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Slovenia:

The 'erased' - Briefing to the UN Committee on Economic, Social and Cultural Rights

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INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

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In November 2005, during its 35th session, the UN Committee on Economic, Social and Cultural Rights considered Slovenia's initial report on the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Slovenia became a party in 1992.

Prior to the examination of Slovenia's report, Amnesty International had submitted a written briefing to the Committee on Economic, Social and Cultural Rights. This document details Amnesty International's concerns relating to the implementation of the ICESCR in Slovenia and focuses in particular on the human rights violations linked to the unresolved status of individuals removed from the Slovenian registry of permanent residents in 1992 (the so-called "erased"), including their lack of access to full reparation for the violation of their human rights to which the "erasure" led.

The situation of the "erased" raises concerns over Slovenia's failure to meet its obligations to respect the rights enshrined in the ICESCR of the individuals concerned, including their right to work, social security, health and education.

At the end of this report the unedited version of the concluding observations of the Committee on Economic, Social and Cultural Rights, issued on 25 November 2005, is attached as an appendix.

This report summarizes a 10-page document (4,600 words), *Slovenia: The 'erased' - Briefing to the UN Committee on Economic, Social and Cultural Rights* (AI Index: EUR 68/002/2005) issued by Amnesty International in November 2005. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at http://www.amnesty.org and Amnesty International news releases can be received by email:

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Slovenia

Amnesty International's Briefing to the UN Committee on Economic, Social and Cultural Rights, 35th Session, November 2005

Slovenia, formerly a constituent republic of the Socialist Federal Republic of Yugoslavia (SFRY), declared its independence in June 1991[1] and became a UN member state in May 1992. On 6 July 1992 Slovenia became a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) by succession from the SFRY. On the occasion of the consideration of Slovenia's initial report on the implementation of the ICESCR, submitted to the Committee on Economic, Social and Cultural Rights, Amnesty International highlights its concerns relating to the implementation of the ICESCR in the state party. This report focuses in particular on the human rights violations linked to the unresolved status of individuals removed from the Slovenian registry of permanent residents in 1992 (the so-called "erased"), including their lack of access to full reparation for the violation of their human rights to which the "erasure" led. The situation of the "erased" raises concerns over Slovenia's failure to meet its obligations to respect the rights enshrined in the ICESCR of the individuals concerned, including their right to work (Article 6), social security (Article 9), health (Article 12) and education (Article 13).

The 'erased': an overview

The SFRY was a federation composed of six republics and, before its dissolution, SFRY citizens had also a second, republican citizenship. SFRY citizens of other republics living in Slovenia enjoyed the same rights as citizens having Slovenian republican citizenship. After Slovenia became independent, citizens of other republics having permanent residence in Slovenia could apply for Slovenian citizenship by the deadline of 26 December 1991.[2]

On 26 February 1992, at least 18,305[3] individuals were removed from the Slovenian registry of permanent residents and their records were transferred to the registry of foreigners. Those affected were not informed of this measure and its consequences. The "erased" were mainly people from other former Yugoslav republics, who had been living in Slovenia and had not

[1] The independence declaration was followed by a 10-day war between Slovenian forces and the Yugoslav People's Army (Jugoslovenska Narodna Armija, JNA). The JNA completed its withdrawal from Slovenia in October 1991.

[2] Jasminka Dedić, Vlasta Jalušić and Jelka Zorn, *The Erased: Organized Innocence and the Politics of Exclusion*, Ljubljana: Peace Institute, 2003, p. 46.

[3] This figure has been officially acknowledged by the Slovenian authorities. Some representatives of associations of the "erased" claim that the true number of people affected by the "erasure" may be significantly larger.

applied for or had been refused Slovenian citizenship in 1991 and 1992, after Slovenia became independent. As a result of the "erasure", they became *de facto* foreigners or stateless persons illegally residing in Slovenia. In some cases the "erasure" was subsequently followed by the physical destruction of the identity and other documents of the individuals concerned. Some of the "erased" were served forcible removal orders and had to leave the country.

Some of the "erased" were born in Slovenia but, on the basis of the republican citizenship and birthplace of their parents, had remained SFRY citizens of other Yugoslav republics.[4] Others had moved to Slovenia from other parts of Yugoslavia before the country's dissolution, and remained there after 1991. They are mostly of non-Slovene or mixed ethnicity and they include a significant number of members of Romani communities.[5] Some of those affected by the "erasure" included former JNA officers, who did not apply for or were refused Slovenian citizenship often on the grounds that they participated in the war against Slovenia or were otherwise deemed disloyal to Slovenia.[6]

In his report, published in 2003, on his visit to Slovenia, the Council of Europe (CoE) Commissioner for Human Rights noted that he was informed by organizations representing the "erased" of the "dire situation that resulted from the loss of permanent residence status and that is still going on for many of them [the 'erased']".[7] The report further noted:

"Many were deprived of their pensions, apartments, access to health care and other social rights. The personal documents of these persons, such as identity cards, passports and drivers' licenses, were annulled. It has been reported that some people, albeit a very limited number, were deported as illegal aliens".[8]

In July 2005 the UN Human Rights Committee issued its concluding observations after examining Slovenia's second periodic report on measures to give effect to the rights enshrined in the International Covenant on Civil and Political Rights. The UN Human Rights Committee, while acknowledging the efforts made by Slovenia to grant permanent resident status or Slovenian citizenship to former citizens of SFRY republics living in Slovenia, expressed concern "about the situation of those persons who have not yet been able to regularize their situation in the State party" and called on the Slovenian authorities to "seek to

[4] Jasminka Dedić, Vlasta Jalušić and Jelka Zorn, *The Erased: Organized Innocence and the Politics of Exclusion*, Ljubljana: Peace Institute, 2003, p. 93.
[5] So-called "non autochthonous" Roma, including those who had migrated from other former Yugoslav republics before Slovenia became independent. Slovenian laws and regulations do not clearly define the concept of "autochthonous" Roma. However, the Slovenian Constitutional Court accepted that in those cases where Romani settlements were present on a certain territory "for centuries", members of such communities should be considered "autochthonous Roma". See Constitutional Court of the Republic of Slovenia, Decision in case no. U-I-416/98, 22 March 2001.
[6] Jasminka Dedić, Vlasta Jalušić and Jelka Zorn, *The Erased: Organized Innocence and the Politics of Exclusion*, Ljubljana: Peace Institute, 2003, p. 63 and ff.
[7] CoE, Office of the Commissioner for Human Rights, Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Slovenia, 11 – 14 May 2003, CommDH(2003)11, 15 October 2003, Paragraph 28.
[8] Ibid.

resolve the legal status of all the citizens of the successor States that formed part of the former Socialist Federal Republic of Yugoslavia who are presently living in Slovenia"[9] and to "facilitate the acquisition of Slovenian citizenship by all such persons who wish to become citizens of the Republic of Slovenia".[10]

Amnesty International's concerns on the failure of the Slovenian authorities to respect the economic and social rights of the 'erased'

Of a total of at least 18,305 people affected by the "erasure", to date approximately 6,000 remain without Slovenian citizenship or a permanent residence permit. Many of them live "illegally" as foreigners or stateless persons in Slovenia; others were forced to leave the country as a result of the "erasure".[11] The remaining 12,000, who after their removal from the registry of permanent residents managed to obtain Slovenian citizenship or permanent residency (in many cases after years of bureaucratic and legal struggle), are often still suffering from the ongoing consequences of their past unregulated status and have had no access to full reparation, including compensation.[12]

Principle of non-discrimination (Article 2[2])

In a 1999 decision on the constitutionality of the Foreign Citizens Act[13] the Slovenian Constitutional Court ruled that the "erasure", resulting from the failure of legislation to regulate the transitional legal position of citizens of other former Yugoslav republics who had been permanent residents in Slovenia, violated the principle of equality. In this respect, the Constitutional Court ruled that the Foreign Citizens Act made the legal position of citizens of other former Yugoslav republics less favourable than that of foreigners who had that status already before Slovenia became independent and who were automatically granted the right to reside permanently in Slovenia.[14]

Amnesty International also considers that, to the extent that the "erasure" and the subsequent and ongoing failure to regulate the status of the "erased" have disproportionately affected Roma and in general non-ethnic Slovenes, as well as other marginalized people,[15] they constitute a violation of the principle of non-discrimination and in particular of Article 2[2] of

[9] UN Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant. Concluding Observations of the Human Rights Committee: Slovenia, CCPR/CO/84/SVN, 25 July 2005, Paragraph 10.
[10] *Ibid*.
[11] In some cases, however, they may be legally living in Slovenia as temporary residents.
[12] And all measures recommended in the conclusion of this document.
[13] See below for further discussion of Slovenian Constitutional Court decisions related to the "erased".
[14] Constitutional Court of the Republic of Slovenia, Decision in case no. U-I-284/94, 4 February 1999.
[15] For example convicts. See Jasminka Dedić, Vlasta Jalušić and Jelka Zorn, *The Erased: Organized Innocence and the Politics of Exclusion*, Ljubljana: Peace Institute, 2003, p. 62.

the ICESCR prohibiting discrimination in the exercise of rights enunciated in the ICESCR.[16] "Erased" members of Romani communities, by virtue of their condition of minority without a "kin-state", were placed in an even more disadvantaged position than "erased" belonging to other ethnic groups, as they have faced greater difficulties in regulating their status elsewhere in the former Yugoslavia.[17]

Right to work and social security (Articles 6 and 9)

Amnesty International is concerned that many of the "erased" lost their job and/or could no longer be legally employed as a consequence of their status as foreigners or stateless persons without permanent residency permit. In this respect, the removal of the individuals concerned from the registry of permanent residents led to a violation of Slovenia's obligation under Article 6 of the ICESCR to recognize the right to work and to take steps to achieve its full realization.

[16] On discrimination against non-citizens, see also UN Committee on the Elimination of Racial Discrimination (CERD), *General Recommendation No. 30: Discrimination Against Non Citizens*, Gen. Rec. No. 30. (General Comments), 1 October 2004, which recognizes that "in some cases denial of citizenship for long-term or permanent residents could result in creating disadvantage for them in access to employment and social benefits" (Paragraph 15) and recommends to "[r]egularize the status of former citizens of predecessor States who now reside within the jurisdiction of the State party" (Paragraph 17). Paragraphs 29-38 relate specifically to economic, social and cultural rights and, *inter alia*, "[r]ecognize that, while States parties may refuse to offer jobs to non-citizens without a work permit, all individuals are entitled to the enjoyment of labour and employment rights, including the freedom of assembly and association, once an employment relationship has been initiated until it is terminated" (Paragraph 35). The CERD also recommended that "States parties [to the International Convention on the Elimination of All Forms of Racial Discrimination (Convention against Racial Discrimination)] respect the right of non-citizens to an adequate standard of physical and mental health by, inter alia, refraining from denying or limiting their access to preventive, curative and palliative health services" (Paragraph 36) and "[e]nsure that public educational institutions are open to non-citizens and children of undocumented immigrants residing in the territory of a State party [to the Convention against Racial Discrimination]" (Paragraph 30).

[17] Including, and especially, in the case of Roma originating from Kosovo (Serbia and Montenegro), where Roma and members of other minority communities are at risk of serious human rights abuses. For a discussion of minorities with a "kin-state" and their preferential treatment see European Commission for Democracy through Law (Venice Commission), *Report on the Preferential Treatment of National Minorities by Their Kin-State*, CDL-INF (2001) 19, 22 October 2001. The report concludes that "the circumstance that part of the population is given a less favourable treatment on the basis of their not belonging to a specific ethnic group is not, of itself, discriminatory, nor contrary to the principles of international law", provided that the difference in treatment is reasonable and objective, based on legitimate aims and on a reasonable relation of proportionality between the legitimate aim pursued and the means employed to obtain it. In these circumstances, the responsibility to ensure adequacy of support for those minorities which *do not* have a "kin-state" is greater on the jurisdictional state. See for example, Advisory Committee on the Framework Convention for the Protection of National Minorities, *Opinion on Armenia*, ACFC/INF/OP/I(2003)001, 16 May 2002.

***Bashkim Berisha**, a Romani man born in 1962 in Peja/Peć (presently on the territory of Kosovo, Serbia and Montenegro), had been employed in the working of plastic materials at the Elektrokovina factory in Maribor, Slovenia, since 1985. Bashkim Berisha was summarily "erased" from the Slovenian registry of permanent residents, despite a pending application for Slovenian citizenship. In May 1993 he was dismissed from the company on the grounds that his application for Slovenian citizenship had not yet been processed and that, as a foreigner, he had not obtained a work permit.[18] Bashkim Berisha explained to Amnesty International[19] how for seven years after the "erasure", he had to live in almost absolute poverty, making ends meet in low-paid irregular jobs in the "informal sector". Throughout this period he had no access to healthcare and no contributions were paid towards his pension. Bashkim Berisha only obtained Slovenian citizenship in 2000, after he married a Slovenian citizen.*

***Sulejman Sabljaković**, born in 1944 in Cazin, near Bihać (in today's Bosnia and Herzegovina), moved to Slovenia in 1962 and worked as a mechanic in Domžale, near Ljubljana[20]. After being "erased", and after having unsuccessfully applied for Slovenian citizenship, he lost his job in 1993, apparently as a consequence of the "erasure". His wife **Ziba**, born in 1941 in Sanski Most (presently in Bosnia and Herzegovina) was also "erased" in 1992. Following the "erasure", Sulejman and Ziba Sabljaković had no other means to earn their living but working in the "grey economy". "There were days when we had no bread to put on the table", Sulejman Sabljaković told Amnesty International.[21] He explained that his previous employee had informed him that the company was ready to rehire him as soon as he had his papers in order. However, it was not until 2003 that both he and his wife had their status regularized and obtained Slovenian citizenship.[22] Sulejman Sabljaković's pension has been significantly reduced as a result of the loss of several years of pension contributions, which made him eligible only for a small social pension.*

Many of the "erased" are still unable to find a job because they are without documents, or are otherwise considered foreigners with no right to work. They face the choice between being

[18] Amnesty International is in possession of a copy of the official letter of dismissal of the employer, as well as of copy of subsequent correspondence between Elektrokovina and the local office for employment in Maribor.
[19] Interview with Bashkim Berisha, September 2005.
[20] In the Domžale municipal public service company (Komunalno Podjetje Domžale).
[21] Interview with Sulejman Sabljaković, September 2005.
[22] In 2002 Sulejman Sabljaković spent four days in the Centre for Foreigners of the Slovenian Ministry of the Interior, after proceedings had been initiated for his forcible removal from Slovenia. He was subsequently allowed to return to his home, but was required to report to the local police station every month until March 2003 (Amnesty International is in possession of copies of the relevant documents from the Slovenian Ministry of the Interior).

without access to adequate food, housing and clean water, and being employed in the "informal sector", with low salaries and no social protection. In those cases where the "erasure" and the ensuing loss of employment led to extreme poverty, the removal of the individuals concerned from the registry of permanent residents may amount to a violation of Article 11 of the ICESCR, recognizing the right of everyone to an adequate standard of living.

In cases where the "erasure" resulted in the loss of employment, this often meant the loss of many years of pension contributions. As a result, many "erased" lost their entitlement to a pension, or saw their (expected) pension significantly reduced. Thus, Amnesty International is concerned that the removal from the registry of permanent residents has had serious negative effects on the pension rights of the individuals concerned and in general on their right to social security, protected by Article 9 of the ICESCR.

Right to the highest attainable standard of physical and mental health (Article 12)

As foreigners with no permanent residence permit in Slovenia, the "erased" have had no, or limited, access to comprehensive healthcare after 1992, in some cases with serious consequences for their health. The *ex officio* removal from the registry of permanent residents thus resulted in inequality in the ability to access healthcare.

> ***Sejdo Mušić**, born in present-day Bosnia and Herzegovina in 1950, moved to Slovenia in 1968 and suffered a serious injury in 1991 when he broke his leg. He was operated on after the incident and metal rods were inserted into his injured leg. [23] Shortly after he was "erased" in 1992, he lost access to healthcare and received no further treatment for his injuries. To date, he still has scars and open wounds on his leg, apparently as a result of the lack of treatment. Sejdo Mušić's status has not been resolved yet and he has no access to comprehensive healthcare.*

> ***Dragica Lukić**, born in 1963 in Zavidovići, present-day Bosnia and Herzegovina, moved to Slovenia in 1981. In 1984 she gave birth to a daughter, **Dijana**, who was diagnosed with a mental disability. They were both "erased" in 1992. At that time Dijana was temporarily with her grandmother, in Bosnia and Herzegovina. Dragica Lukić told Amnesty International that the "erasure" meant that for years she could not have personal contacts with their daughter Dijana (as they both remained without documents allowing them to leave or enter Slovenia).[24] Dijana is still in Bosnia and Herzegovina and, having no legally recognized status in Slovenia, cannot move to Slovenia and be permanently reunited with her mother. In 1998 Dragica Lukić gave birth to her second daughter, **Adelisa**. She showed Amnesty International a receipt of payment of approximately 430 German Marks[25] for pregnancy and prenatal care at a*

[23] Copies of the medical records were shown to Amnesty International in September 2005.
[24] Interview with Dragica Lukić, September 2005.
[25] Approximately equivalent to 265 US Dollars.

Ljubljana gynecological clinic, which she had to pay as a foreigner.[26] *Amnesty International is in possession of copies of several other receipts showing how Dragica Lukić had to pay for medical treatment Adelisa subsequently received, including immunization shots and other basic healthcare. Only in 2003 did Dragica Lukić receive Slovenian citizenship, along with her younger daughter Adelisa.*

The "erasure" of Dragica Lukić and of her older daughter Dijana, and their resulting long-term separation, also raises concerns over the failure of the Slovenian authorities to meet their obligation under Article 10[1] of the ICESCR, to ensure the widest possible protection and assistance to the family, particularly while it is responsible for the care and education of dependent children.

Right to education (Article 13)

Children removed from the registry of permanent residents in 1992, or whose parents were removed from the registry and as a consequence were considered foreigners without permanent residence permit in Slovenia, in some cases lost access to secondary education.[27] The "erasure" therefore led to inequality in the ability to access education.

***Sejana Sabljaković**, daughter of Sulejman and Ziba (see above), born in Slovenia in 1978, was "erased" in 1992 and remained without Slovenian citizenship until 2000. She told Amnesty International*[28] *how, after she had completed primary education, she could not enroll at a dressmaking school, as she wanted, because she had been "erased" and had no valid documents. She completed her studies only years later, after having received Slovenian citizenship.*

While Amnesty International notes that no recent cases have been reported of children being excluded from school as a result of the "erasure", concerns remain about the ongoing effects for some of the "erased" of the loss of years of education, and/or of the delays in the completion of their studies.[29]

The right to remedy and reparation

The human rights violations discussed in the previous section give rise to an obligation on Slovenia to provide full reparation to the victims, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. Measures of reparation should, as

[26] The receipt states that the payer is a "foreigner – self-payer".
[27] However, in some cases schools accepted children with no documents or officially considered as being foreigners.
[28] Interview with Sejana Sabljaković, September 2005.
[29] Including effects with respect to loss of income and future pension.

far as possible, wipe out all the consequences of the violations and reestablish the situation which would, in all probability, have existed if the violations had not been committed.[30]

In 1999 the Slovenian Constitutional Court recognized the unlawfulness of the "erasure" and ruled that provisions in the Foreign Citizens Act violated the Constitution for failing to determine the conditions for the acquisition of permanent residence permits by citizens of other former Yugoslav republics living in Slovenia who did not apply for Slovenian citizenship, or were refused it.[31] In this respect, the Constitutional Court ruled that the Foreign Citizens Act violated the principle of the rule of law (Article 2 of the Constitution), as well as the principle of equality (Article 14 of the Constitution). The Slovenian Constitutional Court also recognized that the "erasure", in those cases where it led to the expulsion of the individuals concerned, resulted in the violation of other human rights and freedoms protected in the Constitution and under international law. The Constitutional Court therefore ordered that adequate legislative measures be adopted to regulate the status of the "erased", taking into account the ongoing consequences of their removal from the registry of permanent residents.[32]

In 1999 the Act on the Regulation of the Status of Citizens of Other Successor States to the Former SFRY in the Republic of Slovenia was adopted, establishing a three-month period within which persons with unregulated status could apply for Slovenian citizenship. However, the new legislation did not restore permanent residence retroactively, thus excluding from its reach those who were expelled from Slovenia, and/or prevented from entry (and/or re-entry) into Slovenia, as a result of the "erasure".[33]

Amendments to the Act on Citizenship entered into force in 2002, creating a new one-year window of opportunity for those who had a registered permanent address in Slovenia on 23 December 1990 and who lived there ever since to apply for Slovenian citizenship.[34] However, the amendments once again failed to regulate the status of those who had not lived continuously in Slovenia after 1990, once more excluding those who were forced to leave the country as a consequence of the "erasure".

In 2003 a new decision of the Slovenian Constitutional Court ruled the Act on the Regulation of the Status of Citizens of Other Successor States to the Former SFRY in the Republic of Slovenia unconstitutional, on the grounds that it did not retroactively grant permanent residency to those citizens of other SFRY republics who were "erased" from the registry of

[30] Permanent Court of International Justice, *Chorzow Factory (Merits)*, 13 September 1928.
[31] Constitutional Court of the Republic of Slovenia, Decision in case no. U-I-284/94, 4 February 1999.
[32] For example, in those cases where the "erasure" resulted in long term unemployment, which in turn affected the ability of the individuals concerned to prove that they have sufficient means of support (one of the conditions to be met by those applying for permanent residence under the Foreign Citizens Act).
[33] Jasminka Dedić, "The Erasure: Administrative Ethnic Cleansing in Slovenia", *Roma Rights*, no. 3, 2003; Jasminka Dedić, Vlasta Jalušić and Jelka Zorn, *The Erased: Organized Innocence and the Politics of Exclusion*, Ljubljana: Peace Institute, 2003, p. 78.
[34] Jasminka Dedić, Vlasta Jalušić and Jelka Zorn, *The Erased: Organized Innocence and the Politics of Exclusion*, Ljubljana: Peace Institute, 2003, p. 78.

permanent residents from 26 February 1992 onwards and that it did not regulate the acquisition of a permit for permanent residence by those "erased" who had been forcibly removed as foreigners.[35] The Constitutional Court therefore ruled that permanent residence permits be issued with retroactive effect from the date of the "erasure".

Following that ruling of the Constitutional Court, a "technicalities bill", the first of two acts aimed at reinstating the status of individuals removed from the population registry, was adopted by the Slovenian parliament in October 2003. Debates on a second bill continued, prompting the then opposition parties (which presently form part of the government) to call for a referendum on the "technicalities bill". This referendum was held in April 2004. The voting turnout was only around 31 per cent, following calls for a boycott by several political leaders and Slovenian non-governmental organizations. Approximately 95 per cent of those who voted rejected the bill. The issue of the "erased" continued to be heavily politicized, and initiatives to hold a second referendum on the so-called "systemic bill", a second act aimed at addressing the issue of those removed from the population registry in 1992, were blocked by the Constitutional Court in 2004.

In the absence of a clear legal framework regulating the implementation of the Slovenian Constitutional Court's decision, the Slovenian Ministry of the Interior had in 2004 begun issuing individual written decisions stating that those concerned were permanently resident in Slovenia with retroactive effect.[36] However, the Slovenian authorities stopped issuing such decisions in July 2004 and to date no new steps have been taken to implement the Constitutional Court ruling and to restore the rights of the "erased". Moreover, those affected by the "erasure" continue to be denied access to other forms of reparation, including compensation.

Amnesty International's recommendations to the Slovenian authorities

The unlawful "erasure" in 1992 of thousands of people from the Slovenian registry of permanent residents has ongoing negative effects on the human rights of the individuals concerned. Thousands of people are still without a legally regulated status. Many of those who were "erased" in 1992, and who subsequently had their status regulated (because they obtained Slovenian citizenship or a permanent residence permit), are still suffering from the consequences of their "erasure" and have not been granted full reparation.

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". In particular, Amnesty International calls on the Slovenian authorities:

- to establish an independent commission of inquiry tasked with conducting a thorough investigation into the circumstances which led to the "erasure"; collecting

[35] Constitutional Court of the Republic of Slovenia, Decision in case no. U-I-246/02, 3 April 2003.
[36] Approximately 4,000 decisions were issued, according to information Amnesty International has received from the Slovenian authorities.

data and information on the individuals affected by the "erasure"; examining and analyzing the human rights consequences of the "erasure" for the individuals concerned;

- to explicitly and publicly recognize the discriminatory nature of the "erasure";
- to retroactively restore the status of permanent residents of all individuals "erased" in 1992, in accordance with the relevant Slovenian Constitutional Court decisions;
- to recognize the right of all individuals affected by the "erasure" to the highest attainable standard of physical and mental health including by granting them access to all public healthcare programmes on a basis of equality with citizens and permanent residents;
- to ensure that all individuals whose right to education has been infringed by the "erasure" are granted access to all public educational programmes, on a basis of equality with citizens and permanent residents;
- to provide financial compensation to all individuals affected by the "erasure" for any physical and mental harm resulting from the "erasure"; loss of opportunities including education; loss of earnings, including loss of earning potential and loss or reduction of pension; and costs required for legal or expert assistance, medicines and medical, psychological and social services;
- to provide rehabilitation to those individuals whose physical and mental health was negatively affected by the "erasure".

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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Thirty-fifth session
Geneva, 7-25 November 2005

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

SLOVENIA

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Slovenia on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.62) at its 30th, 31st and 32nd meetings, held on 7 and 8 November 2005 (E/C.12/2005/SR.30-32), and adopted, at its 58th meeting held on 25 November 2005, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission by the State party of its initial report, which was prepared in accordance with the Committee's guidelines. It notes with satisfaction the thoroughness of the written replies to the list of issues.

3. The Committee welcomes the constructive dialogue with the high-level delegation from the State party, which included experts in the various fields covered by the Covenant.

B. Positive aspects

4. The Committee notes with satisfaction the State party's efforts to fulfil its obligations under the Covenant and the protection generally afforded to economic, social and cultural rights in Slovenia.

5. The Committee notes with satisfaction that the Covenant has been incorporated into domestic law and can be invoked in the country's courts.

6. The Committee is pleased that the institution of the Ombudsman is functioning well and that the Ombudsman is competent to submit complaints concerning human rights to the Constitutional Court.

7. The Committee welcomes the amendment to article 14 of the Constitution banning discrimination between men and women, the entry into force in 2002 of the Equal Opportunities for Women and Men Act and the establishment of the Equal Opportunities Office.

8. The Committee observes with satisfaction that there are few restrictions on the right to join a trade union and the right to strike in either the private or the public sector in Slovenia, and that members of the armed forces and the police also enjoy these rights.

9. The Committee welcomes the State party's ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

C. Factors and difficulties impeding the implementation of the Covenant

10. The Committee has found no significant factors or difficulties likely to prevent the State party from effectively implementing the Covenant.

D. Principal subjects of concern

11. The Committee is concerned about discrimination against the Roma, as well as about the distinction made in practice between indigenous and non-indigenous Roma. The Committee is also concerned that the latter do not enjoy protection of their cultural rights, such as the right to education in their mother tongue, unlike members of other minorities who enjoy this right under bilateral international agreements.

12. The Committee is concerned that, despite the various measures taken to improve the status of women, the latter continue to be at a disadvantage in society, particularly with regard to access to employment, equal pay for equal work, the size of their retirement pension and their involvement in decision-making, and the limited number of women in high-level public positions.

13. The Committee remains concerned about the large number of unemployed young persons, members of minorities and persons with disabilities.

14. The Committee is concerned that sexual harassment in the workplace is not classified as a specific offence and for this reason victims may not be adequately protected.

15. The Committee notes with concern the employment insecurity facing individuals hired on short-term employment contracts, a phenomenon that is becoming increasingly widespread.

16. The Committee is concerned that nationals of the former Yugoslavia have been "erased" as their names were removed from the population registers in 1992, as a result of which they

have lost their Slovene nationality and their right to reside in the State party. The Committee observes that this situation entails violations of these persons' economic and social rights, including the rights to work, social security, health care and education. Moreover, the Committee regrets the lack of information on the actual situation with regard to the enjoyment by those individuals of the rights set out in the Covenant.

17. The Committee notes with concern that trafficking in women and children is a serious problem in the State party, which is a country of origin, transit and destination for the trafficking of women and children. The Committee regrets the lack of specific legislation to combat this phenomenon, as well as the low number of enforcement measures.

18. The Committee is concerned that the State party provides no specific legal mechanisms to deal with domestic violence, particularly violence against women, and consequently victims of such violence may not be adequately protected by current legislation.

19. The Committee is concerned about the persistence of significant regional disparities in the State party that affect the equal enjoyment by all of economic, social and cultural rights such as employment, welfare benefits and social services.

20. The Committee notes that the State party has not ratified a number of conventions of the International Labour Organization (ILO), bearing on rights enshrined in the Covenant, including the Equality of Treatment (Social Security) Convention, 1962 (No. 118) and the Prevention of Major Industrial Accidents Convention, 1993 (No. 174).

E. Suggestions and recommendations

21. The Committee would like to see in the next report of the State party reference to some of the cases referred to the Constitutional Court by the Ombudsman.

22. The Committee recommends that the State party should consider adopting a national action plan in the field of human rights, in accordance with paragraph 71 of the 1993 Vienna Declaration and Programme of Action. It requests the State party to report to it, in its next periodic report, on the status of initiatives relating to the protection of economic, social and cultural rights and to provide information with data to enable it to assess the progress made by the State party in this regard. Furthermore, the Committee strongly recommends that the State party should provide more support and resources to the Ombusdman's office responsible for the implementation of human rights.

23. The Committee recommends that in its next report the State party should provide some of the case law of the Courts relating to the implementation of the Covenant.

24. The Committee urges the State party to take measures to combat discrimination between indigenous and non-indigenous Roma and to guarantee access without distinction to Roma children in school. The State party is called upon to take measures to guarantee that education is provided also in the mother tongue of minorities.

25. The Committee invites the State party to step up its measures to promote equality between men and women, as required by article 2, paragraph 2, and article 3 of the Covenant.

including by application of the principle of equal pay for equal work and by ensuring that women are involved in decision-making. The Committee requests the State party to provide, in its next periodic report, detailed information on progress in the area of gender equality.

26. The Committee urges the State party to adopt effective measures aimed at overcoming regional disparities in its programmes for the labour market development and employment as well as promoting equal access to welfare benefits and social services in different regions. It invites the State party to provide in its second periodic report detailed data on the effect of the measures taken.

27. The Committee recommends that the State party should ratify the ILO Conventions bearing on rights enshrined in the Covenant, as the Equality of Treatment (Social Security) Convention, 1962 (No. 118) and the Prevention of Major Industrial Accidents Convention, 1993 (No. 174). 21.

28. The Committee recommends that the State party should continue to consolidate programmes to reduce unemployment among the most disadvantaged and marginalized groups, particularly young people, members of minorities and persons with disabilities.

29. The Committee urges the State party to undertake measures to combat sexual harassment in the workplace including by adopting specific legislation rendering it a criminal offence in order to combat this practice and better protect victims.

30. The Committee encourages the State party to strengthen the measures designed to reduce the percentage of workers hired on short-term contracts and to encourage employers to offer their employees permanent contracts.

31. The State party is requested to include in its second periodic report information and data on occupational accidents, particularly in hazardous sectors such as the mining and nuclear sectors.

32. The Committee urges the State party to take the necessary legislative and other measures to remedy the situation of nationals of the States of former Yugoslavia who have been "erased" as their names were removed from the population registers in 1992. While noting that bilateral agreements were concluded in this regard, the Committee strongly recommends that the State party should restore the status of permanent resident to all the individuals concerned, in accordance with the relevant decisions of the Constitutional Court. These measures should allow these individuals to reclaim their rights and regain access to health services, social security, education and employment. The Committee requests the State party to report to it, in its next periodic report, on progress in this regard.

33. The Committee calls on the State party to take effective measures to combat trafficking in persons, particularly trafficking in women and children, including by ensuring that those responsible for such trafficking are prosecuted. The Committee recommends that the State party should set up services to help the victims of trafficking and take steps to make law-enforcers and the general public more aware of the seriousness of the problem and to sensitise them of the needs of the victims. The Committee also recommends that the State party facilitate the participation of non-governmental organizations in the working group dealing with this issue.

In addition, the Committee recommends that the State party should ratify the Council of Europe Convention on Action against Trafficking in Human Beings (No. 197). It also requests the State party to report to it, in its next periodic report, on progress in this regard.

34. The Committee encourages the State party to consider adopting specific legislation rendering domestic violence a criminal offence, and also offering to judges training, as presently provided for police officers, to raise awareness of the criminal nature of domestic violence.

35. The Committee recommends that the State party extend the network of integrated health and social care services, including home help, for older persons with physical and mental disabilities. The Committee requests the State party to provide in its next periodic report, detailed information on the implementation of the overall strategy for older person which is presently under consideration.

36. The Committee requests the State party to ensure that these concluding observations are widely disseminated throughout society, particularly among government officials and the judicial authorities, and to report to it, in its next periodic report, on all measures taken to implement the recommendations contained in these concluding observations. It also encourages the State party to involve non-governmental organizations and other members of civil society in the discussions at the national level before submitting its next periodic report.

37. The Committee requests the State party to submit its second periodic report by 30 June 2010.
