

José Manuel Barroso
President of the European Commission

28 November 2005
Our reference: b509

Subject: Amnesty International concerns on the "erased" in Slovenia

Dear Mr Barroso,

Amnesty International would like, once again, to draw your attention to a problematic human rights situation in a Member State of the European Union. In Slovenia, thousands of people, many of them of Roma origin, are still being denied their basic human rights, after they were unlawfully removed ("erased") from the country's registry of permanent residence in 1992.

As the UN Committee on Economic, Social and Cultural rights (CESCR) has just concluded: "this situation entails violations of these persons' economic and social rights to work, social security, health care and education".

The discriminatory nature of the "erasure"

In the report Amnesty International had submitted to the CESCR, it found that the practice of "erasing" individuals has disproportionately affected Roma and in general non-ethnic Slovenes, as well as other marginalised people. This constitutes a violation of the principle of non-discrimination enshrined in international and European law, and in particular of Article 21 of the Charter of Fundamental Rights of the European Union. "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.

The right to remedy and reparation

Amnesty International acknowledges the decisions by the Slovenia Constitutional Court to redress this situation, which it considered in breach of the Constitution and of international standards. Disappointingly, the measures adopted by the authorities did not include all the "erased" and they failed to provide other forms of reparation, including compensation, for the human rights violations suffered by the individuals concerned.

Many of the "erased" lost their jobs and could no longer be employed legally as a consequence of their status as foreigners without a permanent residence permit. The loss of employment often meant losing years of pension contributions and even entitlement to a pension. The removal of the individuals concerned from the registry of permanent residents has therefore had serious negative effects on the individuals' right to work and social rights, as enshrined in particular in Articles 15 and 34 of the Charter of Fundamental Rights of the European Union.

As a result of their "erasure", the individuals concerned were also deprived of or given 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, contrary to article 35 of the Charter of Fundamental Rights of the European Union.

Furthermore, some children removed from the registry of permanent residents in 1992, or whose parents were removed from the registry, lost access to secondary education. While Amnesty International notes that no such recent cases have been reported, concerns remain about the ongoing effects of the lost years of education for some of the "erased" and of the delays in the completion of their studies. This situation has therefore had serious negative effects on the

individuals' right to education, as enshrined in Article 14 of the Charter of Fundamental Rights of the European Union.

Amnesty International's recommendations to the European Commission

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, are still suffering from the consequences of their "erasure" and have not been granted full reparation. Others were forced to leave the country and among those, some find themselves in limbo, being expelled from one country to another.

Amnesty International believes that it is incumbent upon the European Commission to take concrete steps to ensure the implementation of the EU standards and *acquis* by Slovenia. Therefore, we specifically call on the Commission:


- to take Amnesty International's findings into consideration while monitoring Slovenia's implementation of EU standards in relation to non-discrimination and the rights of minorities and long-term residents;
- to urge the Slovenian authorities to ensure that all legislative and other measures are promptly adopted to retroactively restore the permanent resident status of all individuals "erased" in 1992, in accordance with the relevant Slovenian Constitutional Court decisions and to grant them full reparation, including compensation to all individuals concerned.

To date, the European Commission has not been responsive to Amnesty International's call that it addresses substantively the question of human rights compliance by Member States, by monitoring and investigating violations that may also be the result of a breach of EU standards or inadequate transposition of the EU *acquis*. We once again ask you for a response and hope that our observations will be given due consideration and follow-up.

I am addressing a similar letter to Commissioner for Justice, Freedom and Security, Franco Frattini and to Commissioner for Employment, Social Affairs and Equal Opportunities, Vladimir Spidla.

I look forward to hearing from you.

Yours sincerely,



Dick Oosting
Director
Amnesty International EU Office

Enclosure: Slovenia - Amnesty International's Briefing to the UN Committee on Economic, Social and Cultural Rights", 35th Session, November 2005.