

Mr. Vladimír Špidla
Commissioner for Employment, Social Affairs and Equal Opportunities
European Commission

22 February 2007
Our ref: B624

Dear Mr. Špidla,

Subject: Continuing human rights violations suffered by "erased" persons in Slovenia.

On 26 February 1992, over 18,000 persons were illegally removed from the Slovenian registry of permanent residents. Many of them (latest estimates put the number at around 5,000) remain "erased". Coming close to the 15th anniversary of that fateful date, Amnesty International is very concerned at the continuing human rights violations suffered by these persons. The unresolved status of these European Union citizens, including the lack of access to full reparation for the abuse of their human rights, violates the very essence of the EU as an "Area of Freedom, Security and Justice".

Thousands of people without a legally regulated status are denied access to work, social security, health care and education which entails violations of their economic and social rights. They were qualified as such at international level by the Council of Europe Commissioner for Human Rights (2003 and 2006) and the UN Committee on Economic, Social and Cultural Rights in its Concluding Observations (2005).

Furthermore, the Slovenian Constitutional Court has reiterated through its 1999 and 2003 consecutive rulings the unconstitutionality of two related Slovenian Acts precisely because they violated the principle of equality and did not grant retroactive permanent residency. The Constitutional Court ordered that adequate legislative measures be adopted to regulate the status of the "erased".

The Slovenian authorities have been slow and ineffective in remedying the serious human rights problems caused by the 1992 "erasures". In 2004, initial (though partial) corrective action was taken in compliance with international and national law: the Slovenian Interior Ministry issued a number of individual written decisions recognizing permanent residency with retroactive effect. However, issuing these permits was halted without any other alternative measure, leaving thousands in a legal limbo again and all those affected by the "erasure" without full reparation of their rights.

A stark example of the situation of the "erased" is the case of Ali Berisha and his family. A few days ago and due to their lack of residence permit in Slovenia, they were forcibly returned to Germany where they are at risk of being removed to Kosovo. As members of the Romani/Ashkali/Egyptiani communities, they would be at risk of ethnically motivated attacks given the recent increase in ethnic tension in Kosovo.

Even those persons who were "erased" in 1992 but subsequently had their status regulated (because they obtained Slovenian citizenship or a permanent residence permit) are still suffering from negative consequences of their discrimination and have not been granted full reparation.

Slovenia's failure to meet its obligations to respect and comply with the decisions of its own Constitutional Court, the Council of Europe and the UN Concluding Observations and findings casts a shadow on the coming Slovenian Presidency of the EU.

More immediately, the "erasure" and the subsequent and ongoing failure to regulate the status of the "erased" constitute a violation of the principle of non-discrimination. In this regard, it is to be noted that the "erased" are mostly of non-Slovene or mixed ethnicity, including a significant number of Romani communities. The principle of non-discrimination based on racial or ethnic origin is enshrined under Community Law (Council Directive 2000/43/EC), which prohibits direct or indirect discrimination in the areas of education, social protection including social security and health-care. 2007 being the *European Year of Equal Opportunities Towards a Just Society* which promotes equal opportunities for all, the violation of the rights of the "erased" in their access to employment, education and healthcare is a painful reminder of the need to step up efforts to put words into actions.

Amnesty International calls on the Slovenian authorities to ensure that *ad hoc* legislative and other measures are adopted, granting full reparation, including restitution, satisfaction, compensation, rehabilitation and guarantees of non-repetition, to all individuals affected by the "erasure".

At the same time, the European Union should maintain an active role to ensure speedy implementation of measures to remedy human rights violations of the past and prevent continuing abuses in the future. Amnesty International calls on the Council, the Commission and the European Parliament to take all appropriate steps with a view of obtaining clearly benchmarked commitments from the Government of Slovenia to remedy this continuing injustice in the course of 2007 and certainly before Slovenia assumes the EU Presidency in January 2008.

We kindly request you to notify us of actions undertaken in this regard.

Yours sincerely,



Dick Oosting
Director
Amnesty International EU Office



Barbara Lochbihler
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