policy aims to provide for long-term food security and the sustainable development of Slovenian agriculture.<sup>59</sup>

70. In parallel, Slovenia is implementing the European Union Farm to Fork Strategy, one of the key actions under the European Green Deal. The aim of the Strategy is to contribute to achieving climate neutrality by 2050, shifting the current European Union food system towards a sustainable model.<sup>60</sup> A more sustainable food system will also help protect Europe’s nature and biodiversity. The Farm to Fork Strategy is hence aligned with the European Union Biodiversity Strategy for 2030.

71. In 2020, greenhouse gas emissions from the agricultural sector accounted for 10.9 per cent of all emissions in Slovenia.<sup>61</sup> According to information received during the visit, agriculture and transport are the only sectors in which greenhouse gas emissions increased in the period 2005–2020.<sup>62</sup> For the agriculture sector, there is a non-ambitious goal of reducing emissions by merely 1 per cent from 2005 levels by 2030. The long-term goal for Slovenian agriculture, which also lacks ambition, is to reduce emissions by 22 per cent by 2050 as compared with the 2005 figures.<sup>63</sup>

72. National agricultural policy seems to excessively support animal husbandry and fodder production. The share of land under organic production is small and not growing fast enough. In 2020, the share of land under organic production accounted for 11 per cent of the agricultural land and the current policy foresees an increase to 18 per cent by 2027, still well below the 25 per cent goal in the European Union Farm to Fork Strategy.

<sup>58</sup> See National Institute of Public Health, “Assessment of the Situation after Drinking Water Contamination in Anhovo”, 17 September 2020 (in Slovenian).

<sup>59</sup> See Government of Slovenia, “‘Green light’ for Slovenian 2023–2027 CAP Strategic Plan”, 28 October 2022.

<sup>60</sup> European Union, “New EU farm to fork strategy to make our food healthier and more sustainable”, European Parliament News, 20 October 2021.

<sup>61</sup> Slovenia, “Slovenia’s National Inventory Report 2022: GHG Emissions Inventories 1986–2020, Submitted under the United Nations Framework Convention on Climate Change” (Ljubljana, April 2021) (2022 National Inventory Report).

<sup>62</sup> See [https://podnebnapot2050.si/wp-content/uploads/2022/06/PO2022\\_Zvezek4\\_Kmetijstvo\\_KON\\_2022-06-15F.pdf](https://podnebnapot2050.si/wp-content/uploads/2022/06/PO2022_Zvezek4_Kmetijstvo_KON_2022-06-15F.pdf) (in Slovenian).

<sup>63</sup> See [https://www.energetika-portal.si/fileadmin/dokumenti/publikacije/nepn/dokumenti/nepn\\_5.0\\_final\\_feb-2020.pdf](https://www.energetika-portal.si/fileadmin/dokumenti/publikacije/nepn/dokumenti/nepn_5.0_final_feb-2020.pdf) (in Slovenian).

73. The structure of agricultural production is also not coordinated with the dietary guidelines of the National Institute of Public Health of Slovenia and WHO.<sup>64</sup> The Government is promoting meat consumption, contradicting expert advice about more healthy and sustainable diets.<sup>65</sup> Furthermore, food waste is high, at 68 kilograms per person per year. Fifty-three per cent of this food waste can be attributed to household food waste.<sup>66</sup>

## E. Non-toxic environments

### Solid waste

74. Inadequate solid waste management can have negative effects on human and ecosystem health, jeopardizing the right to a clean, healthy and sustainable environment. The European Union Waste Framework Directive of 2008 clarified the waste management hierarchy:

- (a) Reduce the amount of waste generated;
- (b) Maximize recycling and reuse;
- (c) Limit incineration to non-recyclable materials;
- (d) Phase out landfilling except for non-recyclable and non-recoverable waste.<sup>67</sup>

75. In 2020, residents of Slovenia generated on average 489 kilograms of municipal waste, which was 21 kilograms less than in 2019.<sup>68</sup> Given that the first priority of waste management is to reduce the amount of waste generated, the decreasing volume of per capita municipal waste in Slovenia is a good sign.

76. Even more impressively, Slovenia has gone from being a laggard in waste management 15 years ago to a European leader today. In 2020, Slovenia ranked third in the European Union (slightly behind Germany and Austria) with regard to the proportion of municipal waste being recycled, at 59.3 per cent.<sup>69</sup> As recently as 2010, this figure was only 22 per cent.<sup>70</sup> The amount of municipal waste sent to landfills in Slovenia is now 5 per cent, compared with 25 per cent in 2010.<sup>71</sup> This means that Slovenia is already close to meeting the more ambitious European Union recycling targets for the future (60 per cent by 2030, and 65 per cent by 2035). Indeed, the strong record in solid waste management was a major factor leading to Ljubljana being awarded the title of European Green Capital in 2016.

77. Slovenia has adopted legislation for separate biowaste collection when composting at home is not possible. There are also plans to increase home composting. Other key measures to divert biowaste from landfilling include promoting high quality compost and anaerobic digestors for fertilizing purposes and guidance on good composting practices.

78. Slovenia is proposing to add three new waste incinerators, which will be used to produce heat and electricity. Incineration may be an interim solution, but it is not consistent with the long-term goal of a circular economy. Incineration can produce not only heat,

<sup>64</sup> See the National Institute of Public Health recommendations regarding consumption of red meat and meat products, available from <https://nizj.si/zivljenjski-slog/prehrana/prehranske-smernice/priporocila-glede-uzivanja-rdecega-mesa-in-mesnih-izdelkov/> (in Slovenian).

<sup>65</sup> See *Odredba o Programu promocije sektorja pridelave in predelave mesa za obdobje 2023–2025* (Decree on the programme for the promotion of the meat production and processing sector for the period 2023–2025), available from <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODRE2751> (in Slovenian).

<sup>66</sup> The latest statistics are available from the Statistical Office of the Republic of Slovenia at <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODRE2751> (in Slovenian).

<sup>67</sup> Directive 2008/98/EC.

<sup>68</sup> See Mojca Žitnik and others, “Almost 9% less waste generated in 2020”, Statistical Office of the Republic of Slovenia, 21 September 2021, available from <https://www.stat.si/StatWeb/en/News/Index/9851>.

<sup>69</sup> See [https://ec.europa.eu/eurostat/databrowser/view/cei\\_wm011/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/cei_wm011/default/table?lang=en).

<sup>70</sup> See <https://www.stat.si/StatWeb/en/News/Index/9957>.

<sup>71</sup> Ibid.



electricity and valuable metals but also air pollution and greenhouse gas emissions, thus potentially jeopardizing the right to a clean, healthy and sustainable environment.<sup>72</sup>

79. Slovenia should consider developing a comprehensive system of extended producer responsibility that shifts the burden of operating and paying for recycling systems from governments to the industries that produce or import recyclable products and packaging, as employed successfully in the Canadian province of British Columbia.<sup>73</sup>

### Children and toxics

80. No group is more vulnerable to the planetary environmental crisis than children, who comprise more than 15 per cent of the population of Slovenia. Children are more susceptible to toxic substances than adults for physiological, behavioural and environmental reasons;<sup>74</sup> their developing brains and bodies are exquisitely sensitive to toxic substances, such as lead, and they can suffer lifelong health consequences from exposure to them.<sup>75</sup>

81. International law recognizes that environmental harm interferes with the full enjoyment of the rights of children. The Convention on the Rights of the Child, adopted in 1989, requires its parties to pursue the full implementation of children's rights to health and a healthy environment by taking measures, inter alia, to combat disease and malnutrition through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution (art. 24 (2) (c)).

82. A major environmental health concern for children involves exposure to lead. Lead, a heavy metal, is one of the most devastating and well-studied neurotoxins, capable of inflicting irreversible impacts on the developing brains of infants and children.<sup>76</sup> WHO reports that exposure to lead can affect children's brain development, resulting in reduced intelligence quotient (IQ), behavioural changes, such as reduced attention span and increased antisocial behaviour, and reduced educational attainment.<sup>77</sup> Lead exposure also causes anaemia, hypertension, renal impairment, immunotoxicity and toxicity to the reproductive organs. The neurological and behavioural effects of lead are irreversible. There is no known safe blood lead concentration.

83. A recent UNICEF study found that 2 per cent of children in Slovenia have elevated levels of lead in their blood; 19.3 per cent of children live in homes with damp or mould; and 13 per cent of families with children are affected by noise pollution.<sup>78</sup>

84. For decades there was a lead mine in the Upper Mežiška Valley and a lead smelter in nearby Žerjav, resulting in extensive pollution and toxic contamination. Children living in the region suffered from unhealthy blood lead levels. Remediation efforts are ongoing, but there are still some children whose blood lead levels remain unsafe.

85. Another pollution hotspot is the closed Idrija mercury mine. Idrija, the oldest mining town in Slovenia, supplied the world with large volumes of mercury. The site currently features on the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List.<sup>79</sup> Research indicates that vegetables grown in the region surrounding the mine continue to be contaminated with unsafe levels of mercury, long after the mine

<sup>72</sup> Y. Fernandez-Nava and others, "Life cycle assessment of different municipal solid waste management options: a case study of Asturias (Spain)", *Journal of Cleaner Production*, vol. 81 (15 October 2014); and Ana Ramos and Abel Rouboa, "Renewable energy from solid waste: life cycle analysis and social welfare", *Environmental Impact Assessment Review*, vol. 85 (November 2020).

<sup>73</sup> See British Columbia, Extended Producer Responsibility Five-Year Action Plan 2021–2026; and British Columbia, Environmental Management Act, Recycling Regulation No. 449/2004.

<sup>74</sup> United Nations Children's Fund (UNICEF), *Clear the Air for Children: The Impact of Air Pollution on Children* (New York, October 2016), pp. 8 and 40.

<sup>75</sup> See WHO, Don't pollute my future! The impact of the environment on children's health (Geneva, 2007).

<sup>76</sup> See WHO, "Lead poisoning: Key facts", 31 August 2022.

<sup>77</sup> Ibid.

<sup>78</sup> See UNICEF Office of Research – Innocenti, *Places and Spaces: Environments and Children's Well-being*, Innocenti Report Card No. 17 (Florence, Italy, 2022).

<sup>79</sup> See <https://www.visit-idrija.si/en/experience/2019092609005398/unesco-mercury-story>.

closure.<sup>80</sup> Scientists have recommended ongoing monitoring of mercury levels in pregnant women in the Idrija region, because of the health threats posed by this heavy metal.<sup>81</sup>

## F. Healthy biodiversity and ecosystems

86. Slovenia is a biodiversity hotspot with tremendous diversity of ecosystems, animals, plants and fungi.<sup>82</sup> To protect this impressive natural legacy, Slovenia has designated 355 Natura 2000 sites. These include 324 sites of community importance under the European Union Habitats Directive and 31 special protection areas under the European Union Birds Directive. Together, these sites cover 38 per cent of the country's land area, the largest proportion of land protected by Natura 2000 sites in the European Union (the European Union average is 18.1 per cent). In terms of total protected areas, Slovenia, at 41 per cent, is second only to Luxembourg in the European Union and is well above the European average of 26 per cent.<sup>83</sup> Similarly, in the proportion of land covered by forests, Slovenia, at 63 per cent, is third, behind only Finland and Sweden, and is well above the European Union average of 42 per cent.<sup>84</sup> Work is needed to establish additional marine protected areas, so that ocean ecosystems receive a comparable level of protection to terrestrial ecosystems.

87. The European Commission and the Court of Audit of Slovenia have both reported concerns about the management of the extensive Natura 2000 system in Slovenia. The Commission has warned that "there are shortcomings in managing Natura 2000 sites and ensuring compliance with the nature directives".<sup>85</sup> In 2017, the Court of Audit published a report on the management of Natura 2000 sites, which concluded that the monitoring of the implementation and adaptation of conservation measures was ineffective.<sup>86</sup>

88. A major concern that was raised during the Special Rapporteur's visit involved a proposal for a hydroelectric dam at Mokrice on the Sava River downstream from Brežice, the fifth in a series of such projects on the lower Sava. The proposed dam would be in a Natura 2000 site, yet this type of major industrial activity, which would cause tremendous ecological damage, runs counter to the very purpose of protected nature reserves. In addition, it would generate less than 1 per cent of national electricity needs but would cause extensive damage to biodiversity.<sup>87</sup> A preferable option would be to protect the health of the aquatic ecosystem in the lower Sava River through an extensive ecological restoration process, as recommended by ecological experts.<sup>88</sup> This ecologically friendly approach could protect biodiversity and moderate floods.

## G. Access to information, public participation in decision-making and access to justice in environmental matters

89. In recent years, previous Governments made several efforts to weaken important environmental laws in Slovenia, as well as efforts to reduce opportunities for public participation in environmental decision-making. The principle of non-retrogression means

<sup>80</sup> See Ana Miklavčič and others, "Mercury in food items from the Idrija Mercury Mine area", *Environmental Research*, vol. 125 (August 2013).

<sup>81</sup> See Alfred B. Kobal and others, "Exposure to mercury in susceptible population groups living in the former mercury mining town of Idrija, Slovenia", *Environmental Research*, vol. 152 (January 2017).

<sup>82</sup> See Urban Šilc and others, "Biodiversity of Slovenia" in Drago Perko, Rok Ciglič and Matija Zorn, eds., *The Geography of Slovenia: Small but Diverse*, World Regional Geography Book Series (Berlin, Springer and the International Geographical Union, 2020).

<sup>83</sup> Statistics taken from the Eurostat "Statistics for the European Green Deal" database.

<sup>84</sup> Ibid.

<sup>85</sup> The European Environmental Implementation Review 2019: Country Report – Slovenia, p. 3.

<sup>86</sup> See *Revizijsko Poročilo: Ravnanje Z Varstvenimi Območji Natura 2000* (Audit Report: Management of Natura 2000 Protected Areas), 11 October 2017, available from [https://www.rs-rs.si/fileadmin/user\\_upload/revizija/215/Natura2000.pdf](https://www.rs-rs.si/fileadmin/user_upload/revizija/215/Natura2000.pdf) (in Slovenian).

<sup>87</sup> See <https://www.total-slovenia-news.com/business/10363-court-stops-mokrice-hydropower-plant-project>.

<sup>88</sup> See EuroNatur Stiftung, 2021, Sava River Restoration from Brežice to Rugvica – Feasibility Study (November 2021).

that laws and regulations protecting human rights and/or the environment can only be weakened in extraordinary circumstances, where there are no other viable options.<sup>89</sup>

90. Many persons with whom the Special Rapporteur met expressed concerns about their inability to gain easy, timely and affordable access to important information, to participate meaningfully in environmental decision-making and to have their concerns addressed. According to the Human Rights Ombudsman, public participation in environmental matters has been undermined by short deadlines, substantial amendments to laws post-consultation that are not discussed with the public, and chronic failures to provide a comprehensive rationale for proposed legislative changes.<sup>90</sup>

91. To its credit, the new Government has reached out to civil society to form a new advisory body to the Minister of Environment and Spatial Planning. The Government should further fulfil the rights of all individuals by increasing access to information, creating open consultative processes, and ensuring that the Government responds to people's concerns and contributions.

92. The Special Rapporteur was further surprised to hear from civil society organizations, activists, doctors and youth that they had been threatened, harassed and subjected to lawsuits because of their work to protect human rights and the environment. These intimidation tactics are reprehensible and have no place in a free and democratic society like Slovenia. The State should vigorously investigate and prosecute any individuals or businesses that engage in unlawful intimidation activities and the Government should proceed with enacting proposed whistle-blower legislation.

93. Courts play an important role in holding governments accountable for complying with both their human rights obligations and their environmental commitments. The Administrative Court of Slovenia has jurisdiction to review administrative acts and decide the legality of final individual acts in accordance with which State authorities, local community authorities and bearers of public authority decide the rights or obligations and legal entitlements of individuals and organizations. However, there are still some barriers related to access to justice, especially for the most vulnerable individuals and groups, including costs, lengthy delays, excessive judicial deference (related to the separation of powers), and a lack of specialized training to address environmental cases for some judges.

#### **IV. Businesses and human rights**

94. Slovenia unveiled its first National Action Plan on Business and Human Rights in 2018. An updated version was published in 2021.

95. In 2019, a coalition of social and environmental groups filed a complaint alleging that a British company had violated the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises in applying for a permit to expand a fracking operation in Slovenia.<sup>91</sup> The complainants alleged that the British company, Ascent Resources:

- (a) Failed to take adequate steps to consider and address the potential environmental impacts of fracking;
- (b) Failed to take due account of the need to protect the environment and human health from risks related to fracking;
- (c) Engaged in improper political involvement by lobbying the Ministry of the Environment and Spatial Planning to complete the permitting process for the fracking expansion;

<sup>89</sup> Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990), para. 9.

<sup>90</sup> See Summary of the Work of the Human Rights Ombudsman of the Republic of Slovenia for 2021.

<sup>91</sup> See "Specific instance under the OECD Guidelines for Multinational Enterprises and submitted to the Slovenian and UK National Contact Point for the OECD Guidelines", Global Climate Change Litigation database of the Sabin Center for Climate Change Law, Columbia University (2022).

- (d) Failed to adequately engage with relevant stakeholders.

96. The Slovenian National Contact Point for the OECD Guidelines for Multinational Enterprises conducted an initial assessment of the complaint and decided not to proceed because the company had rejected the government requirements to conduct an environmental impact assessment and obtain an environmental approval for its proposed activities, and therefore no environmentally harmful activities had taken place.<sup>92</sup>

97. Ascent Resources then commenced an investor-State lawsuit (see para. 11 above), seeking compensation for alleged losses caused by the actions of the Government of Slovenia. That case is still under way.

98. Slovenia was one of the first European Union countries to make green public procurement mandatory. In 2018, a new green public procurement decree came into force as part of the framework programme for the transition to a green economy. This decree extended the number of product and service categories for which green public procurement is mandatory to 20 (adding, for example, road building, street lighting and textiles). It defined objectives for each product or service (for example, 15 per cent of food should be organic, 50 per cent of office paper and hygienic paper products should come from sustainably managed forests and at least 50 per cent of electricity should come from renewable sources or high-efficiency cogeneration). However, the decree does not include any sanctions for non-compliance.

## V. Conclusion and recommendations

99. Slovenia deserves credit for leading the world in recognizing the right to a healthy environment. However, it is essential that all States breathe life into these inspiring words by enacting and implementing strong, rights-based environmental laws, policies and programmes. As emphasized in the 2030 Agenda for Sustainable Development, a top priority is to leave no one behind. For Slovenia, this means continuing to showcase good practices in the fields of solid waste management, biodiversity conservation and environmental taxation, but also tackling some of the urgent challenges identified in the present report related to cleaning up pollution hotspots and ensuring safe drinking water, clean air and a safe climate.

100. The Special Rapporteur urges the Government to apply a rights-based approach to all climate and environmental action, ensuring the protection of vulnerable and marginalized individuals and communities.

101. In conclusion, the Special Rapporteur would like to reiterate his heartfelt appreciation to all of the people who took the time to share their views with him during his visit. It was an honour and a privilege for him to learn about this proudly green Central European nation, its environmental challenges, its good practices and its ongoing efforts to fulfil everyone's right to live in a clean, healthy and sustainable environment.

102. The Special Rapporteur makes a number of recommendations to the Government of Slovenia to fulfil its environmental and human rights commitments, and to accelerate progress towards achieving the Sustainable Development Goals.

103. The Special Rapporteur encourages the Government to continue its admirable record of championing the right to a clean, healthy and sustainable environment, including by:

- (a) Advocating for the immediate development and adoption of an additional protocol to the European Convention on Human Rights that recognizes this right;
- (b) Supporting efforts to mainstream the right to a clean, healthy and sustainable environment in the post-2020 global biodiversity framework, the proposed

<sup>92</sup> See "Initial Assessment by Slovenia's National Contact Point regarding the alleged violations of the OECD Guidelines for Multinational Enterprises: Complaint lodged by 17 non-governmental organisations against a multinational company headquartered in the United Kingdom".

plastic pollution treaty, the proposed pandemic prevention, preparedness and response treaty and the proposed treaty on businesses and human rights.

104. The Government should continue taking an effective, rights-based approach to domestic and international climate action, including by:<sup>93</sup>

(a) Increasing investments and incentives for renewable energy, energy efficiency (e.g., heat pumps for heating and cooling and better insulation and windows for buildings, with a focus on low-income populations), energy storage, public transport (including rail), active transport, climate-smart, precision, regenerative, local and organic agriculture, and the promotion of predominantly plant-based diets;

(b) Accelerating plans to close down the coal-fired power plant;

(c) Electrifying end-uses of energy, including heating, cooling and transportation;

(d) Contributing its fair share of funds for mitigation, adaptation and compensation (loss and damage) to climate-vulnerable and low-income nations;

(e) Renegotiating trade and investment treaties, including the Energy Charter Treaty, to eliminate investor-State dispute settlement provisions, or withdraw from these treaties.

105. The Government should protect and improve air quality, including by:

(a) Following the seven steps set out in the Special Rapporteur's report on the right to breathe clean air;<sup>94</sup>

(b) Using the most recent guidance from WHO to strengthen air quality standards;

(c) Reducing emissions from motor vehicles and accelerating plans to close the coal-fired power plant;

(d) Subsidizing the replacement of heating sources using wood, coal or other fuels with electric heat pumps, prioritizing the needs of households facing energy poverty;

(e) Reducing emissions from industrial pollution hotspots.

106. The Government should ensure safe, sufficient water and adequate sanitation, including by:<sup>95</sup>

(a) Taking immediate action to connect all Roma settlements that remain unserved to local drinking water and sanitation infrastructure;

(b) Taking immediate action to provide residents in Anhovo with safe drinking water from the supply of their choice;

(c) Earmarking revenues from water tariffs to fund renewal of water supply and sanitation infrastructure;

(d) Investing funds in the infrastructure and ongoing maintenance necessary to comply with the European Union Urban Waste Water Directive.

107. The Government should take steps to advance healthy and sustainably produced food, including by:<sup>96</sup>

(a) Promoting agroecology, organic, regenerative and other ecologically sustainable food production systems;

(b) Reducing food waste;

<sup>93</sup> See [A/74/161](#).

<sup>94</sup> See [A/HRC/40/55](#).

<sup>95</sup> See [A/HRC/46/28](#).

<sup>96</sup> See [A/76/179](#).

- (c) Promoting predominantly plant-based diets.

108. The Government should further improve solid waste management and safely manage toxic substances, including by:<sup>97</sup>

(a) Systematically applying extended producer responsibility in the context of solid waste management so that producers of paper, plastic, packaging, batteries, tires and other materials become responsible for financing and operating an effective recycling programme, thus reducing government costs, and moving towards a circular economy;

(b) Accelerating the separation of food waste and organic materials for use in composting and anaerobic digesters, which could reduce emissions of methane, increase the amount of compost for sale as fertilizer and provide a valuable source of biogas;

(c) Identifying and restoring any existing sacrifice zones where profits and private interests have been prioritized over human rights and the environment, while preventing any future sacrifice zones from being established.

109. The Government should protect and restore healthy ecosystems and biodiversity, including by:<sup>98</sup>

(a) Ensuring that there are sufficient resources, strong rules and management plans for effectively and equitably managing human activities in protected areas;

(b) Expediting actions to comply with European Union nature conservation directives, including the Birds Directive and the Habitats Directive.

110. The Government should take steps to improve access to information, strengthen public participation and facilitate access to justice in environmental matters, including by:<sup>99</sup>

(a) Establishing a national strategy on human rights defenders where the specific risks and protection needs of environmental human rights defenders are recognized and taken into consideration;

(b) Considering establishing specialized environmental courts.

111. The Government should advance children's right to a clean, healthy and sustainable environment, including by:

(a) Consistently appointing child and youth representatives to national advisory bodies and national delegations to international environmental meetings, such as conferences of the parties to climate, biodiversity, desertification and toxics conventions;

(b) Considering the establishment of a special ombudsperson for the rights of children, as many other nations in Europe and elsewhere have done.

<sup>97</sup> See [A/HRC/49/53](#).

<sup>98</sup> See [A/75/161](#).

<sup>99</sup> See [A/HRC/43/53](#).