

2005 Data Collection

RAXEN National Report

European Racism and Xenophobia Information Network

National Focal Point for SLOVENIA

Peace Institute, Institute for Contemporary Social and Political Studies

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Executive summary

National Annual Report 2005 presents principal significant information on the situation in Slovenia in the field of racism and xenophobia and on the development of policies, measures and initiatives in the field of combatting racism and discrimination.

Employment

As in previous years, the official data shows a complete absence of cases of discrimination. Not one single case of discrimination was recorded in 2005 by any competent public body, including the Advocate of the Principle of Equality, the Human Rights Ombudsman, the Labour Inspectorate or the Labour Courts.

Due to such lack of data, the report instead goes on to provide some recent information on the situation of different vulnerable groups in the labour market which points to a conclusion that they face a disadvantaged position in comparison with the majority population.

The rest of the chapter on employment is dedicated to providing information on the situation of religious minorities at the workplace, immigrants' participation in trade unions, and on trafficking in human beings for the purpose of forced labour.

Education

The most significant part of the chapter on education is dedicated to the worrying development in relation to the education of Roma in the Dolenjska region, where Roma are particularly vulnerable. The protest of non-Roma parents at an elementary school in Novo mesto and the ensuing events which prompted the introduction of special study groups are reported on, with detailed information on the responses of public authorities, experts and civil society.

Another case of concern is a process of ethnic homogenisation at an elementary school in Ljubljana where legal behaviours (moving, changing schools) have the effect of resulting in segregation, a trend which may lead to the closing of the school.

To counter bad news, the report presents a promising new project which builds on the important notion developed by the Strategy of Education of Roma in the Republic of Slovenia, i.e. the introduction of Roma assistants. If successful, the project will lay the foundations for a new occupational standard, Roma mentor.

Legislation

In this chapter, the situation regarding the transposition of several Council Directives into the Slovenian national legislation is explored in some detail.

First and foremost, equality bodies provided for by the two anti-discrimination Council Directives and established by the national legislation, i.e. the Advocate of the Principle of Equality and the Council of the Government for the Implementation of the Principle of Equal Treatment, have finally been put into operation.

Next, an overview on the situation of transposition of several Directives is provided with a general assessment that they have been transposed in a sufficient manner or are being transposed at the moment, but the report also outlines some deficiencies, such as a lack of definitions and guidelines for treatment.

In the last section, the report presents promising developments in the education of NGOs on the newly introduced anti-discrimination legislation and the possibilities for their active involvement, also in litigation.

Housing

The report lists some findings of a study on immigration processes into the urban region of Ljubljana, which show that the capital is without doubt a multicultural city and that the share of immigrant communities is on the rise, but that the city is not keeping pace with comprehensive integration policies.

Undoubtedly the most significant part of the chapter focuses on the issue of unsuitable and inhumane conditions at the pre-reception area of the reception centre for asylum seekers in Ljubljana, a consequence of the introduction of new measures by the authorities.

Racist violence and crimes

The report provides an overview of incidents, which range from hate speech on the internet to abusive behaviour and neo-Nazi organising, and the responses of public authorities and other key actors to these occurrences.

Some important stirrings of action to address hate speech on internet are presented next, e.g. a commitment of the Human Rights Ombudsman to devote more attention to this issue in the future, and a public initiative which drew attention to a neo-Nazi website hosted on a network of a Slovenian ISP. In the end, an invaluable effort of an association from the Dolenjska region against intolerance toward Roma is presented.

Annex

Although at the end of the report, the annex contains important notes on methodology and the use of terms, and may well have to be consulted first by the reader.

The report ends with separate sections on manifestations of Islamophobia and antisemitism.

Trends and developments in 2005

The establishment and beginning of operation of the two equality bodies, the Advocate of the Principle of Equality and the Council of the Government for the Implementation of the Principle of Equal Treatment, is without doubt the most important development in relation to equal treatment and non-discrimination. Another important trend in this field is the gradual broadening of work of the Human Rights Ombudsman to include a special interdisciplinary unit to handle discrimination, not only on the level of individual complaints, but also by performing research, developing strategies of education and promotion to counter discrimination and intolerance in the Slovenian society.

The trend of absence of cases of discrimination in employment continued in 2005. This probably tells more about the system of monitoring and the expectations and fears of victims of discrimination in relation to employers and authorities than about the real situation in the labour market. Especially since other more circumstantial indicators point to a disadvantaged position of ethnic minorities and other vulnerable groups. A promising new development may prove to be the inclusion of Slovenia into the EQUAL Community Initiative, because several ambitious projects aimed at integration of vulnerable groups have been awarded funds.

In the field of education, both positive and negative trends in minority education can be noticed. On the positive note, a commitment of stakeholders to deal with the situation of Roma in education comprehensively is slowly developing into an operational action plan with concrete tasks and goals. But one must not forget potential setbacks to this process. In 2005, legitimate concerns for quality education and illegitimate demands for segregation of Roma have crossed paths on several occasions and one outcome of this is a controversial introduction of special study groups for Roma at an elementary school in Novo mesto.

This year also saw no progress in provision of minority education for ethnic communities of former Yugoslavia. This blank is filled up to some degree by several projects of NGOs in the field of education aimed at integration of vulnerable groups and capacity building.

In comparison with 2004 there has been a significant progress in legislation regarding the implementation of anti-discrimination measures in 2005. After the transposition of the anti-discrimination directives, there has been a considerable effort to raise awareness of the newly introduced provisions, particularly with certain target groups, i.e. lawyers and NGOs. An improvement in amending legislation in other fields of concern has also been noted. However, there is a lack of jurisprudence due to the victims not using legal remedies they have at their disposal.

In housing, there is little improvement in relation to the issue of housing of Roma. The trends of the last years, conflicts between Roma and non-Roma,

unsolved issues of ownership, lack of infrastructure, segregation, etc., have not witnessed any considerable improvement. In 2004, the newly opened reception centre for asylum seekers in Ljubljana raised the issue of segregation, and this year saw further worrying development. Several NGOs raised questions regarding unsuitable and inhumane conditions at the pre-reception area of the mentioned centre, a situation which developed as a consequence of new measures introduced by the authorities.

2005 also saw an increase in recorded racially motivated crimes in comparison with previous years, although the absolute number of reported cases still remains low. Slovenia is also witnessing a steady rise in extremist organising – whereas some years ago, their activities were in decline, they are now involved in organisation of public events and paramilitary training.

For the past several years, several pressing issues of human rights violations and discrimination stood out, including the erased and the mosque construction in Ljubljana. Responsible authorities continued to fail to take actions needed to address these problems, especially the problem of the erased persons which is gradually being brought to the attention of the wider European public. In relation to both issues and others, outbursts of intolerance in public, including the parliament, were noted.

On a more positive note, there was a noticeable effort by several key actors including public authorities, experts, researchers, NGO members and other activists to counter intolerance and promote equal treatment, to deal with hate speech on the internet and intolerance in the public space in general.

1. Employment

1.1. The situation regarding racism and xenophobia in employment

1.1.1. Sources of data

In addition to the sources listed in the 2004 Annual Report, some other sources consulted in this year's preparation process need to be mentioned. Both employers' organisations (Chamber of Commerce and Industry of Slovenia, Association of Employers of Slovenia, Chamber of Craft of Slovenia, Association of Employers of Craft Activities of Slovenia) and employees' organisations (more than twenty trade unions including all six major confederations of unions) were approached as were religious organisations and several NGOs active in assisting asylum seekers, refugees and victims of trafficking. Last, information was also provided by several scholars and researchers from the Institute for Ethnic Studies and the Department of Ethnology and Cultural Anthropology of the Faculty of Arts in Ljubljana.

1.1.2. Statistics on discrimination

As in previous years, the official data shows a complete absence of cases of discrimination. Not one single case of discrimination was recorded in 2005 by any competent public body, including the Advocate of the Principle of Equality, the Human Rights Ombudsman, the Labour Inspectorate or Labour Courts.¹

In the last three years, these bodies dealt with only two cases of alleged violation of prohibition of discrimination, both in relation to discrimination in the job application process. One case was recorded by the Human Rights Ombudsman in 2003. The complainant, a Slovenian citizen of Palestinian origin, felt that his job application was rejected because of his ethnicity. Upon investigation, the Ombudsman found that the employer, the former Ministry of Information Society, failed to inform the candidate of its decision and also failed to reply to his complaint. After Ombudsman's intervention the Ministry issued an explanation and the case was thereby closed.² The other case also dates back to 2003, when a complainant filed two suits with the Labour Court in Maribor. After the Court rejected both as unfounded in 2004, the petitioner

¹ Information submitted by respective institutions upon request, including Labour Courts in Koper, Celje, Maribor, Ljubljana and the Higher Labour and Social Court in Ljubljana.

² Slovenia, Human Rights Ombudsman (2004), *Letno poročilo 2003*, p. 162

lodged an appeal with the Higher Labour and Social Court in Ljubljana and the case is still open.

Representative trade unions³ also reported no cases of discrimination in 2005.⁴

It is difficult to assess the extent of discriminatory practices in the field of employment on the basis of available official data. Some other implicit indicators (e.g. unemployment rates, differences in wages, subjective perception of discrimination) may, however, provide some insight into the current situation of most vulnerable groups. An overview of some of these indicators is given in the following sections.

1.1.2.1. *Ethnic minorities*

The last relevant data from the Population Census 2002 shows that members of ethnic minorities, especially those from other republics of former Yugoslavia, are often disproportionately affected by unemployment. Unemployment rates for all ethnic minorities except Italians and Germans are above the national average.⁵ The data also shows a disproportionate concentration of minority groups in unskilled jobs, something that may be only partially attributed to their level of achieved education. While lower educational achievement is significant for Albanians, Muslims and Bosniacs, other groups do not differ significantly from the dominant ethnic group.

A recent study on immigrants' perceptions of the Slovenian integration policy provides some interesting insights into subjective perceptions of discrimination at the workplace.⁶ Immigrants from former Yugoslavia were asked whether they thought that higher paying jobs were reserved for Slovenians and whether they thought they had equal opportunities for finding a job and for promotion. The study shows that a considerable share of Serbs and, to a lesser extent, Bosniacs do not perceive the workplace as a place of equal opportunities.

No noticeable improvement may be reported regarding the position of Roma in the labour market and therefore even the latest official documents still regard

³ Representative trade unions are registered with the Ministry of Labour, Family and Social Affairs as such in accordance with the *Representativeness of Workers Unions Act* (Slovenia / SOP: 1993-01-0589, (12.03.1993))

⁴ These are as follows: Education, Science and Culture Trade Union of Slovenia, Slovenian Railway Traffic Union, FIDES – Trade Union of Doctors and Dentists of Slovenia, Pergam – Confederation of Trade Unions of Slovenia.

⁵ The unemployment rates were as follows (in per cent): Slovenians 8.1, Italians 5.5, Hungarians 10.6, Roma 72.3, Albanians 16.7, Bosniacs 14.0, Montenegrins 13.3, Croats 10.0, Macedonians 11.3, Muslims (ethnic affiliation) 15.8, Serbs 12.7, Germans 8.4. See: Širčelj, M. (2003) *Verska, jezikovna in narodna sestava prebivalstva Slovenije: Popisi 1921 – 2002*, Ljubljana: Statistični urad Republike Slovenije, p. 131

⁶ Komac, M., Medvešek, M. (eds.) (2004), *Percepcije slovenske integracijske politike*, Ljubljana: Inštitut za narodnostna vprašanja, pp. 580-583

Roma as one of the groups most at risk of exclusion.⁷ In its effort to improve the situation of Roma in the labour market, the Ministry of Labour, Family and Social Affairs and Employment Service of Slovenia endorsed thirty-five projects within the subsidised public works scheme. But despite good intentions, these schemes provide the Roma employees with low wages that do not differ significantly from social allowance because of their low level of education. Experience also shows that time-limited work schemes employment usually do not result in more sustainable forms of employment.

Work on the National Action Programme for Employment and Social Inclusion of Roma has been halted. The *National Action Plan on Social Inclusion 2004-2006* provided for a preparation of such a programme,⁸ but the government delayed action with the argument that a systemic law which would regulate in a comprehensive manner the status of the Slovenian Roma community needs to be prepared and adopted beforehand.⁹

1.1.2.2. *Third country nationals*

A majority of all foreign workers (88.3 per cent) are by origin from the other republics of the former Yugoslavia, predominantly from Bosnia and Herzegovina.¹⁰ Access of third country nationals to the Slovenian labour market is regulated by a restrictive quota policy. The general framework of this policy is laid down in the *National Programme for the Labour Market Development and Employment by 2006*.¹¹ The official policy is to replace “the full-time employment of foreigners with periodical, time limited forms of work and employment”. As a consequence, the inflow of third country nationals is linked to the situation in the labour market. For the second year in row, quota on employment of foreigners was imposed, setting the number of work permits to 16,700, four hundred less than in 2004.

The quota policy reflects the needs of the labour market for workforce. Because occupations characterised with lower wages and poorer working conditions are not taken up by nationals, the quota policy in this respect, perhaps inadvertently, reinforces a disproportionate concentration of foreigners in these occupations.

Out of the total 5,275 work permits¹² issued in the first six months of 2005, 855 were for seasonal work in agriculture and 2,466 for seasonal work in

⁷ Slovenia, Ministry of Labour, Family and Social Affairs (2004), *National Programme for Employment 2004 (for 2005)*, p. 27

⁸ Government of the Republic of Slovenia (2004), *National Action Plan on Social Inclusion (NAP/inclusion) (2004 – 2006)*, p. 24

⁹ Information submitted by the Ministry of Labour, Family and Social Affairs upon request.

¹⁰ See: Employment Service of Slovenia (2005), *Mesečne informacije, Junij 2005*, p. 18

¹¹ Slovenia / SOP: 2001-01-4597, (22.11.2001)

¹² *Employment and Work of Aliens Act* differentiates between employment permits and work permits. Employment permits are issued, when there is a permanent need on the part of employers, and work permits are issued mostly to seasonal and seconded workers; Slovenia / SOP: 2000-01-3058, (26.07.2000)

construction industry.¹³ Both branches are characterised with lower wages and harder working conditions. In May 2005, the national average wage was 173,719 SIT (app. €725), but it was significantly lower in agriculture and construction industry (145,987 SIT, app. €610, and 146,986 SIT, app. €615).¹⁴ These figures do not differentiate between nationals and foreigners, but it may be assumed that wages of foreign labour force are even lower because they tend to be recruited for positions with lower qualifications.

To conclude, the present employment policy represents a form of institutional or so-called legitimate discrimination against third country nationals. Policy documents consider the work and employment of third country nationals as temporary, and as a consequence there has been no tangible effort to study or improve their integration.

1.1.2.3. *Asylum seekers and refugees*

An increase in submitted asylum applications was noted in 2005. A total of 1,180 applications were submitted in the first eight months of 2005, in comparison with 1,173 in the whole of 2004. Asylum seekers are allowed to work for eight hours a week and not more than sixty days a year during asylum proceedings. In 2005, the Sector for Asylum issued work permits to thirty-three asylum seekers and all of them were employed in the construction industry.¹⁵

Foundation GEA 2000 questioned the practice of issuing these permits, because the legislation does not provide a basis for them. The Asylum Act provides for the asylum seekers' right to work, but does not define how this right should be exercised. Another concern with these permits, raised by the NGO, is that they do not contain any guarantees on medical assistance, workplace safety or regular payment.¹⁶

A recent research, carried out in the initial phase of a project endorsed by the EQUAL Community Initiative,¹⁷ amongst twenty-five asylum seekers in the Ljubljana Asylum Home showed that many interviewees took up undocumented jobs in construction industry. The interviewees asserted that they have been paid on a regular basis.¹⁸

Unemployment rate is worryingly high amongst refugees. Out of 115 persons who have the status of a refugee, six persons are self-employed, and additional

¹³ Employment Service of Slovenia (2005), *Mesečne informacije, Junij 2005*, p. 51

¹⁴ Statistical Office of the Republic of Slovenia (2005), *Rapid Reports No. 231*,

¹⁵ Information submitted by the Sector for Asylum at the Ministry of the Interior upon request.

¹⁶ Information submitted by Foundation Gea 2000 upon request.

¹⁷ An initiative of the EU with the mission to promote a more inclusive work life through fighting discrimination and exclusion based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

¹⁸ Stegel, T., Peterle, N. (2005) *Raziskava na področju zaposlovanja in dela prosilcev za azil kot pomoč pri načrtovanju programa Equal*, Ljubljana: Univerza u Ljubljani, Filozofska fakulteta, Oddelek za etnologijo in kulturno antropologijo.

eleven persons are employed for a limited time period.¹⁹ The high unemployment rate may be attributed to several reasons. In the course of asylum proceedings, asylum seekers are practically excluded from the labour market. After they have been granted refuge status and access to the labour market, their starting position is unenviable and there is a lack of programmes for their integration into the labour market.²⁰

Personal integration plans,²¹ which include vocational guidance and training for improvement of refugees' employment prospects, were late in coming. The first plans were prepared only in May 2005 and currently include ninety-one refugees in this programme. The first evaluations of its impact are expected to be prepared in November 2005.²²

1.1.3. Significant reports on discrimination in employment

- Komac, M., Medvešek, M. (eds.) (2005), *Percepcije slovenske integracijske politike: zaključno poročilo*, Ljubljana: Inštitut za narodnostna vprašanja

Originally published at the end of 2004, but reprinted in 2005. This is a comprehensive study on the integration of immigrants from the former Yugoslavia into the Slovenian society. The study includes a chapter on the economic integration, which also deals with a disadvantaged position of immigrants in the labour market. A selection of findings was presented in the previous section of this report.

The NFP did not come across other relevant reports or studies.

1.1.4. Public bodies

1.1.4.1. Advocate of the Principle of Equality

Advocate of the Principle of Equality (hereinafter, the Advocate) is an equality body established by the *Act Implementing the Principle of Equal Treatment*.²³ The mandate of the Advocate is to hear cases of alleged discrimination, to provide support to victims of discrimination, and to publish annual reports on the work of the Advocate. In this capacity, the Advocate can point out irregularities and issue recommendations on how these should be rectified. In case established irregularities are not rectified or an alleged violation has all the indications of discrimination, the Advocate sends a written opinion to the

¹⁹ Information submitted by the Sector for Immigration and Refugees upon request,

²⁰ Information submitted by the Employment Service of Slovenia upon request.

²¹ NFP for Slovenia (2004), *National Annual Report 2004*, p. 15

²² Information submitted by the Sector for Immigration and Refugees at the Ministry of the Interior upon request.

²³ Slovenia / SOP: 2004-01-2295, (06.05.2004)

competent inspection service (e.g. to the Labour Inspectorate in the case of discrimination in the employment sector).

1.1.4.2. *Labour Inspectorate*

The *Employment Relationships Act*²⁴ prohibits discrimination in employment. Supervision over implementation of this act rests with the Labour Inspectorate at the Ministry of Labour, Family and Social Affairs. Any person who believes that he or she was discriminated against may lodge a complaint with the Labour Inspectorate. The labour inspector may mediate between employee and employer with the aim of reaching a friendly settlement. In case a violation of the prohibition of discrimination is established, the labour inspector may file a criminal charge with the competent district attorney. The inspector may also sentence a violator with a fine for minor offences without assigning the case to a court for minor offences.

1.1.4.3. *Labour courts*

According to the *Labour and Social Courts Act*,²⁵ labour courts are competent for ruling in cases of individual and collective labour disputes, including cases of alleged discrimination. A job seeker who is not chosen due to alleged discrimination or an employee who is dismissed on the basis of personal circumstances may request judicial protection before the competent labour court within thirty days of the alleged violation.

If a person has already been in employment relationship and considers that the violation of prohibition of discrimination has taken place, he/she is obliged to request in writing that the employer abolish the violation. If the employer does not abolish the violation within eight working days, the employee may request judicial protection before the competent labour court within thirty days from the expiration of the time period stipulated for abolishment of the violation.

1.1.4.4. *Human Rights Ombudsman of the Republic of Slovenia*²⁶

The mandate of the Ombudsman is the protection of human rights and fundamental freedoms in relation to state authorities, local self-government authorities and bearers of public authority. The Ombudsman is an additional means of non-judicial protection of the individual's rights, although the Ombudsman also deals with issues relevant to the protection of human rights and fundamental freedoms and legal security of citizens on a more general level.

²⁴ Slovenia/ SOP: 2002-01-2006, (15.05.2002)

²⁵ Slovenia/ SOP: 2004-01-0070, (15.01.2004)

²⁶ Human Rights Ombudsman was presented in detail in the special study "Organisations supporting victims of racial discrimination".

1.1.5. Religious minorities at workplace

Labour legislation does not address the issue of the needs of believers at the workplace. Agreements between the State and religious communities on their legal status in the Republic of Slovenia²⁷ foresee the provision of pastoral care to the military personnel, but do not contain any other provision regarding employment.

The Government Office for Religious Communities, whose task is to provide support to religious communities and to monitor their position in the society, does not collect information regarding the situation of members of religious communities in employment. Until now, the Office has not undertaken any measures with the purpose of promoting principles of equal treatment and non-discrimination and it has also not allocated any resources to any other actor for this purpose.²⁸

In a brief survey on positive measures within the private sector (e.g., spaces for prayer, codes of conducts, etc.), where the NFP questioned all major stakeholders including the relevant employers' organisations and trade unions, we could not obtain sufficient information to draw reliable conclusions regarding the situation of religious minorities at the workplace.

1.1.6. Immigrants' participation in trade unions

There are no legal limitations on participation of immigrants in trade unions. An immigrant trade union would also be a possibility, but this has not been the case in Slovenia, since trade unions are usually established along occupational lines. Our overview of statutes²⁹ of trade unions showed that none of these included any provisions that would prevent or limit participation of immigrant workers. Several statutes or programmes even included provisions ensuring equal access to membership to all workers irrespective of their sex, race, ethnic or religious affiliation, or political conviction. A programme of the Association of Independent Trade Unions of Slovenia, one of the major confederations of trade unions, states as one of its important tasks the elimination of all forms of discrimination at the workplace.³⁰

As with many other issues, the NFP could not identify any recent research or report on the immigrants' participation in trade unions. Many trade unions were approached but with some exceptions, the response was weak and limited in scope. The Slovenian Railway Traffic Union has some 1,300 members of which

²⁷ Agreements have been signed with four out of forty registered religious communities in Slovenia, i.e. Roman Catholic Church, Pentecostal Church, Protestant Church and Serbian Orthodox Church.

²⁸ Information submitted by the Office for Religious Communities upon request.

²⁹ The NFP's review of statutes included eleven statutes that were accessible via Internet, which represents a limited share of all existent statutes.

³⁰ <http://www.sindikatzsss.si/html/statutZSSS.doc>, (10.10.2005)

one tenth are immigrant workers. According to the union, they enjoy the same level of rights as their Slovenian co-workers. They are able to take annual leave in time of religious holidays, and may work overtime for extra days off work so that they can visit their families in the country of origin. Monthly schedules of working hours are prepared in advance for coordination. No spaces for prayer exist at the workplace.

On the basis of information from one union only it is impossible to assess the influence of immigrant workers in the activities of trade unions in Slovenia.

1.1.7. Monitoring of working conditions

The Labour Inspectorate is tasked with monitoring of working conditions. Inspectors perform regular and special inspections – the former are more comprehensive and include a complete overview of working conditions, while the latter are focused on specific issues or conducted after a complaint has been filed.

The Inspectorate noted³¹ that there is a noticeable concentration of non-Slovenians in branches such as construction industry and catering. Inspections in the construction industry in the years 2003 and 2004 showed that this sector is one of the most problematic in terms of working conditions and safety,³² but no evidence was found that would point to a disadvantaged position of immigrants in comparison to Slovenians at the same workplace.

Other than that, the NFP has not come across other reports regarding the working conditions of immigrants, refugees or asylum seekers.

1.1.8. Trafficking in human beings for the purpose of forced labour

Available information on trafficking in human beings for the purpose of forced labour is often circumstantial and it is therefore difficult to assess the true extent of it. Most often the available information refers to sex trafficking only. Of the two cases of trafficking recorded by the police in 2004 and 2005, one was a case of sex trafficking and the other was unclassified. In similar vein information provided by Ključ Association, an NGO assisting victims of trafficking, shows that approximately half of the cases they dealt with related specifically to sex trafficking, while in other cases victims were unprepared or unable to provide sufficient information.³³

Between January and October 2004, Slovenian Philanthropy identified 104 cases of unaccompanied Albanian minors in Slovenia; a majority of them were

³¹ Information on this issue was taken from the Inspectorate's annual reports and supplemented with additional information provided directly by the Inspectorate upon our request.

³² See e.g., Slovenia, Ministry of Labour, Family and Social Affairs – Labour Inspectorate (2005), *Poročilo o delu za leto 2004*, pp. 95-97, 162-167

³³ Information was submitted by Ključ Association upon request.

boys between sixteen and eighteen years of age. Although there is no evidence that these minors were victims of trafficking in human beings, other data shows that amongst Albanian victims of trafficking for labour, begging and delinquency almost all were minors.³⁴ One can therefore assume that at least some of these children were indeed victims of trafficking for the purpose of forced labour.

A recent report³⁵ of the IOM points out a considerable increase in trafficking for forced labour in South Eastern Europe. Because the EU represents a region of destination for a considerable part of these victims, one may reasonably assume that some of the victims are trafficked through Slovenia.

1.2. Initiatives against discrimination in employment

Without doubt the most significant development in 2005 in regard to combating discrimination is the establishment of two equality bodies, i.e. the Advocate of the Principle of Equality and the Council of the Government for the Implementation of the Principle of Equal Treatment. To raise awareness of the new possibilities in the field of anti-discrimination, the Office for Equal Opportunities organised a conference in April 2005 where the newly introduced institute of the Advocate and national anti-discrimination legislation were presented. Two leaflets explaining the role of the Advocate and the principle of non-discrimination were also published.

The NFP approached all major employers' organisations in the hope of collecting information on projects at the workplace promoting equal treatment, but were soon disappointed to learn that no one was unable to identify positive measures aiming at improvement of employment prospects of vulnerable groups.³⁶

A number of projects, especially some that were awarded funds through the EQUAL initiative, appear promising in their ambitions to address implementation of the principles of non-discrimination and equal opportunities in the field of employment. But it is premature to report on these projects at this point, since most of them are in their initial phases.

Regardless of this hesitation, one of these projects which explicitly addresses the issue of trafficking in human beings and combating racism and xenophobia is briefly presented here. Development partnership of the project "(Re)integration of Victims of Trafficking in Human Beings" is coordinated by

³⁴ Surtees, R. (2005), *Second Annual Report on Victims of Trafficking in South-Eastern Europe 2005*, Geneva: IOM, pp. 52,78

³⁵ Surtees, R. (2005), *Second Annual Report on Victims of Trafficking in South-Eastern Europe 2005*, Geneva: IOM, pp. 37-39

³⁶ Information submitted by Chamber of Commerce and Industry of Slovenia, the Association of Employers of Slovenia and the Association of Employers of Craft Activities of Slovenia upon request.

the Ključ Association,. Primary objectives of the project are the establishment of a comprehensive integration programme that would include education, vocational training and access to the labour market for victims of trafficking and the establishment of a new occupational standard, i.e. a peer counsellor. The project will also attempt to develop a common methodology for combating trafficking in human beings, racism and xenophobia.

2. Education

2.1. The situation regarding racism and xenophobia in education

2.1.1. New sources of data

Sources of data and information were to a great extent exhausted in the previous collections. All of them were consulted again for new information, but only a few NGOs classify as new sources, especially the Mozaik Association which willingly provided us with information on their work with Roma children in Ljubljana, and Association for the Development of Voluntary Work, which provided information on their projects related to Roma in Novo mesto.

2.1.2. Statistical data in 2005

As in previous years, in 2005 the Inspectorate for Education and Sport received no complaints of discrimination in education, not even in connection to the cases presented further on in this report.

The Human Rights Ombudsman dealt with four complaints in relation to ethnic segregation of children in schools. The complaints relate to two problems, both of which are presented in more detail further on in the report. In both cases the Ombudsman performed investigations and ascertained a disregard for regulation. Both cases are still open and monitored.

Data compiled by researchers from the Institute of Ethnic Studies are relevant. The institute published results of two studies recently, on perceptions of the Slovenian integration policy by immigrants³⁷ and on the changing patterns of ethnic structure in the municipality of Ljubljana.³⁸ Both studies contain data from Population Census 2002 on levels of education of ethnic communities of former Yugoslavia, and data on the opinions of immigrants on minority education, their self-perception, their viewpoints on other ethnic communities, etc., collected during research. The studies provide a detailed insight into the situation of immigrants, and also outline problems and provide suggestions for improved integration of minorities. But because the data is not related to current

³⁷ Komac, M., Medvešek, M. (eds) (2005), *Percepcije slovenske integracijske politike: zaključno poročilo*, Ljubljana: Inštitut za narodnostna vprašanja

³⁸ Komac, M., Medvešek, M. (eds) (2005), *Simulacija priseljevanja v ljubljansko urbano regijo: analiza etnične strukture prebivalstva Mestne občine Ljubljana*, Ljubljana: Inštitut za narodnostna vprašanja

developments in the field of education in 2005, and due to a lack of space, it is not presented in this report.

2.1.3. Significant reports

In addition to the afore-mentioned reports of the Institute for Ethnic Studies, the following reports and studies, published in 2005, are relevant:

- Stabej, M. (ed.) (2005), *Večkulturnost v slovenskem jeziku, literaturi in kulturi: zbornik predavanj*, Ljubljana: Filozofska fakulteta

This anthology contains articles on the state of multiculturalism in Slovenia in its literature, culture and its approach towards minority education. Two articles discuss the issue of the education of Roma.

- *Sodobna pedagogika*, Vol. 56, No. 2, April 2005

This issue of *Sodobna pedagogika* journal (Contemporary Pedagogy) contains two highly relevant articles on the education of Roma. One of the articles³⁹ is especially significant in that it is based on recent empirical research on the educational situation of Roma in the Dolenjska region. It identifies reasons leading to school failure of Roma and argues that it is not the school, but the difference in language, culture and social status of Romani families that is the key factor. The article further outlines suggestions for improved inclusion of Roma children, based on their early integration and a multicultural approach.

- Autor, S., Kuhar, R. (eds.) (2005), *Poročilo skupine za spremljanje nestrpnosti*, No. 4, Ljubljana: Peace Institute

The latest issue of the Intolerance Monitor Report contains a critique of the model of education of Roma children introduced recently at an elementary school in Novo mesto (see next page) and a discussion of social exclusion of Roma in a more general sense.

- Režek, M. (2005), *Vključenost kritične diskurzivne analize v model vzgoje za medije: primer analize diskriminatornega diskurza v šoli*, Ljubljana: Fakulteta za družbene vede

On the basis of a case study performed at an elementary school, the author analyses discriminatory discourse against Roma on the level of the so called 'hidden curriculum' and in the exercise of the official curriculum.

³⁹ Krek, J. (2005) "Knowledge of the Slovenian Language as a Precondition of Good School Results of Pupils from Linguistically and Culturally Diverse and Socially Underprivileged Families", in: *Sodobna pedagogika*, Vol. 56, No. 2, pp. 118-139

2.1.4. New developments in 2005

2.1.4.1. *Implementation of the Strategy of Education of Roma*

In the previous reports,⁴⁰ both the worrying situation of Roma in the field of education and the promising new *Strategy of Education of Roma in the Republic of Slovenia*⁴¹ were presented in detail. It was estimated that the Strategy represents a qualitative shift in the official policy, but that its real impact cannot be evaluated yet, because it has not been transposed into an action plan and fully implemented. The action plan was first set to be prepared by the end of 2004, but it was only adopted at the end of August 2005. The plan was prepared by a working group⁴² appointed by the Minister of Education and Sport. Since the NFP received the adopted plan and other related information late, we were not in a position to review the document. It was therefore decided to include it in the update to this Report.

2.1.4.2. *Separate education of Roma children*

The situation of Roma in Dolenjska region is particularly worrying, marked with frequent conflicts between non-Roma and Roma, something the NFP has already reported on.⁴³ An incident in late January 2005, where a Romani parent assaulted a teacher at an elementary school in Novo mesto, sparked off a whole series of events, which caused a lot of concern regarding the commitment to integration of Roma.

In February 2005 a group of non-Roma parents from that particular school, OŠ Bršljin, submitted a petition to the mayor of the municipality, the school and the Ministry of Education and Sport. In the petition the group argued that due to a high number of Roma in the school (86 out of 626 pupils), incidents between Roma and non-Roma children were on the rise and that their children did not feel safe at school. As a consequence, their school performance was affected, and so was the quality of education, since teachers had to devote more attention to Roma pupils. The group demanded that Roma pupils be proportionately placed in other elementary schools in the municipality, and that separate Roma classes be introduced in the short term, and Roma-only elementary school be established in the long term. If their demands were not met, the group

⁴⁰ See NFP Slovenia (2004), *National Annual Report 2004*, p. 38, and *Roma in public education (Special Study)*.

⁴¹ Slovenia, Ministry of Education, Science and Sport (2004), *Strategija vzgoje in izobraževanja Romov v republiki Sloveniji*

⁴² It is perhaps worth mentioning on a side note that the working group, responsible for the preparation of the action plan, differs from the working group which prepared the *Strategy*. Of particular interest to this Report is the exclusion of several experts, whose projects were presented in the previous reports as good practices, and who were amongst the signatories of the protest letter presented on page 24.

⁴³ See NFP Slovenia (2004), *National Annual Report 2004*, p. 38

threatened to boycott the educational process at the school by not sending their children to classes.

The announced boycott was later called off after the Minister of Education and Sport met with the petitioners and presented the Ministry's proposal of a solution to the problem. In short, the proposal envisages the introduction of study groups for pupils with severe learning difficulties.

The *Proposal of a model of execution of education at Bršljin elementary school*, a six-page document,⁴⁴ was prepared jointly by experts from the National Education Institute and the school. The document began with a brief description of the situation, which led to the introduction of this model. Authors of the document argued that the basis for this approach lied in multiculturalism, implemented within a wide national curriculum, which allowed for autonomy of schools in their particular environments. In the case of OŠ Bršljin, these local circumstances were previously not sufficiently considered and for this reason a new model needed to be developed to efficiently include all children in the educational process and to provide quality education for all.

The core of the proposed model was explained very briefly in one single paragraph and represented only the basis for an operational plan to be developed by the school. The model was said to be temporary and introduced as a novelty in the field of education, and needed to be monitored and evaluated. The model introduced study groups formed through flexible differentiation for subjects "where command of Slovenian language is necessary for successful advancement". In subjects such as music and artistic education, sports, civic education and ethics, all children would follow instruction together, but for other subjects children with learning difficulties would be taught separately.

The proposal appeased non-Roma parents, but raised serious concerns by others. A group of prominent education experts issued a joint statement⁴⁵ wherein they argued that the proposed model is contrary to the profession and to the existing legislation. Although the proposal does not speak explicitly of separation of Roma pupils, it does separate pupils on the basis of their knowledge of the Slovenian language, which could lead to their segregation, because it is unlikely that pupils of Slovenian origin would exhibit such a poor knowledge of Slovenian language that they would have to be included into such study groups. One of the signatories developed this argument further in a recent article and pointed out that the proposed model could have as an actual consequence precisely the separation of only Roma pupils and "ethnic or racial segregation."⁴⁶

⁴⁴ "Predlog izvedbenega modela vzgojno-izobraževalnega dela v OŠ Bršljin", available at: <http://www.mszs.si/slo/doc/MODEL.pdf>, (20.09.2005)

⁴⁵ "Izvedbeni model, ki ga je za OŠ Bršljin pripravilo Ministrstvo za šolstvo in šport, je v nasprotju s stroko in z zakonom"; the statement was issued in April 2005.

⁴⁶ Krek, J. (2005) "Izvedbeni model izobraževanja romskih učencev za OŠ Bršljin", in: *Poročilo skupine za spremljanje nestrpnosti*, No. 4, pp. 8-9

Experts also pointed out that the model introduces separate study groups across the whole educational vertical, whereas the legislation does not provide for such a measure, but allows for only very limited differentiation. They argued against permanent and early separation into study groups and stressed in addition that a successful model of integration should be developed in accordance with the legislation and procedure. This relates to the fact that the model was introduced rapidly during a school year, contrary to the established regulation.

Many others also raised their concerns with these developments. Education, Science and Culture Trade Union of Slovenia issued several statements,⁴⁷ in which the union called for tolerance and expressed concern regarding the demand for segregated classes for Roma children. The union also noted that boycott is not an appropriate solution, and protested against pressure put on teachers and other school staff. Employees of the school addressed all parents with a statement which pointed out the responsibility of adults towards children, and protested against exclusion, intolerance and hatred.

The Ombudsman also intervened in the situation,⁴⁸ requesting a detailed explanation of the proposed model, because the information in the media wasn't sufficient. At the same time, the Ombudsman inquired at the school. Answers provided by the Minister and the headmaster were not unambiguous and did not contain a suitable explanation and the Ombudsman decided to present the case to the public, noting that the existing legal basis does not allow for such an execution of education and that the model is not in conformity with regulation.⁴⁹

Concerns were also raised by several political parties, NGOs (e.g. Amnesty International in a letter⁵⁰ to the prime minister), journalists and others. In the ensuing debate arguments focused on several additional aspects of the situation, especially the political and administrative. It was pointed out that both the organisers of the parents' protest and the minister were members of the same political party, the Slovenian Democratic Party (SDS), and that the move could be seen as part of a political strategy of the party members. The administrative argument referred to the validity of parents' signatures on the petition – allegedly over four hundred parents signed it, but as one journalist tried to acquire a copy of the signatures, only 143 signatures were noted and it wasn't clear if all the signatures actually belonged to the parents of the children or not.⁵¹

But the events unfolded further – after some consideration, it was now Roma parents who decided to keep their children from going to school until a fair

⁴⁷ <http://www.sviz.si/?page=isci&searchid=35049&zadetkov=10&razvrsti=&narascajoc=&dolg=on>, (20.09.2005)

⁴⁸ Even before these developments, the Ombudsman was approached by the headmaster of OŠ Bršljin, who acquainted the Ombudsman with the growing intolerance in the school environment to Roma.

⁴⁹ <http://www.varuh-rs.si/index.php?id=879>

⁵⁰ <http://www.amnesty.si/clanek.php?id=346&l=mediji>, (20.09.2005)

⁵¹ Hahonina, K. (2005) "Mehka segregacija", in: *Mladina*, 14.03.2005, p. 32

solution is found. They demanded a written assurance from the Minister that their children will not be taught separately. Another meeting was organised where the proposed model was further explained to Roma parents and after the meeting, Roma parents agreed to send their children back to school. The Minister noted that some twenty-five Roma pupils attained sufficient levels of knowledge to be included in their class with non-Roma children, and that the Ministry of Education and Sport and the Novo mesto municipality had to provide for four additional teachers and three Roma assistants.

The whole situation prompted a response from the Commissioner for Human Rights of the Council of Europe, who sent a delegation to Slovenia in May 2005 to examine the state of affairs, but has not yet published an official report on the visit.

Just before the closing deadline for the preparation of this report, the NFP received an evaluation report on the implementation of the model in OŠ Bršljin, but we were regretfully unable to review it in time for this report.

2.1.4.3. *Other ethnic communities*

No progress can be reported regarding state provisions for minority education for ethnic communities of former Yugoslavia. A study on the perceptions of immigrants from other former Yugoslav republic about the integration policy of Slovenia⁵² showed that the concerned ethnic communities do want their children to learn their mother tongue and culture within the existing school system and do not support the idea of establishing new schools. Although curricula for some languages and cultures, i.e. Serbian and Bosnian, are being worked on, the process is slow and has been reset and the current school year did not see any new introductions to the curriculum in this respect.

Another unfortunate development must be reported regarding the provision of education of minorities. In Ljubljana, an elementary school, OŠ Livada, adjoining the Rakova Jelša neighbourhood with a considerable immigrant population is facing closing because of a drastic decrease in the number of pupils enrolled. Although the ethnic composition of the neighbourhood would allow for an ethnically mixed school, the school is subjected to a trend in ethnic homogenisation. Increasingly more Slovenian parents enroll their children in other schools on the basis of concerns regarding the quality of education. In 2004 only thirteen parents enrolled their children in OŠ Livada, and twenty-five wanted their children enrolled elsewhere. For 97 per cent of all pupils of the school, Slovenian is not their mother tongue.

Headmaster of the school filed a complaint with the Human Rights Ombudsman because she felt that by denying the parents consent to enroll their children elsewhere, she was violating their right to free choice of an appropriate school for their children, while on the other hand, increasing number of consents led to

⁵² Komac, M., Medvešek, M. (eds) (2005), *Percepcije slovenske integracijske politike: zaključno poročilo*, Ljubljana: Inštitut za narodnostna vprašanja, pp. 262-265

a drastic decrease of pupils, which would eventually lead to the school being closed down. Ombudsman's investigation showed that the enrolment process is often not performed in conformity with the regulation. OŠ Livada is not asked for consent and the procedure is not done in writing, but orally. Ombudsman noted that parents only have the right to enrol their child in a school in their school district, and not the right to enrol their children in any school – the latter is a mere option.

Although the Municipality of Ljubljana informed the Ombudsman that it will consistently use the possibilities it has as the founder of the school, and continue its joint activities with the Ministry of Education and Sport on prioritising this particular school, the current information from the school is that the school is now gradually being closed down.⁵³

2.1.5. Religious symbols in schools

Similar to the findings in the 2004 report, the question of religious symbols in schools was not an issue in 2005 – the NFP did not come across any case where this issue would be brought up or questioned.

In Slovenia the separation of religious communities and the State is determined by the Constitution and therefore religious symbols may not appear in schools although the legislation or administrative measures do not address this issue. In his recent report on the right of children to free expression, the Deputy Human Rights Ombudsman noted that public schools may not display religious symbols, because this would constitute a violation of the rights of all pupils not members of this faith and adds: "For this reason too [separation of the State and religious communities] there is no prohibition or persecution of the displaying of religious symbols on the clothes, jewellery or hairstyles of pupils, who are free in this type of expression of belief. Their freedom is only limited by the right of others not to be offended by these symbols or badges or otherwise have their rights encroached on by them."⁵⁴

⁵³ Information provided by the Human Rights Ombudsman upon request, 7.10.2005.

⁵⁴ Dolžič, T. (2005) "The right of children to free expression of their opinion in schools and educational institutions in the republic of Slovenia", available at <http://www.varuh-rs.si/index.php?id=966&L=6>, (13.10.2005)

2.2. Initiatives against racism and discrimination in education

2.2.1. Roma Mentor as a vocation

As part of a wider project,⁵⁵ a development partnership in Prekmurje wants to lay the foundations for a new occupational standard, Roma mentor. Occupational standard is a basis for educational programmes and for the assessment and accreditation system. An initiative to consider a new occupational standard for a Roma mentor has already been submitted within the framework of this project, and is currently being considered by the Centre of the Republic of Slovenia for Vocational Education and Training. Once established, the standard could then be used by public authorities as legal basis for employment of Roma mentors in schools.

A curriculum for an educational programme for Roma mentors is currently being finalised. Nineteen Roma will then participate in this programme from November 2005 until April 2006. After successful completion, they can then be employed in schools, a practice that has proved most useful already in the preparatory phases prior to the start of this project, when schools which included Roma assistants in their programmes, reported improved attendance of Roma children in school and improved participation of Roma parents in school activities.

The development partnership of the project includes a regional development agency, an NGO, a local office of the National Education Institute, a local secondary school, two elementary schools, four municipalities from the region and Roma councillors. The project was awarded funds through the EQUAL initiative. Although it is in its early stages of implementation, it is included in this section, because it builds on the important notion developed by the *Strategy of Education of Roma in the Republic of Slovenia*,⁵⁶ i.e. the introduction of Roma assistants in kindergartens and elementary schools with the purpose of helping children to overcome emotional and language barriers, and bridging the gap between kindergartens, schools and Romani communities.

2.2.2. Integration of Roma children

On the outskirts of the urban area of Ljubljana in the neighbourhood of Tomačevo, there is a Roma settlement, where most Roma live in makeshift housing and with inappropriate infrastructure. The part of the Tomačevo neighbourhood with the settlement is predominantly populated by immigrants

⁵⁵ NFP for Slovenia (2004), *Update of the National Annual report 2004*, p. 5

⁵⁶ Slovenia, Ministry of Education, Science and Sport (2004), *Strategija vzgoje in izobraževanja Romov v republiki Sloveniji*

from the former Yugoslavia who live in social housing, and the two parts of the neighbourhood coexist on uneasy terms.

Association Mozaik, an NGO established with the purpose of enabling social inclusion of children, teenagers and volunteers of different national, ethnic or religious affiliations, especially those from unfavourable social environments, set up a project called Colours, to integrate the Roma population into the wider social environment. The association began its work in the settlement in September 2004 and focused mostly on animating children on the street.

Roma children are taught different skills (artistic, musical, performing), and provided help with their school work and their command of Slovenian language. The work is performed in small groups with children from the earliest ages on. In addition to the activities in the settlement, the association is trying to bring the children to the town and outside of Ljubljana to overcome ghettoisation and social isolation. Now that the association has gained the trust of the Roma community with dedicated work, they are trying to include young mothers, still in their teens, and the adult Roma population.

The activities of the project are not limited only to the Roma population. The association's space in the neighbourhood is located between the Roma and non-Roma parts. Its positioning was instrumental in overcoming initial arguments and attracting non-Roma children and involving them in workshops and play with Roma children.

This project is, like many others presented in this report, still in its early stages of development and will therefore be evaluated more fully after it has been completed, but because of its positioning and implementation deserves to be included.

2.2.3. Creating minority media

Ethnic communities which are not protected by the territorially-based system of minority protection in Slovenia (this system includes the Italian and Hungarian minorities, and to some extent Roma) are far less integrated into the media. In comparison, out of 430 million SIT (approximately € 1,790,000) allocated from the State budget for media and information activities of different ethnic minorities, only 5.6 million SIT (€ 23,000) was spent on media projects of ethnic communities of former Yugoslavia, including the German speaking minority. Almost 96 per cent of all funds were earmarked for the Italian and Hungarian minorities, and slightly less than three per cent for Roma.⁵⁷

“Creating minority media”, an educational project of the Peace Institute carried out in September 2005, addressed this issue of media integration with an educational two day workshop for editors and contributors to media of ethnic communities of former Yugoslavia in Slovenia. Theoretical consideration and

⁵⁷ Petković, B. (2005) “Romi naposled vključeni v sistem javne radiotelevizije: medijska integracija manjšin v Sloveniji”, in: *Poročilo skupine za spremljanje nestrpnosti*, No. 4, p. 30

debates focused on the importance of minority media, possible ways of publishing and fund-raising, and problems faced by minorities in creating media content. Participants were taught by professional journalists and editors, and media experts on the organisation of work, the importance of editorial policy, and involved in practical media work from elementary data collection to advanced editorial work.

3. Legislation

3.1. Legislative provisions addressing racism and xenophobia

3.1.1. Transposition of Directives 2000/43/EC and 2000/78/EC

In 2004 the NFP reported that the establishing and functioning of equality bodies (the Council of the Government of the Republic of Slovenia for the Implementation of the Principle of Equal Treatment and the Advocate of the Principle of Equal Treatment) is lagging behind, however, in the meantime several steps forward have been taken.

On the basis of Article 9 of this Act the Government of the Republic of Slovenia issued a *Decision on the Establishment, Composition, Organization and Tasks of the Council of the Government of the Republic of Slovenia for the Implementation of the Principle of Equal Treatment*.⁵⁸ The Council held its first meeting on 10 May 2005.

Another body established by this Act is the Advocate of the Principle of Equal Treatment that began with its activities in 2005. Out of forty initiatives received by the Advocate, only one was based on the grounds of ethnicity and race. The deliberation of the case was terminated because the applicant lacked interest for the case to be resolved.⁵⁹

There were no other laws or implementing acts adopted on the basis of the act. However, there are two legislation proposals that will, after they are adopted, include anti-discrimination provisions pursuing adoption of the *Act Implementing the Principle of Equal Treatment: amendments to Public Servants Act*⁶⁰ and proposal of a new *Religious Freedom and Religious Communities Act*.⁶¹

3.1.2. Transposition of Council Framework Decision 2002/629/JHA

Pursuant to the *Council Framework Decision on combating trafficking in human beings (2002/629/JHA)*, *Penal Code of the Republic of Slovenia*⁶² was

⁵⁸ Slovenia / Decision No. 026-53/2004-01, (26.08.2004) and subsequent modifications

⁵⁹ Information provided by the Advocate of the principle of Equal Treatment on 09.10.2005

⁶⁰ http://www2.gov.si:8000/zak/Pre_Zak.nsf/zak_po_UNID/C6B2ECA6584B58CC125704B00229FC9?OpenDocument, (10.10.2005)

⁶¹ <http://www.gov.si/uvs/predlogz.doc>, (10.10.2005)

⁶² Slovenia / SOP: 2004-01-4208, (17.06.2004)

amended on 20 April 2004 with two articles for the prevention and punishment of trafficking.

The provision of Article 311, paragraph 3, of the Penal Code further states that a person who unlawfully transfers foreigners who have no permission to reside on the territory of the Republic of Slovenia, transports them or helps them to hide, or receives payment for such services, shall be punished with up to five years imprisonment or with pecuniary punishment. The same punishment may be issued to an official who with abuse of authority enables a foreigner to enter Republic of Slovenia or to reside illegally in Slovenia.

Furthermore, Article 311, paragraph 5, states that if a perpetrator, who commits acts from paragraphs 3 or 4 of the same Article (i.e. obtains for him or for another person disproportionate financial profits, provides labour force without rights, causes danger for lives or health of people, supports terrorist activities, or commits such crimes as a member of a criminal enterprise), shall be punished with imprisonment from one to eight years or with pecuniary punishment. These provisions may also be used for crimes committed on the territory of other states, if a country where the crimes took place, accepted joint international commitment to prevent such crimes, regardless of where the crimes took place, and specified the crimes in its penal legislation. If the crimes were committed on the territory of the European Union, citizens of Member States are not regarded as foreigners in the course of the application of paragraphs 1 to 4 of Article 311 of the Penal Code.

The provision that directly prohibits trafficking with human beings is contained in Article 387.a of the Penal Code. Paragraph 1 of the stated article states that a person who for the purposes of prostitution or other forms of sexual abuse, forced labour, slavery, servitude or trafficking with human organs, tissues or blood purchases, takes over, accommodates, transfers, sells, delivers or in any other way handles another person or acts as a middleperson in then course of such actions, shall be punished with a punishment of imprisonment in duration from one to ten years. If a crime specified in paragraph 1 of Article 387.a is committed against a minor or with force, threat, deceit, kidnap or abuse of inferior or dependent position or with an intention of forced pregnancy or artificial insemination, the perpetrator shall be punished with an imprisonment in duration of three years minimum. The same punishment shall be issued to a person who commits these crimes as a member of a joint criminal enterprise established for commission of such crimes, or if pursuant of such crimes a large financial profits were obtained.

By including the stated articles in the *Penal Code of the Republic of Slovenia*, the 2002/629/JHA Decision was transposed to a sufficient extent and the loophole that prevented the authorities to take the crimes of human trafficking seriously was filled. However, in Slovenian legislation there is a lack of definitions that would enable the staff to recognise victims of trafficking and guidelines on treatment that should be undertaken after determination that a person is a victim of trafficking.

3.1.3. Transposition of Council Directive 2004/38/EC

*Aliens Act of the Republic of Slovenia*⁶³ which entered into force in 1999 and was last amended in 2002, does not contain legal provisions transposing the Council Directive 2004/38/EC. However, the Slovenian authorities have taken most of the steps necessary to ensure the transposition of the stated Directive. Namely, on 2 June 2005 the Government of Slovenia proposed amendments⁶⁴ to the *Aliens Act* for the purposes of transposition of the *Council Directive 2004/38/EC*, and consequentially the adequate harmonisation of Slovenian law with EU law in the area of free movement of persons. The amendments have already been adopted by the National Assembly but were not yet published in the Official Gazette of the Republic of Slovenia.

The proposed amendments constitute a new chapter XII.a of the *Aliens Act*, regulating entry and residence of citizens of the EU and their family members. The right to entry and exit, the right of residence for up to three months and the right to permanent residence, as defined in the proposed amendments, are respected as provided for in the *Council Directive 2004/38/EC*.

According to the *Council Directive 2004/38/EC*, the proposed amendments recognised the right to permanent residence after a period of five years of residing in the host member state. However, the proposed provision of Article 93.j of the *Aliens Act* states reasons for which the right to permanent residence cannot be granted. Namely, this provision states that permanent residence is granted to Union citizens if there is no well-founded suspicion that their residence in the Republic of Slovenia would represent danger to public order, security or international relations of the Republic of Slovenia, or if there is no suspicion that their residence in the country will be connected to execution of terrorist or other violent actions, unlawful intelligence activities, drug trafficking or commissions of other criminal acts. This wording represents an extended definition of *public security clause* (provided for in Article 28 (3) of the *Council Directive 2004/38/EC*) which also serves as a reason for restricting the right of entry and residence of Union citizens and their family members in the member state, as stipulated in Article 27 (4) of the *Council Directive 2004/38/EC*.

Another reason for expulsion of a Union citizen is defined in the provision of a proposed Article 93.h, paragraph 1, point 5, stating that permanent residence certificate is not issued if it is determined that Union citizens' work conditions in the Republic of Slovenia are contrary to the provisions regulating employment and work or contrary to the provisions on the prevention of work in the black market.

⁶³ Slovenia / SOP: 2002-01-5310, (29.11.2002)

⁶⁴ http://www2.gov.si:8000/zak/Pre_Zak.nsf/zak_po_UNID/98F371B93E9FD0F6C125708C0026640B?OpenDocument, (10.10.2005)

It is our assessment that with the publication of the proposed amendments in the Official Gazette of the Republic of Slovenia, the *Council Directive 2004/38/EC* will be adequately transposed into the Slovenian national legislation.

3.1.4. Transposition of Council Directive 2003/9/EC

Provisions of the *Council Directive 2003/9/EC* are partly transposed in the Slovenian legislation with the *Asylum Act of the Republic of Slovenia*. The *Asylum Act*, which is currently in force, regulates asylum procedures, rights of asylum seekers and rights of refugees. The provisions of the act correspond to minimum standards on reception conditions set forth by the *Council Directive 2003/9/EC*, except for two details: first, asylum seekers are not allowed to work, and second, minors who are asylum seekers or minor children of asylum seekers are not legally entitled to secondary schooling, but only to elementary schooling.

For the purposes of a full transposition of the *Council Directive 2003/9/EC* to the Slovenian national legislation, amendments to the *Asylum Act* are currently being drafted by the Ministry of the Interior.⁶⁵

3.1.5. Operation and legal status of religious congregations

The legal status and operation of religious communities are regulated with *Legal Status of the Religious Communities in the Republic of Slovenia Act*⁶⁶ which entered into force in 1976 and was later amended in 1986 and 1991. It is important to stress that this act was adopted in the times of the Socialist Federal Republic of Yugoslavia, when Slovenia was one of its republics. Accordingly, the regulation introduced by this act is not only insufficient but also reflects the need of the state bodies to have a full control over religious communities. The 1991 amendments to this Act allowed for the establishment of confessional schools and recognised diplomas obtained thereof, but it did not add to regulation of the establishment and functioning of religious communities. The Act only stipulates that religious communities have legal personality which is obtained when the establishment or termination is reported to the Commission of the Republic of Slovenia for relations with religious communities (today Office of the Government of the Republic of Slovenia for Religious Communities).⁶⁷ After a religious community reports to the Office, the Office issues a certificate confirming that a religious community obtained legal personality in the sense of private civil law. With the certificate religious

⁶⁵ Proposal of the Asylum Act was sent into coordination on 15.09.2005 to non-governmental organisations dealing with the rights of asylum seekers and refugees.

⁶⁶ Slovenia / SOP: 1976-04-0646, (26.05.1976) and subsequent modifications

⁶⁷ One of the main critiques of the establishment of the office was that it was established in a non-transparent way with a decision of the Government and not through a legislative procedure with an act.

communities may participate in legal transactions – concluding contracts, opening bank accounts etc.⁶⁸

Other tasks of the Office, which are defined with a *Decision on the establishment of the Office of the Government of the Republic of Slovenia for Religious Communities*,⁶⁹ are: expert assistance to religious communities and cooperation with them, monitoring of the situation of religious communities, implementation of organic laws, cooperation with state bodies in issues concerning religious communities, and international cooperation.

Since the regulation of the establishment and operation of religious communities is insufficient a new *Act on Religious Freedom and Religious Communities* is being drafted. The main purpose of the new law is to define a religious community, comprehensively regulate the status of religious communities, enable optional registration of religious communities and define the procedure of registration in detail.

3.1.6. Readmission agreements, deportations and voluntary repatriation

Slovenia concluded readmission agreements with the following non-EU Member states: Croatia (1995), Bulgaria (2000), Romania (2001), Macedonia (1999), Serbia and Montenegro (2001) and Canada (1996).⁷⁰

Deportations of illegal immigrants (the Police): In the period between 1 January and 31 December 2004, the Slovenian police returned 611 persons on the basis of readmission agreements, out of 2,116 illegal migrants that entered the territory of Slovenia. Most of illegal migrants were returned at the border of Croatia (557). Their nationality was of Serbia and Montenegro (120), Albania (89), Bosnia and Herzegovina (90), Macedonia (89) and Turkey (23). At the border of Hungary twenty-nine persons were returned, at the border with Italy also twenty-one and at the border with Austria three.⁷¹

In the period between 1 January and 31 May 2005 the Slovenian police returned 692 persons on the basis of readmission agreements, out of 2,732 illegal migrants that illegally entered the territory of Slovenia. Most of illegal migrants were returned at the border of Croatia (656). Their nationality was of Serbia and Montenegro (176), Albania (156), Bosnia and Herzegovina (93), Macedonia (69) and Turkey (59). At the border of Hungary seventeen persons were

⁶⁸ Prepeluh, U., Šturm, L., Movrin, M. (2004), *Overview and Legal Analysis of Valid Legislation of the Republic of Slovenia in the Field of legal Regulation of Religious Communities*, <http://www.gov.si/uvs/pregled.doc>, (05.10.2005)

⁶⁹ Slovenia / SOP: 1993-01-2642, (07.12.1993)

⁷⁰ <http://www.mnz.si/si/1924.php>, (01.09.2005)

⁷¹ <http://www.policija.si/si/statistika/meja/il-prehodi2004.html>, (02.09.2005)

returned, at the border with Italy also seventeen and at the border with Austria one.⁷²

Voluntary return of refugees is a new development in Slovenia - in 2004 the Ministry of the Interior dealt with the first case of a recognised refugee (an asylum seeker who was granted refugee status) who expressed a wish to return to his country of origin and was actually returned. Due to the lack of legal regulation of such situation the Immigration Sector took several ad hoc measures to carry out the return.⁷³

Voluntary return of asylum seekers, illegal migrants, temporary refugees and victims of trafficking is dealt with by the International Organization of Migration. In 2001 and 2002 IOM Ljubljana assisted fifteen asylum seekers and illegal migrants in the process of voluntary return and provided other assistance (e.g. providing travel documents; providing airport transit assistance, counselling assistance) to nearly one hundred migrants, mainly from Romania, Bulgaria, the Philippines, Iran and Yugoslavia. In 2003 counselling assistance was provided to six migrants from Serbia and Montenegro, Bosnia and Herzegovina, Moldova and Kosovo. In 2001 and 2002 IOM Ljubljana assisted four victims of trafficking and in 2003 one person was assisted. Since 2001 IOM Ljubljana assisted altogether 130 migrants to return home to Bosnia and Herzegovina through six convoys.⁷⁴

3.1.7. Access of immigrants, asylum seekers and refugees to health services

According to Article 32 of the *Regulation on the Rights and Obligations of Refugees in the Republic of Slovenia*,⁷⁵ refugees who were granted asylum have the right to health insurance in accordance with the provisions regulating health insurance in Slovenia. This means that according to Article 7 of the *Health Protection and Health Insurance Act*,⁷⁶ health services for a refugee are covered from the state budget of the Republic of Slovenia. In terms of health insurance refugees are in the same group as imprisoned convicts, minors in re-education centres (prisons for minors), and inmates in institutions for obligatory psychiatric or addiction treatment.

Immigrant groups (Article 55 of the *Aliens Act*)⁷⁷ and asylum seekers (Article 43 of the *Asylum Act*)⁷⁸ have the right to basic health insurance. Health services

⁷² <http://www.policija.si/si/statistika/meja/il-prehodi2005.html>, (02.09.2005)

⁷³ Information provided by a representative of the Ministry of Interior, Directorate for Internal Administrative Affairs on 28.06.2005.

⁷⁴ Information provided by the IOM representative on 29.06.2005

⁷⁵ Slovenia / SOP: 2004-01-1434, (06.04.2004) and subsequent modifications

⁷⁶ Slovenia / SOP: 1992-01-0459, (12.02.1992) and subsequent modifications

⁷⁷ Slovenia / SOP: 2002-01-5310, (29.11.2002)

⁷⁸ Slovenia / SOP: 1999-01-2911, (08.07.1999) and subsequent modifications

involved in basic health insurance are explicitly listed in Article 24 of the *Regulation on Manners and Conditions for Ensuring the Rights of Asylum Seekers and Persons with Special Form of Protection*.⁷⁹ The services include the right to emergency medical assistance and emergency transportation as decided by the curing medical doctor, the right to emergency dental services and the right to necessary medical treatment as decided by the curing medical doctor. The extent of basic health insurance is narrower than obligatory health insurance which every resident of the Republic of Slovenia must have. While basic health insurance covers only services and immediate assistance that a sick or injured person needs, obligatory health insurance includes full insurance for injury or sickness obtained out of work as well as insurance for injury and sickness obtained as a consequence of work or while working.

3.1.8. Voting rights in municipal elections for immigrants, refugees and asylum seekers

The right to vote in municipal elections derives from permanent residency in the Republic of Slovenia and contains the right to vote the representatives to the municipal council (Article 5 of the *Local Elections Act*).⁸⁰ Therefore, the right to vote in municipal elections is secured for refugees, who obtain permanent residence permits after they are recognised a refugee status (Article 49 of the *Asylum Act*)⁸¹ and for those immigrants who secured permanent residence permits after continuous eight years of living in the Republic of Slovenia on the basis of temporary residence permits (Article 41 of the *Aliens Act*).⁸² Asylum seekers and other immigrants are not entitled to vote in the Republic of Slovenia.

3.1.9. Significant reports

- Human Rights Ombudsman of the Republic of Slovenia (2005), 2004 Annual Report⁸³
- Mavčič, A. M. (2005), *Report on the Situation of Fundamental Rights in Slovenia in 2004*, EU Network of Independent Experts on Fundamental Rights⁸⁴
- Foundation GEA 2000 – 2005 Country Report on Transposition of Council Directive 2000/43/EC and Council Directive 2000/78/EC

⁷⁹ Slovenia / SOP: 2002-01-3913, (13.09.2002)

⁸⁰ Slovenia / SOP: 1993-01-2630, (31.12.1993)

⁸¹ Slovenia / SOP: 1999-01-2911, (08.07.1999) and subsequent modifications

⁸² Slovenia / SOP: 2002-01-5310, (29.11.2002)

⁸³ <http://www.varuh-rs.si/index.php?id=933#1613>, (10.10.2005)

⁸⁴ <http://www.cpd.r.ucl.ac.be/cridho/InformesCFRCDF2004/nacionales/CFR-CDF.rep.SLOVENIA.2004.pdf>, (10.10.2005)

- Peace Institute (2005), *Country Report on the Transposition of the Council Directive 2000/43/EC and Council Directive 2000/78/EC*, Ljubljana
- Report to the Government of the Republic of Slovenia on the Work of the Mixed Working Group for Combat against Trafficking with Human Beings for 2004⁸⁵
- Zavratnik Zimic, S. et al. (2005), *Where in the Puzzle: Trafficking from, to and through Slovenia, Assessment Study*, Ljubljana: International Organization for Migration and Peace Institute⁸⁶

3.2. Initiatives for legal practitioners

NGO Asylum Group: In the last five years a group of non-governmental organisations dealing with the rights of immigrants, asylum seekers and refugees have joined their efforts in an informal coordination group in order to have a stronger impact in joint actions. The most visible members of this group are organisations such as Amnesty International Slovenia, Association Mozaik, Foundation GEA 2000, Legal Information Centre for NGOs, Peace Institute, Slovenian Philanthropy, and other organisations. Organisations comment on proposed amendments, meet regularly with state officials, monitor implementation of laws, draft press releases and hold press conferences in situations of the lack of respect for asylum seekers rights.

Awareness Raising: After the adoption of anti-discrimination legislation non-governmental organisations began with awareness raising activities through organizing seminars for different target groups:

- Seminar on the regulation of status of unrecognised national minorities (1-2 July 2005), ISCOMET
- Anti-discrimination seminar for non-governmental organisations (17-18 June 2005), Peace Institute
- Anti-discrimination seminar for in-service and pre-service judges and prosecutors (9-10 June 2005 and 11 October 2005 respectively), Peace Institute. Accompanying output of the project was an anti-discrimination manual for legal practitioners: Zagorac, D. (ed.) (2005): *Equality and Discrimination: Contemporary Challenges for the Judiciary*, Ljubljana, Peace Institute

⁸⁵ <http://www.vlada.si//util/bin.php?id=2005040414573856>, (05.10.2005)

⁸⁶ <http://www.vlada.si//util/bin.php?id=2005100614075174>, (04.10.2005)

4. Housing

4.1. The situation regarding racism and xenophobia in housing

4.1.1. New sources of data

Valuable information on the situation of immigrants, refugees, asylum seekers and minorities in housing was obtained from two research reports published in 2005 by the Institute for Ethnic Studies on immigrants' perceptions of the Slovenian integration policy and on immigration processes in the municipality of Ljubljana and their effects on the ethnic composition the capital, spatial dispersion of immigrant communities, etc.⁸⁷

Another report, dealing with policy measures to ensure access to decent housing for migrants and ethnic minorities, was valuable in this respect. Although it was published in 2004, the report represents a rare but all the more indispensable critical overview of existing policies in the housing sector and field data. The report was prepared by researchers of the Centre for Welfare Studies at the Faculty of Social Sciences in Ljubljana.⁸⁸

Information on the situation of asylum seekers and refugees was provided by NGOs from the NGO Asylum Group, presented in the previous chapter as an example of good practice. Information regarding the housing situation of Roma was provided by Mozaik Association from Ljubljana.

The rest of our collection of data included already identified sources from our earlier work.

4.1.2. Statistical Data

It is a real challenge to provide relevant statistical data regarding racism and discrimination in the housing sector, because housing is not as subject to government regulation as employment and education.

For one, the monitoring and assessment of discrimination in housing is provisional at best. The mandate of housing inspectors is restricted in this sense

⁸⁷ Komac, M., Medvešek, M. (eds) (2005), *Percepcije slovenske integracijske politike: zaključno poročilo*, Ljubljana: Inštitut za narodnostna vprašanja, and Komac, M., Medvešek, M. (eds) (2005), *Simulacija priseljevanja v ljubljansko urbano regijo: analiza etnične strukture prebivalstva Mestne občine Ljubljana*, Ljubljana: Inštitut za narodnostna vprašanja

⁸⁸ Mandič, S., Boškič, R., Filipović, M. (2004), *Policy measures to ensure access to decent housing for migrants and ethnic minorities*, Ljubljana: Faculty of Social Sciences

to monitoring conditions and management of multi-user dwelling houses and does not include monitoring of discrimination. The Advocate of the Principle of Equality is one possible body individuals can turn to, but the competencies of the Advocate are rather limited to hearing cases and issuing recommendations. And, as it was mentioned previously in this report, the institution of the Advocate has only just been established and has so far not come across any such cases.

The second reason, possibly the most important, for lack of data is that for fear of losing accommodation, cases of alleged discrimination are simply not reported and are dealt with the concerned individuals themselves, if at all. Such a conclusion can certainly be drawn from interviews the NFP performed with various individuals and organisations active in assisting migrants, asylum seekers and others in securing accommodation. But because this information is not compiled and verified, the issue of discrimination in housing is not discernible from statistical data available.

What is available, though, is information and data on the situation of vulnerable groups in the housing market. Research report of the Institute for Ethnic Studies, which dealt with processes of immigration from the republics of former Yugoslavia into the urban region of Ljubljana, provides in this respect a welcome overview of immigrants' housing situation in the capital. The study dealt with three basic issues, i.e. the ethnic composition of the city, analysis of its minority integration policy and suggestions for improvement in formulating such a policy which would take into consideration the established multicultural reality.

The study draws heavily on data from the Population Census 2002, the most recent comprehensive set of data available. The opening finding of the study is that non-Slovenians represent a considerable share of the Ljubljana population (12.9 per cent) and that their share has increased. At the same time, the share of Slovenians has decreased from 82.46 per cent to 73.77 per cent from 1981 until 2002.

The composition of ethnic communities has also changed. Some communities have witnessed a decrease, mostly Montenegrins, Croatians, Macedonians and Serbs, while some immigrant populations have increased considerably, especially Albanians, and Bosniacs and Muslims.

Data on spatial dispersion shows a higher concentration of immigrants in large housing estates outside of the city centre. Researchers note that despite this concentration, the situation could not be described as distinctive spatial segregation, except in the case of Rakova Jelša neighbourhood, which is also characterised by inadequate infrastructure.⁸⁹

⁸⁹ Komac, M., Medvešek, M. (eds) (2005), *Simulacija priseljevanja v ljubljansko urbano regijo: analiza etnične strukture prebivalstva Mestne občine Ljubljana*, Ljubljana: Inštitut za narodnostna vprašanja, pp. 45-46. Please note that Rakova Jelša neighbourhood is also mentioned in the chapter on education on p. 26!

Considering data on the type of accommodation in terms of ownership, it is apparent that there is a high degree of privately owned accommodation among Slovenians (82 per cent) and that all the other ethnic communities could provisionally be separated into two distinct groups. The first group is characterised by a high degree of privately owned accommodation and includes Montenegrins (74 per cent), Croatians (75 per cent), and Serbs (71 per cent). In the second group there are considerably less private owners, and this group includes Bosniacs, Muslims and Bosnians (46, 40, and 48 per cent), Albanians (30 per cent), and Roma (50 per cent).⁹⁰ The second group also has more individuals who live in different types of rental housing, especially workers' hostels.

Data collected in this report shows that immigrants are in a disadvantaged position in the housing market in comparison to the majority population. Amongst the immigrant population, Albanian, Bosniac/Muslim/Bosnian, and Roma ethnic communities especially rely more than others on measures of support in the housing market.

Reporting on conflicts in relation to Roma settlements has by now become a regular feature in the work of the NFP. This summer again saw a protest organised by non-Roma neighbours of a Roma settlement on the outskirts of Novo mesto. In June, protesters brought traffic to a halt in a roundabout for ten minutes, because they thought the municipality and the State did not respond to their demands that the Roma settlement without legal permission be removed. After this brief act of civil disobedience, the protesters delivered their protest note to the municipality and returned their bills for the payment of compensation for the use of building ground unpaid.

This incident is perhaps a good indicator that both local and national policies on Roma housing are inefficient and should be reconsidered. When the NFP approached the Housing Fund on the outcomes of their most recent public tender for loans, the Fund informed us that there were no applications for the last three tenders, which would address housing needs of Roma. This further reinforces assessments of critics of this arrangement that because resources, allocated by the Housing Fund for this purpose, are limited, and because none of the stakeholders wants to accept responsibility and dedicate enough resources, such initiatives are bound to fail in the future.

4.1.3. Reception centres for asylum seekers

In March 2005, a measure of restricted freedom of movement was imposed on persons who have not yet submitted their asylum application, but have expressed their intention to do so. In accordance with this measure, persons who

⁹⁰ Komac, M., Medvešek, M. (eds) (2005), *Simulacija priseljevanja v ljubljansko urbano regijo: analiza etnične strukture prebivalstva Mestne občine Ljubljana*, Ljubljana: Inštitut za narodnostna vprašanja, pp. 187-203. The relatively high share of privately owned accommodation amongst Roma may be an anomaly in data.

intend to submit an application and are accommodated in the pre-reception area of the reception centre for asylum seekers (in Ljubljana), do not have the right to leave the premises for forty-eight hours after their arrival, i.e. after they have signed a statement that leaving the premises would be interpreted as a withdrawal of the intention to submit an asylum application in Slovenia. Consequently, a person who would leave the premises would be treated as an illegal migrant and would be put in one of the Centres for Aliens (in Postojna or Prosenjakovci). The Directorate for Migration explained that the measure was introduced on the basis of the *Asylum Act*, which states that before submitting an application these persons are considered foreigners. According to the Directorate, the main objective of the measure was to establish control and keep the persons within the reach of the authorities for procedural purposes.

A group of NGOs working on asylum-related issues, i.e. the so-called NGO Asylum Group presented in the chapter on legislation on p. 38, expressed their concern regarding the rights of asylum seekers and refugees in Slovenia. They pointed out that the conditions in the pre-reception area are unsuitable for living, and listed the established deficiencies: overcrowding, insufficient and inappropriate facilities for personal hygiene, poor maintenance and cleaning, no separate rooms for smokers, insufficient ventilation, insufficient food rations, inappropriate security, very restrictive access to fresh air and exercise, and insufficient information provided on the right to health care.

The NGOs protested against such treatment and conditions. The NGOs thought that this measure has no ground in the legislation and that the established situation amounts to de facto unlawful detention. They pointed out that restriction of freedom of movement and inhumane and degrading treatment are recognised as violations of international law in any circumstances.

In a letter to the Minister of the Interior, the NGOs demanded that the measure be abolished. They recognised the need for sufficient control pre-reception area, but called for more humane measures that would ensure the respect for basic human rights of the people accommodated there. They also brought this issue to the attention of a delegation of the Commissioner for Human Rights of the Council of Europe which visited Slovenia in May 2005, and to the attention of the public in a press conference.⁹¹

4.1.4. Significant reports

- Komac, M., Medvešek, M. (eds) (2005), *Simulacija priseljevanja v ljubljansko urbano regijo: analiza etnične strukture prebivalstva Mestne občine Ljubljana*, Ljubljana: Inštitut za narodnostna vprašanja
- Komac, M., Medvešek, M. (eds) (2005), *Percepcije slovenske integracijske politike: zaključno poročilo*, Ljubljana: Inštitut za narodnostna vprašanja

⁹¹ Public statement “The situation concerning the limitation of rights of asylum seekers in Slovenia”, signed by nine NGOs, submitted by email.

- Mandič, S. et al. (2004), *Policy measures to ensure access to decent housing for migrants and ethnic minorities: Slovenian National Report*, Ljubljana: Faculty of Social Sciences

4.2. Initiatives against racism and discrimination in housing in 2005

It is frustrating to conclude the chapter on housing without having been able to identify any significant initiatives of public authorities addressing discrimination in housing in 2005. If anything, a positive gesture of the Housing Fund of Ljubljana which gave the Mozaik Association the right to use two metal sheds free of charge for the purpose of their project, presented on page 28, should be mentioned.

Several initiatives of NGOs are commendable in this respect, although performed within a limited scope. Constant monitoring of living conditions of asylum seekers by a group of NGOs working on asylum-related issues was presented earlier and is only briefly mentioned again as an example of thoughtful advocacy and good coordination on the part of NGOs. The above-mentioned project of Mozaik Association is also an example of primarily an educational project with a positive side effect of challenging spatial segregation of Roma.

5. Racist violence and crimes

5.1. The situation regarding racist violence and crimes

5.1.1. New sources of data

No new sources of data were available in 2005. In data collection the NFP therefore relied on sources identified in previous collections.

Criminal justice data and police data on racist crime are publicly accessible. The NFP has by now established good working relationships with the relevant institutions and our requests for information are promptly processed, especially by some bodies.

It is perhaps another issue that very little data exists at all. Cases are often disposed of with insufficient attention to possible racial motivation. As a consequence, they are not classified as racist crimes and are thereby 'lost' for our monitoring. To counter this, media reports are monitored for information, which is then verified directly with the competent sources.

5.1.2. Significant data and incidents in 2005

In the first six months of 2005,⁹² the police investigated five cases of alleged violation of prohibition of incitement to ethnic, racial or religious hate, discord or intolerance. In three cases, the police filed criminal charges against unknown perpetrators, while in the other two cases reports with collected data were submitted to state prosecutors. In absolute numbers, this is a considerable increase in cases of racially motivated crimes handled by the police – in the first half of 2005, the number of cases equalled those from the years 2003 and 2004 combined.

There is little new to report from the next level of handling racist crimes, i.e. the courts. Two relevant cases are still open and awaiting further proceedings. One is the case of hate speech on the internet concerning abusive messages against Roma.⁹³ After police investigation, two criminal charges against one person were filed on the ground of violation of prohibition of incitement to ethnic, racial or religious hate, discord or intolerance, and the case is now in the hands of the prosecutors in Murska Sobota. The other case is handled by the District Court of Ljubljana, where an alleged perpetrator is charged with abusive

⁹² Data captured from the so-called frozen register of the police, which is updated twice a year and provides the most reliable information in this respect.

⁹³ NFP for Slovenia (2004), *Update of the National Annual report 2004*, pp. 7-8

behaviour against an individual because of his/her lack of command of Slovenian language.⁹⁴

In the case of the Slovenian citizen shooting of a musician from Jamaica with an air pistol with plastic globules,⁹⁵ the District Court in Tolmin in May 2005 found the perpetrator guilty of abusive behaviour against physical and psychical integrity of a person and sentenced him with a fine of 120,000 SIT (approximately €500). A media report⁹⁶ published after the incident stated the perpetrator has been heard screaming “White Power!” at the victim, something which the police investigation did not confirm. After reviewing all the circumstances, the state prosecutor established that there were no elements of racism or xenophobia in the perpetrator’s action and prosecuted on the account of abusive behaviour.

In January 2005, a general debate on the proposed bill regulating the status and special rights of the Roma community living in Slovenia submitted by the Slovenian National Party took place.⁹⁷ In the course of presentation of the proposal, party leader questioned the status of Roma community members as autochthonous residents of Slovenia. Another MP of the same party declared that the adoption of the bill would bring about “the final solution to the Roma question in Slovenia”. Party leader interpreted the special rights of Roma as the right to steal, to drive vehicles without number plates, and concluded the debate with an insinuation to violence by warning MPs voting against the adoption of the bill that the next time it might be the Slovenian people deciding and that they would decide to use the same means that are used against them by Roma.⁹⁸ The proposal was rejected as it was found to be in opposition with the Constitution and international legal provisions. At a meeting of Roma councillors in the Prekmurje region, a councillor requested that criminal proceedings be initiated against the submitters in order to prevent future intolerant proposals related to Roma community.⁹⁹

The situation of the erased residents of Slovenia remains unchanged in 2005. There were no acts adopted for the purposes of implementation of the 2003 Constitutional Court decision which declared the erasure unlawful and unconstitutional.¹⁰⁰ Thirteen years after the erasure, a group of erased carried out two hunger strikes during the course of the year in order to remind the

⁹⁴ Information was submitted by the Office of the General State Attorney upon request.

⁹⁵ NFP for Slovenia (2004), *National Annual report 2004*, p. 38

⁹⁶ http://www.mladina.si/tehdnik/200431/clanek/uvo-manipulator--sinisa_gacic/, (20.09.2005)

⁹⁷ NFP for Slovenia (2004), *Update of the National Annual report 2004*, pp. 6-7

⁹⁸ http://www.dz-rs.si/si/aktualno/spremljanje_sej/dobesedni_zapisi_sej/dobesedni_zapisi_sej.html, (05.10.2005)

⁹⁹ See e.g. Gider, N. (2005) “Zahtevajo kazensko odgovornost predlagatelja”, in *Večer*, (28.01.2005), p. 3

¹⁰⁰ Decision of the Constitutional Court of the Republic of Slovenia, No. U-I-246/02 issued on 03.04.2005, <http://odlocitve.us-rs.si/usrs/us-odl.nsf/o/3BBEA59AB8D5EDD7C1256FC400516C78>, (14.10.2005)

authorities about their situation. The first hunger strike took place in February 2005 and was violently interrupted on the first night of the strike by members of a private security company who threw the erased out of the lobby of a business building, although the group was assured earlier that day that they would not be prosecuted.¹⁰¹ The second hunger strike took place in June 2005 and lasted for 21 days.¹⁰² The erased demanded a meeting with the authorities and immediate implementation of the 2003 Constitutional Court decision.¹⁰³ However, they did not succeed with their demands.

Furthermore, in the course of the first hunger strike a poster was hung on the office doors of the Slovenian National Party in the National Assembly.¹⁰⁴ The words of the poster were: "All Erased invited to a dance where Jelinčič will be playing a machine gun for you." The name Jelinčič referred to Zmago Jelinčič Plemeniti, president of the Slovenian National Party. After the news about the poster was published by the media the police and prosecutors began gathering information in order to trace the unknown perpetrator.¹⁰⁵

Between 6 May and 1 July 2005 three bomb attacks in three different Roma settlements in the Dolenjska region took place. One of the bombs killed two women in their sleep, and another bomb injured two women. In the former case, the police have recently taken into custody three persons suspected of carrying out the bomb attack, but since all three cases are still under investigation, the motives for the incidents have so far not been confirmed. According to the police information, no clues have so far been discovered that would point to a suspicion of a racially motivated attack.

In July 2005, a leaflet referring to the afore-mentioned incidents appeared in Novo mesto and in the vicinity of Brezje, a Roma settlement in Dolenjska. The leaflet included a statement that openly incited to hatred against Roma, saying "Gypsies! I warn you!!! Don't you ever dare to mess around too much, because Boško Buha¹⁰⁶, the bombardier, is waiting for you in Brezje-Žabjak behind the door!!!" The case is currently also being investigated by the police.¹⁰⁷ The leaflet provoked reactions against intolerance, something reported on later on in this chapter.

In the same month, Mladina weekly published in its series of socially responsible advertisements a poster displaying a photograph of a Roma boy

¹⁰¹ <http://www.dostje.org/Aktualno/22feb05c.htm>, (14.10.2005)

¹⁰² Statement of Aleksandar Todorović, <http://www.dostje.org/Izbrisani/erasedenglish.html> (14.10.2005)

¹⁰³ <http://www.dostje.org/Aktualno/21feb05b.htm>, (14.10.2005)

¹⁰⁴ <http://www.varuh-rs.si/index.php?id=286#porocilo> (10.10.2005)

¹⁰⁵ Information was provided by the prosecutors at the anti-discrimination seminar for judges and prosecutors on 09.06.2005.

¹⁰⁶ Boško Buha was a participant of the Yugoslav resistance movement, killed during WWII. Later celebrated as a national hero, he was collectively remembered as a young bombardier who bravely attacked enemy's shelters.

¹⁰⁷ Information submitted by the Office of the General State Attorney upon request.

with an inscription “If you won’t behave, we will hand you over to Slovenians”, a paraphrase of a traditional folk saying “If you won’t behave, we will hand you over to Gypsies”. The poster was later displayed on billboards around the country, but the intention of the authors to question the prevailing prejudice against Roma in Slovenia caused an overheated debate. In its immediate response to the poster, the Slovenian National Party issued a public statement entitled “Advertisement ‘Gypsy boy’ – incitement to intolerance” on its website.¹⁰⁸ The party argued against the disturbing spreading of “positive discrimination”, and asserted that the published poster violated legal and democratic rules and discredited Slovenians in an extremely offensive and humiliating manner. In addition to this, two criminal charges were filed against the agency on the account of incitement to ethnic, racial or religious hate, discord or intolerance, one by a minor extra-parliamentary party, Party of the Slovenian Nation and one by an individual. The case is currently being investigated by the police on the request of the District Attorney’s Office.¹⁰⁹

In August 2005, an anonymous electronic letter to the public pointed to the issue of the uninterrupted functioning of the Slovenian chapter of the international neo-Nazi organisation Blood & Honour. The letter posed two fundamental questions: first, how is it possible that Blood & Honour organises public events (concerts), which feature individuals and groups who call for a revolt against the so called Jewish conspiracy which rules the world, deny or diminish the existence of Holocaust and praise the white race. The letter referred in particular to the coming¹¹⁰ memorial concert, dedicated to Ian Stuart, the late singer of the neo-Nazi rock group Skrewdriver and the founder of Blood & Honour, with a number of musical groups both foreign and local, including a band called Juden Mord from Slovakia. The police considered the letter as an anonymous criminal charge and monitored the event, but failed to perceive any signs of a criminal act and as a consequence also did not take any measures against the event or the organisers.¹¹¹

The second question posed by the letter referred to the website of the organisation,¹¹² and asked how it was possible that a website with racist and antisemitic content is hosted on a private server within a network of the biggest Slovenian internet service provider, SiOL, which is bound by the national legislation. In a response to the letter, SiOL warned the owner of the server to remove the offensive content, but because the owner refused to do so, the company cancelled the contract on the use of its services.¹¹³ As a consequence, the website of Blood & Honour was temporarily unavailable, but was later moved to an ISP in Malaysia.

¹⁰⁸ <http://www.sns.si/article.asp?id=218>, (05.10.2005)

¹⁰⁹ Information was submitted by the Office of the General State Attorney upon request.

¹¹⁰ The letter was posted on 26 August and the concert was announced for 17 September 2005.

¹¹¹ Information submitted by the General Police Directorate on 23.10.2005

¹¹² <http://www.bhslovenia.org>, (08.10.2005)

¹¹³ Information submitted by the SiOL public relations on 12.10.2005 by email.

Another case of hate speech on the internet was taken up by the Human Rights Ombudsman in September 2005, after receiving an anonymous petition which complained about intolerant attitudes propagated through a web forum of the nemejebat.com website. The statements in question were targeted at immigrants from the former Yugoslav republics, and in some cases called for the killing of these people. The Ombudsman warned that “the propagation of such ideas runs contrary to the constitutional ban on the promotion of inequity and intolerance, as well as many international human rights conventions” and alerted the Ljubljana District State Prosecutor’s Office to look into the case and determine whether it qualifies for prosecution under the penal code. The Prosecutor’s Office handed the case over to the police in order to investigate and identify the perpetrators. At a press conference, the Ombudsman also announced that his office would start paying greater attention to online hate speech.¹¹⁴

5.1.3. Significant reports

In May 2005, the Human Rights Ombudsman of the Republic of Slovenia issued his 2004 Annual Report. In the report the Ombudsman once again pointed to the recurrent problems of the erased and the issue of mosque construction in Ljubljana. He also expressed his concerns regarding a number of intolerant statements publicly uttered by politicians, especially against the erased and the Muslim community. In addition, special attention was devoted to an unfavourable living situation of Roma as one of the most pressing issues. The Ombudsman noted that the existing legal regulation of the status of Roma is unacceptable and represents one of the principal systemic reasons for the existing tensions between Roma and non-Roma population as well as for an increase in expressions of open intolerance against Roma. A considerable number of complaints have been submitted to the Ombudsman by both Roma and non-Roma. In several cases non-Roma felt threatened by unbearable and even violent behaviour of certain illegal Roma settlers, while, on the other hand, the Ombudsman acknowledged in many cases unabashed discriminatory attitudes against Roma by both non-Roma neighbours and local structures.¹¹⁵

UN Human Rights Committee issued on 25 July 2005 its concluding observations on the implementation of the *International Covenant on Civil and Political Rights* in Slovenia. In the document the Committee expressed its concerns “about manifestations of hate speech and intolerance in the public life which are occasionally echoed by certain media in the State party”. The Committee recommended that Slovenia undertake strong measures in order to prevent and prohibit promotion of hate and intolerance. The Committee also called on the state to rethink the differences in the status of the so-called

¹¹⁴ [http://www.varuh-rs.si/index.php?id=106&L=6&tx_ttnews\[tt_news\]=1663&tx_ttnews\[backPid\]=48&cHash=f114601da7](http://www.varuh-rs.si/index.php?id=106&L=6&tx_ttnews[tt_news]=1663&tx_ttnews[backPid]=48&cHash=f114601da7), (07.10.2005)

¹¹⁵ Slovenia, Human Rights Ombudsman (2005), *Letno poročilo 2004*; abbreviated version in English available at: http://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/vcp_lp_2004_eng.pdf, (03.10.2005)

autochthonous and non-autochthonous Roma and to eliminate “discrimination on the basis of status within the Roma minority and provide to the whole Roma community a status free of discrimination, and improve its living conditions and enhance its participation in public life”.¹¹⁶

In a joint public statement the European Roma Rights Centre and Amnesty International Slovenia welcomed the Committee’s concluding observations, and “urge(d) Slovene authorities to implement the Human Rights Committee’s recommendations in full”.¹¹⁷

A study analysing the use of racist, antisemitic and xenophobic discourse during recent European and national elections in a number of countries, was published by ECRI. In regard to Slovenia, the study identified with some concern an increase in the voting success of the Slovenian National Party, a populist nationalist party. The study also identified several cases of the use of xenophobic discourse by politicians, especially in the debate regarding the construction of a mosque in Ljubljana, and during a referendum in relation to the regulation of the legal status of the erased residents of Slovenia.¹¹⁸

5.2. Initiatives against racist crimes and violence

Within the framework of the “Forms of Intolerance in Slovenia” project organised by the Human Rights Ombudsman, the exhibition on intolerance reported on previously¹¹⁹ travelled around the country in 2005 and was exhibited in Maribor, Novo mesto and Slovenske Konjice. In each town, a round table accompanied the exhibition with intellectuals, activists and other public figures including the Ombudsman debating the most pressing issues of intolerance and hatred.¹²⁰

A seminar on “Community Oriented Policing Including Integration, Minority Issues and Anti-Racism” took place in Ljubljana in April 2005. Organised by the Slovenian, Dutch and Finnish Police Academies, within the framework of the European Police Academy, the seminar was held for twenty-seven senior police officers from fifteen EU member states and Bulgaria. Participants also

¹¹⁶ [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.CO.84.SVN.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.84.SVN.En?OpenDocument), (03.10.2005)

¹¹⁷ <http://www.errc.org/cikk.php?cikk=2384>, (03.10.2005)

¹¹⁸ Camus, J-Y. (2005) *The use of racist, antisemitic and xenophobic arguments in political discourse*, Strasbourg: ECRI, pp. 6, 17; available at: http://www.coe.int/t/E/human_rights/ecri/1-ECRI/4-Relations_with_civil_society/1-Programme_of_action/14-Public_Presentation_Paris_2005/camus_en.pdf, (03.10.2005)

¹¹⁹ NFP for Slovenia (2004) *Raxen5 Rapid Response No.3: Update of the National Annual report 2004*, p. 11

¹²⁰ See e.g., [http://www.varuh-rs.si/index.php?id=106&tx_ttnews\[pS\]=1112786045&tx_ttnews\[tt_news\]=1610&tx_ttnews\[backPid\]=857&cHash=f9ec105ab3](http://www.varuh-rs.si/index.php?id=106&tx_ttnews[pS]=1112786045&tx_ttnews[tt_news]=1610&tx_ttnews[backPid]=857&cHash=f9ec105ab3), (06.10.2005); http://www.varuh-rs.si/fileadmin/user_upload/pdf/zlozenke/jara_kaca_nestrpnosti.zlozenka.pdf, (06.10.2005)

met with representatives of the Roma community and the Hungarian minority in the north-eastern region of Prekmurje. A member of the EUMC Management Board presented the work and goals of the EUMC. A Deputy Ombudsman also addressed the seminar.

In July 2005 a public statement entitled “Hate speech is spreading around the country - from the National Assembly” has been issued by a civic initiative in connection with a debate in the parliament. The statement, signed by over eight hundred prominent individuals including activists, scholars, and university professors, expressed concern that a reasoned debate in the parliament is too often replaced by a discourse of intolerance and exclusion, including racism and xenophobia, and cautioned that intolerance in the parliament reinforces intolerance in other spheres of everyday life. The signatories protested against intolerant, abusive, insulting, offensive and violent statements and called upon the responsible to put a stop on further spreading of hate speech.¹²¹

Association for the Development of Voluntary Work and a film director, both from Novo mesto, reacted against a growing number of incidents of discrimination and intolerance and violence against Roma. The incidents climaxed in July 2005 with the occurrence of leaflets openly inciting hatred against Roma. First, a public letter was issued, signed by many groups and individuals, and in September, the organisers prepared a manifestation entitled “Stop the violence!” with a varied cultural programme. Various speakers, including the Ombudsman, the Slovenian co-ordinator of the EU campaign “For Diversity. Against Discrimination”, the president of the Roma Union of Slovenia, addressed the issue and called on the general public to act proactively in order to prevent intolerance towards Roma as well as other vulnerable groups (e.g. refugees, foreigners, homeless, disabled and older persons).¹²²

¹²¹ http://www.mladina.si/tehdnik/200528/clanek/slo-tema--mateja_hrastar/, (06.10.2005)

¹²² Information was submitted by the Association for the Development of Voluntary Work. See also: [http://www.varuh-rs.si/index.php?id=106&tx_ttnews\[tt_news\]=1670&tx_ttnews\[backPid\]=1&cHash=8bd78f2172](http://www.varuh-rs.si/index.php?id=106&tx_ttnews[tt_news]=1670&tx_ttnews[backPid]=1&cHash=8bd78f2172), (06.10.2005)

6. Annex

6.1. Brief notes on data collection and methodology

In preparing this report, the NFP team reviewed a whole array of data and information sources, including the legislation and other regulation, official documents, reports, studies, press releases, websites, and other relevant literature. Public authorities, research and other institutions, NGOs and other key actors in the field of racism, xenophobia, antisemitism and Islamophobia were contacted for data and information.

There were very few sources especially amongst public authorities which promptly provided us with the required data. While we understand the problems of competing demands and workload, it must be noted that these are official bodies tasked with the provision of publicly accessible information.

Both the formal and the informal approach were used in data collection. The former consisted mainly in sending out formal requests for data and information to relevant bodies. The informal approach mainly consisted of direct consultation with individuals (within relevant organisations), be it through conversation, email or phone. In data collection from official bodies the informal approach proved to be the most successful.

In addition to the formal and informal approaches, data was collected through publicly available information sources, especially through websites and various databases. In comparison, there are huge differences on availability of data through such electronic means. On the positive end of public bodies with a well-developed provision of information the website of the Human Rights Ombudsman, where all relevant information is put up promptly both in Slovenian and English, should be mentioned.

Due to poor monitoring and reporting systems, accurate, objective and updated data and information is hard to find. The report follows the definitions provided by organisations that provide data, but it must be noted that reporting system vary greatly in terms of transparency, systematics, unambiguousness of definitions, etc.

Use of terms

Discrimination – For the sake of brevity, the term discrimination is used throughout the report without a detailed explanation. Please note that the term always refers to discrimination on the grounds of racial or ethnic origin, religion or belief.

Ethnic communities of former Yugoslavia – The term is used several times in this report and refers to Albanians, Bosniacs/Muslims/Bosnians, Montenegrins, Croats, Serbs, and Macedonians. Unless noted otherwise, the term does not include Roma. The sole purpose of this use is to make emphasis on the fact that Roma as a group are the most disadvantaged ethnic community facing a significantly different situation than others. It must be noted at the same time that there are significant differences in the situations of the afore-mentioned ethnic communities (and within them, too, but that’s another matter).

Bosniacs/Muslims/Bosnians – Since all three ethnic categories are used by the Population Census, it may be necessary to include a brief explanation to avoid confusion over the use of these terms. In the Population Census in Slovenia, the term Muslim may denote both ethnic affiliation and religious belief. As a concept of ethnic affiliation it was introduced in former Yugoslavia. In 1994, the National Assembly of Bosnia and Herzegovina introduced the term Bosniac in an attempt to separate ethnic origin from religious affiliation. This was reflected in the Slovenian Population Census 2002, when both concepts were used, Bosniac and Muslim, in addition to the category Bosnian, which refers to regional affiliation according to the Census. Consider the following table with data on ethnic affiliation for the last two censuses.

Table: Population by ethnic affiliation, 1991 - 2002 censuses, excerpt

	1991	2002
	<i>total</i>	<i>total</i>
Bosniacs	...	21,542
Muslims	26,577	10,467
Declared as Bosnians	...	8,062

The Erased – A popular term for a group of over 18,000 persons, whose data was erased from the register of permanent residents of Slovenia in 1992 without a required administrative procedure. As a result, they have lost their permanent residence permits and associated rights and benefits (pensions, apartments, access to health care and other social rights). Due to space constraints, it is impossible to include a description of this issue in the report. Because the issue is regularly reported on, readers may want to consult some previous reports of the NFP Slovenia for further information.¹²³

Mosque in Ljubljana - A sizeable Muslim community in Ljubljana¹²⁴ has been applying with the municipality for a place to build a Islamic cultural centre/mosque since 1969, and until today this project has not come to a successful conclusion.

¹²³ See e.g. NFP for Slovenia (2004), *National Annual report 2004*, p. 39

¹²⁴ 13,268 persons or almost 5 per cent of the total population of Ljubljana, according to Černič Mali, B. et al. (2003), *Large Housing Estates in Slovenia: Overview of developments and problems in Ljubljana and Koper*, (RESTATE report, 2g), Utrecht: Faculty of Geosciences, Utrecht University, p. 33, available at: <http://www.restate.geog.uu.nl/results/finald4/finald4slovenia.pdf>, (23.06.2004)

6.2. Manifestations of Islamophobia

6.2.1. Methodology of data collection

A legal definition of Islamophobia does not exist, and no institution has adopted any specific definition of Islamophobia, and no specific records on cases and incidents of Islamophobia are kept in Slovenia. The existing records on discrimination, kept by respective institutions, are based on different criteria (e.g. articles of the Penal Code, complaints referring to violation of constitutional rights, of social rights, or discrimination on the grounds of sex or other personal circumstances).

Due to the lack of an official definition of Islamophobia, the NFP adopted a working definition of Islamophobia to mean any form of verbal or physical hostility aimed at members of the Muslim community, their faith and property. Eight components that may be attributed to Islamophobia, developed by the Commission on British Muslims and Islamophobia were also consulted.

Both official and unofficial sources of information were consulted, including direct consultation with representatives of the Islamic Community in Slovenia, and members of the Muslim community.

6.2.2. Data from official sources

As mentioned previously, police records do not include data on the ethnic or religious affiliation of victims, and it is therefore impossible to identify if any of the crimes, handled under Article 141, Article 300 or Article 314 of the Penal Code¹²⁵ were perpetrated against Muslims.

The Advocate of the Principle of Equality informed us that since its establishment on January 1, 2005, until 30 September 2005, no complaint was lodged on the basis of violation of religious equality¹²⁶.

In 2004, fifteen complaints related to religious freedom were filed with the Human Rights Ombudsman, of which six were connected with the events surrounding the Mosque construction. Additional four complaints were lodged

¹²⁵ Article 141 bans deprivation and restraint of a person of any human rights or liberty recognised by the international community or laid down by the Constitution or the statute on grounds of nationality, race, colour of skin, religion, ethnic roots, gender, language, political or other beliefs, birth status, education, social position or any other circumstance. Article 300 prohibits incitement to ethnic, racial or religious hate, discord or intolerance. Article 314 prohibits hindrance or obstruction of religious rituals.

¹²⁶ Information submitted by the Advocate of the Principle of Equality upon request.

in 2005 until April 25, but none of these are related to the Muslim community¹²⁷.

6.2.3. Cases of Islamophobia

A. Violence against person/s

B. Violence against property

Acts of physical violence directed at Muslims or their property are rare, and the NFP was unable to identify any incidents of violence against persons or property either in 2004 or 2005. Of concern, though, is verbal hostility, in this case expressed especially in relation to the mosque issue.¹²⁸ Listed below, in section C, are several noted cases, reported in the media (statements and quotes are not verified, but also not denied by persons in question) in 2004 and 2005.

C. Verbal threats and abusive behaviour

List of incidents

On January 6, 2004, a press conference was held by Ljubljana branch of a parliamentary party, the Slovenian People's Party. A representative of the party stated that the mosque construction in Ljubljana would promote expansion of infrastructure of Al-Qaeda and other terrorist organisations, and added that due to the fact that terrorist organisations were to a large extent financed by drug trafficking, the consequence of the mosque would be increased drug trafficking in Ljubljana and its surroundings. Beside this, the mosque would ruin the natural and cultural landscape of Ljubljana.¹²⁹ Afterwards, a member of a youth organisation of another party, the Social Democrats, filed a verbal notice of the incident at a Ljubljana police station, but failed to submit any written evidence, and the police failed to undertake any further investigation¹³⁰. However, after the NFP approached the police in order to obtain the latest information, the police asked the NFP to provide it with media reports about the incident. As a result, the police undertook an investigation and submitted a report on the collected data to a state prosecutor. The prosecutors reviewed the case and found no indications of a violation of the prohibition of incitement to ethnic, racial or religious hate, discord or intolerance (Article 300 of the Penal Code).¹³¹

On January 12, 2004, the Slovenian Democratic Party held a press conference and a representative of the party asserted that the building of one or more

¹²⁷ Information submitted by the Office of the Human Rights Ombudsman of the Republic of Slovenia.

¹²⁸ NFP for Slovenia (2004), *National Annual Report 2004*, pp. 40-41

¹²⁹ Tavčar, B. (2004) "Podpisi se kopičijo", in: *Delo*, (07.01.2004), p. 2; <http://www.dnevnik.si/clanekb.asp?id=70152>, (05.05.2005)

¹³⁰ Information submitted by the informant and the Police Directorate of Ljubljana during preparation of the Raxen6 Rapid Response no.1.

¹³¹ Information submitted by the Office of the General State Attorney upon request.

oratories would be more appropriate than a mosque. This would be beneficial for all Muslim inhabitants of Slovenia. A big cultural centre with a mosque, as it was foreseen by the Islamic Community in Slovenia, would disturb the autochthonous population to such an extent that the previously positive attitudes towards Slovenian Muslims would be changed.¹³²

On January 20, 2004, a press conference was held by the Civil Society for Democracy and the Rule of Law. A representative of the association stated that the mosque construction would violate human rights of all other citizens, who had a right to appropriate and unburdened environment.¹³³

On February 6, 2004, after the delivery of the collected signatures for the referendum, the protagonist confirmed that skinheads, some of which were identified as alleged members of the neo-Nazi organisation Blood & Honour, were also amongst more than forty persons who had helped collect signatures.¹³⁴ He also stated that several parliamentary and extra-parliamentary parties paid their members to help with the collection.¹³⁵ A website entitled “A big Muslim centre with a mosque in Ljubljana? No, thanks!”¹³⁶ was also launched during this campaign, but was later taken offline.

On March 4, 2004, before a special session of the Ljubljana Municipality Council on the issue of the referendum, several protestors protested in front of the Town Hall with signs stating “Homeland is not an empty word”, “Slovenia has been a catholic country for 1.500 years”, etc.¹³⁷

In April 2004, the initiator of the referendum stated that Muslim values are seen as somehow opposed to the Jewish, Christian and Orthodox European tradition.¹³⁸

In September 2004, a candidate of the Slovenian People’s Party had a logo with a crossed out symbol of a mosque on posters for his general elections campaign, with an inscription “Let’s defend Slovenia”.¹³⁹ In his program, the candidate pointed out that “Slovenians have a right, according to international conventions on the rights of nations, to define ways of living for all other members of minorities, especially to adherents of a Muslim way of life so that no

¹³² Tavčar, B. (2004) “SDS se nagiba k molilnicam”, in: *Delo*, (07.01.2004), p. 7; <http://www.dnevnik.si/clanekb.asp?id=70743>, (05.05.2005)

¹³³ <http://www.dnevnik.si/clanekb.asp?id=71589>, (05.05.2005)

¹³⁴ http://24ur.com/bin/article.php?article_id=2035782, (05.05.2005)

¹³⁵ Avguštin, V. (2004) “Besedo imajo zdaj pravniki”, in: *Dnevnik*, (07.02.2004), p. 14

¹³⁶ <http://www.moseja.net>, no longer online

¹³⁷ Vodovnik, D. (2004) “Referendum zamrznjen”, in: *Delo*, (05.03.2004), p. 2; http://24ur.com/bin/article.php?article_id=2037037, (05.05.2005)

¹³⁸ U.S. Department of State (2005), *International Religious Freedom Report 2004: Slovenia*, available at: <http://www.state.gov/g/drl/rls/irf/2004/35484.htm>, (25.04.2005)

¹³⁹ No institution received an official complaint regarding the incident. However, the Human Rights Ombudsman was of the opinion that this incident had attributes of hate speech, i.e. incitement of religious intolerance. The latter information was submitted by the Office of the human Rights Ombudsman upon request.

architectural violence of religious buildings over the dominant architecture characteristic for Slovenian country occurs. Slovenia as a small country has a right to protect itself appropriately from elements of violence exhibited by Muslim religion across the world.”¹⁴⁰

In an interview in January 2005, the archbishop of the Roman Catholic Church explained that instead of a mosque, the Swiss model with smaller oratories would be sufficient for Slovenian Muslims. He also stated that, though he could not say that Muslims are bad, there is court evidence on mosques in Italy, e.g. in Bologna and Milan, as training grounds for terrorists.¹⁴¹

Slovenian printed media started reporting on London terrorist attacks the day after they took place. The reports objectively covered newly discovered details of the attacks and their perpetrators.¹⁴² While exploring the causes for the attacks, the media did not link it to Islam in general but to Islamic fundamentalists and extremists only.¹⁴³ Some reports reviewed the history of terrorist attacks carried out by Islamic extremists.¹⁴⁴

However, in an editorial of a weekly newspaper “Žurnal” (The Journal; widely distributed free of charge), the editor wrote: “When London was attacked, Muslim organisations mostly kept quiet. In Slovenia as well. However, when they will demand their mosque again, they will do it in a loud voice and demand from us to respect their religious rights. [...] I think that the mosque has no place in Slovenia. It would be too risky.”¹⁴⁵ Members of the Muslim community protested against this article, but the weekly failed to publish its letters in its next edition, prior to the collective summer leave (the journal was not published and distributed during the summer break of almost a month and a half). The weekly has later published two protest letters of members of the Muslim community, in which the authors condemned the terrorist attacks in London, but argued for a clear distinction between the terrorists on the one hand and the Islamic faith and the Muslim community in Slovenia on the other.¹⁴⁶

¹⁴⁰ http://www.volitve.si/kandidati/sls/e3_o4.php?action=results&poll_ident=7, (10.10.2004)

¹⁴¹ Trampuš, J. (2005) “Greh ni homoseksualnost kot nagnjenje, ampak to, da dva ležita skupaj. Greh je prakticanje homoseksualnosti. - msgr. Alojz Uran”, in: *Mladina*, (24.01.2005), pp. 34-35

¹⁴² See e.g. Kastelic, B. (2005) “56 minut, 4 eksplozije, 50 mrtvih”, in *Dnevnik* (08.07.2005), pp. 1,2; Meršol, M. (2005) “Teroristični napad na London ob začetku vrha najbogatejših držav”, in *Delo* (08.07.2005), pp. 1,3

¹⁴³ Hočevar, T. (2005) “Strah v Rimu”, in *Delo* (08.07.2005), p. 4; Kramžar, B. (2005) “Interpretacija terorizma”, in *Delo* (08.07.2005), p. 5; Soban, B. (2005) “Zahod pozna islam samo površinsko”, in *Delo* (09.07.2005), p. 4; Lorenci, J. (2005) “Dvakrat ogrožena Evropa”, in *Delo* (13.07.2005), p. 5; Kocbek, D. (2005) Mladi muslimani brez prihodnosti”, in *Delo* (15.07.2005), p. 4

¹⁴⁴ “Večji teroristični napadi po svetu”, in *Delo* (08.07.2005), p. 4; Zgaga, B. (2005) “Islamski napadi v Evropi le zadnji dve leti”, in *Večer* (08.07.2005), p. 3

¹⁴⁵ Steinbuch, D. (2005) “Rushdie je imel prav”, in *Žurnal* (15.07.2005), p. 2

¹⁴⁶ Kulauzović Bošnjaniin, E. (2005) “Rushdie je imel prav (2)”, in *Žurnal*, (26.08.2005), p. 14; Pašić, A. (2005) “Rushdie je imel prav (2)”, in *Žurnal*, (26.08.2005), p. 14

According to the media, the President of the National Assembly of the Republic of Slovenia was reported to have stated that “[i]f Islamic fundamentalism of Al-Qaeda is really behind this organised terrorism, then he would call on all representatives of a moderate, democratic, more humane line of Islam, to condemn this crime and these criminals and outlaw them from their midst, otherwise this shadow of blood would fall over the whole of Islam.” According to some analysts, the statement could be understood as a collective condemnation of Muslims before the real perpetrator was even discovered.¹⁴⁷

In a column in the supplement to the daily newspaper “Delo”, discussing high percentage of Croatian football trainers in Slovenian football leagues and its alleged connections to the Slovenian speculators, the editor of the newspaper’s sport pages stated that “They remind him of links between freemasons, faggots, Muslims and similar propulsive alliances, which almost always achieve its goals - and it is the case here – where there are no solid defensive mechanisms and strong proper visions.”¹⁴⁸

D. Islamophobic literature

A wide array of Islamophobic statements may be found in debates on web forums, but these are not part of a consistent editorial policy or activities against Islamic community.

Other Islamophobic literature specifically aimed at the Slovenian Muslim community was not encountered by the NFP.

6.2.4. Trends and developments

In comparison with 2004, the current year shows a decrease in Islamophobic incidents. Terrorist attacks in London have not had any substantial impact on the life of the Muslim community in Slovenia. While distance towards Muslims was expressed in a few articles in the printed media, there have been no Islamophobic incidents recorded either by official or unofficial sources.¹⁴⁹

This decrease in Islamophobic incidents may be attributed to the absence of discussions regarding the construction of a mosque in Ljubljana in the current year. The building of the mosque, however, still remains an unsolved issue.

¹⁴⁷ Mihelj, V. (2005) “Cukjatijevo vabilo na ples”, in *Dnevnik*, (13.07.2005), p. 5

¹⁴⁸ Božič, F. (2005) “Hrvati”, in *Polet*, (18.08.2005), p. 19

¹⁴⁹ Information submitted by representatives of the Muslim community in Slovenia, the Advocate of the Principle of Equality and the Human Rights Ombudsman.

6.3. Manifestations of antisemitism

6.3.1. Methodology of data collection

As in the case of Islamophobia, no legal definition of antisemitism has been employed by any official body in Slovenia. The existing records on discrimination kept by public institutions therefore do not include specific data on antisemitic incidents.

The definition of antisemitism as proposed by the EUMC was adopted.

For the purpose of this report, the NFP consulted both official and unofficial sources, including consultation with the Jewish Community in Slovenia. Due to the lack of official records on antisemitic incidents, the Jewish Community in Slovenia was one of the primary sources. Unfortunately, the Jewish Community does not collect data on regular basis, as it lacks financial resources for such a task.

6.3.2. Cases of antisemitism

A. Violence against person/s

No such incident was encountered by the Slovenian NFP either in 2004 or 2005.

B. Violence against property

In September 2004, Jewish graves at the main Ljubljana cemetery were desecrated. Swastikas were drawn on the graves by an unknown perpetrator.¹⁵⁰

Between 11 and 15 February 2005 an unknown person replaced all inscriptions “Jewish Community” in the building where the office of the Jewish Community in Slovenia is located, and wrote instead “Muslim community”.¹⁵¹

C. Verbal threats and abusive behaviour

In April 2005, the office of the Jewish Community in Slovenia received an offensive e-mail signed by “Adolf Hitler”, which stated that Mr Hitler is sending a little present to Jews. A song entitled “Jewish death”, was attached to the e-mail.¹⁵²

D. Antisemitic literature

Antisemitic literature specifically aimed at members of the Jewish community living in Slovenia was not encountered by the Slovenian NFP.

¹⁵⁰ Information submitted by the Jewish Community in Slovenia upon request.

¹⁵¹ Information submitted by the Jewish Community in Slovenia upon request.

¹⁵² Information submitted by the Jewish Community in Slovenia upon request.

6.3.3. Trends and developments

Considering information on explicitly violent antisemitic incidents, it is fairly accurate to note that such incidents are rare in Slovenia. The last incident recorded by the Jewish Community in Slovenia prior to the ones presented in this report, dates back to the year 2000. An unknown perpetrator, presenting himself as a member of the “Slovenian Nazi association”, left a message on the phone machine of the Jewish Community in Slovenia, stating that the time has come for Jews to experience their own Slovenian Holocaust which would be executed by the mentioned association.¹⁵³

On the other hand, some reports noted the existence of “widespread prejudice, ignorance, and false stereotypes being spread within society” on the basis of information provided by representatives of the Jewish community in Slovenia.¹⁵⁴

¹⁵³ Information was submitted by the Jewish Community in Slovenia upon request.

¹⁵⁴ U.S. Department of State (2005), *Report on Global Anti-Semitism*, available at: <http://www.state.gov/g/drl/rls/40258.htm>, (30.09.2005)

Update of the Report

October – December 2005

Employment

Data on discrimination in employment

The last quarter of 2005 brought no changes in reported cases of discrimination in employment and the statement in the National Annual Report 2005 therefore still stands: not one single case of discrimination was recorded in 2005 by any competent public body.¹⁵⁵

The issue of data on discrimination was brought up twice recently. The Employment Relationships Act¹⁵⁶ prohibits discrimination in employment on different grounds, including race, colour of skin, and religious conviction, but the data kept by the Labour Inspectorate does not differentiate between these different grounds. In this respect, the Advocate of the Principle of Equality urged the Labour Inspectorate to collect data separately, according to different grounds for discrimination as listed in Article 6 of the Employment Relationship Act.¹⁵⁷

In its Second Opinion on Slovenia on the implementation of the Framework Convention for the Protection of National Minorities, the Advisory Committee brought up a more general issue of insufficient “information on the situation of persons belonging to the various groups, in particular the Roma and the non-Slovenes from former Yugoslavia (SFRY), in various relevant sectors, such as employment, health.” The Committee recommended that the authorities pay increased attention to the collection of such information and that they make use of “estimations based on ad hoc studies, special studies or any other scientifically valid methods.”¹⁵⁸

In its response, the Slovenian government noted that “ministries or government offices and the competent institutions do not keep special records of persons regarding their ethnic affiliation” on the account of the Personal Data Protection Act, which forbids maintaining records or collecting data based on racial, ethnic or other personal circumstances without a written permission from an individual. The government noted that only secondary sources of information, i.e. various studies and research projects, can be used and then went on to list

¹⁵⁵ Information submitted by respective institutions upon request, including the Advocate of the Principle of Equality, Labour Courts in Koper, Celje, Maribor, Ljubljana and the Higher Labour and Social Court in Ljubljana. Data provided by the Labour Inspectorate of the Republic of Slovenia covers the first eleven months of 2005.

¹⁵⁶ Slovenia / SOP: 2002-01-2006, (15.05.2002)

¹⁵⁷ Slovenia, Government of Slovenia (2005), *Comments of the Government of Slovenia on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Slovenia*, p. 8

¹⁵⁸ Council of Europe – Advisory Committee on the Framework Convention for the Protection of National Minorities (2005), *Second Opinion on Slovenia*, pp. 12-13

several such studies commissioned by the government.¹⁵⁹ The strict position of the Slovenian authority may need to be reconsidered in light of the European debate on the topic of collection of data.¹⁶⁰

The situation of Roma in the labour market

A particularly high unemployment rate amongst Roma remains one of the biggest concerns in the employment sector. According to some sources, the rate exceeds 80 per cent.¹⁶¹ The Advisory Committee of the Framework Convention for the Protection of National Minorities noted that serious problems remain in the field of employment, due to “inadequate levels of education and qualifications and the persistent prejudice against such persons in the labour market.” The Committee also reported government sources as noting that temporary work was prevalent and regular employment rare among Roma, and that “most Roma live off income derived from social welfare, child benefits and other forms of state support, which often leads to tensions between them and the non-Roma population at the local level.”¹⁶²

One of the measures which provides for temporary employment of Roma is the public works scheme. In December 2005, the government adopted the *Active Employment Policy Programme for 2006* aimed at regulating the situation of the employment sector. The Programme considers Roma to be one of the groups most vulnerable to exclusion from the labour market, for which the provision of subsidised temporary public works still represents one of the main measures.¹⁶³ The government earmarked SIT 660,000,000 (approximately € 2,750,000) for the public works scheme in 2006, a sum which will be divided between the public works programme for particularly vulnerable groups, and the programme of public works for dealing with the consequences of natural disasters.¹⁶⁴

¹⁵⁹ Slovenia, Government of Slovenia (2005), *Comments of the Government of Slovenia on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Slovenia*, p. 7

¹⁶⁰ See e.g. Mannila, S. (ed.) (2005) *Data to Promote Equality: Proceedings of the European Conference*, Helsinki: Finnish Ministry of Labour

¹⁶¹ Council of Europe – Advisory Committee on the Framework Convention for the Protection of National Minorities (2005), *Second Opinion on Slovenia*, p.17

¹⁶² Council of Europe – Advisory Committee on the Framework Convention for the Protection of National Minorities (2005), *Second Opinion on Slovenia*, p.17

¹⁶³ Slovenia, Ministry of Labour, Family and Social Affairs (2005) *Active Employment Policy Programme for 2006*, p.18

¹⁶⁴ Slovenia, Ministry of Labour, Family and Social Affairs (2005) *Lokalni zaposlitveni programi – javna dela za leto 2006*, p. 2-3

Education

National Action Plan for the education of Roma adopted

Not fully covered in the 2005 Annual Report is the *National Action Plan for the realisation of the Strategy of Education of Roma in the Republic of Slovenia*,¹⁶⁵ adopted by a working group appointed by the Minister of Education and Sport. The purpose of the action plan is to make goals outlined in the *Strategy*¹⁶⁶ operational. On the basis of long-term goals and principles laid down by the Strategy, the National Action Plan (hereinafter, the NAP) outlines priority goals for the period from 2005 and 2010, measures and preferential tasks.

For pre-school education, the NAP foresees the following priority goals for the mentioned period:

- early inclusion/integration of Romani children into pre-school education, at least two years before the enrolment in elementary school;
- introduction of Roma assistants in kindergartens;
- creation and introduction of programmes for Romani and non-Romani children.

For elementary schools, the priority goals of the NAP are:

- special attention to the Slovenian language lessons for Romani pupils;
- introduction of Romani language from the first grade on;
- introduction to Romani culture, history and identity;
- introduction of Roma assistants;
- special attention dedicated to the placement of Romani pupils into elementary schools with special curriculum and to the review of instruments used in placement procedures;
- network of schools with Romani pupils for the exchange of experience and good practice;
- research and development projects.

No priority goals are yet set for secondary schools, but for adult education, the following priority goals are foreseen:

- emphasis on the acquisition of functional knowledge for the full exercise of citizenship, holistic development of individuals, cohabitation, personal creativity, care and responsibility for health, Roma culture and history;

¹⁶⁵ Slovenia, Ministry of Education, Science and Sport (2005), *Nacionalni akcijski program za uresničevanje Strategije vzgoje in izobraževanja Romov v republiki Sloveniji*

¹⁶⁶ Slovenia, Ministry of Education, Science and Sport (2004), *Strategija vzgoje in izobraževanja Romov v republiki Sloveniji*. This document was presented in detail in NFP Slovenia (2004), *Roma in public education (Special Study)*.

- assurance of possibilities for the acquisition of different levels of educational achievement;
- the priority groups are young adult Roma age fifteen to twenty-six, and adults age twenty-seven to forty-nine with basic education and qualifications.

For most of these priority goals, measures and preferential tasks are elaborated by the NAP. Although slow in coming, the NAP is an achievement in the realisation of the Strategy in that it lays down concrete goals and time frames for their implementation. The document is also bound to be changed and improved in order to narrow down some of the more vague goals set therein.

The measures and tasks foreseen by the ambitious action plan will be performed by different stakeholders, including the Ministry of Education and Sport and its Education Development Unit, the National Education Institute, all levels of educational institutions, researchers and NGOs. Some of these tasks and measures are already being executed, e.g. the project of standardisation of Romani language in Slovenia and integration of Romani culture into education,¹⁶⁷ and several projects aimed at establishing the foundations for Roma assistant as a new occupational standard.¹⁶⁸ In autumn 2005, a number of activities in line with the NAP were organised under the auspices of the Roma Union of Slovenia aimed at the presentation of the new Strategy to the concerned public, the exchange of experience between Roma assistants from different regions, and research on teaching methods for Romani pupils in Dolenjska region.

Re-introduction of separate education for Roma

The issue of re-introduction of separate education of Romani pupils in an elementary school in Novo mesto¹⁶⁹ was noted by the Advisory Committee on the Framework Convention for the Protection of National Minorities in its *Second Opinion on Slovenia*. The Committee noted that although there was a greater level of inclusion of Roma children in the education system and classes made up exclusively of Roma children were now very rare, it was “particularly concerned, given that various sources report recent measures in the Novo Mesto region (Bršljin primary school) resulting in Roma children being taught in separate classes or study groups.”¹⁷⁰

In its response, the government of Slovenia noted that the model of the Bršljin elementary school is a result of previous insufficiently successful methods of work and that it is its objective to successfully integrate all pupils in the

¹⁶⁷ See NFP Slovenia (2004), *National Annual Report 2004*, pp. 22-23, and *Roma in public education (Special Study)*, pp.28-29

¹⁶⁸ See NFP Slovenia (2005), *National Annual Report 2005*, p. 26

¹⁶⁹ See NFP Slovenia (2005), *National Annual Report 2005*, pp. 22-25

¹⁷⁰ Council of Europe – Advisory Committee on the Framework Convention for the Protection of National Minorities (2005), *Second Opinion on Slovenia*, p. 33

education system. The Ministry and the local community provided the school with additional professional staff, Roma assistant and additional material resources to facilitate the implementation of this temporary experimental model, which will be monitored and evaluated by the National Education Institute for three years, thus the government.¹⁷¹

The Advisory Committee noted some other outstanding issues in relation to the education of Roma, including the practice of undue placement of Roma children in “special” schools and the unacceptable situation of children of those Roma families whose legal status has not yet been regularised and who remain outside the school system. The Committee noted several positive developments, but also recommended that the authorities “adopt an approach entailing clearer, more decisive measures to combat the unjustified isolation of Roma children in the education system, and monitor the situation at all levels to ensure that such isolation practices are not repeated.”

Education of other minority groups

The Advisory Committee on the Framework Convention for the Protection of National Minorities also pointed to the issue of minority education for non-Slovenians from other parts of the former Yugoslavia and for the German-speaking population. The Committee thought that despite positive developments in the education sector, the State’s efforts in this area remained limited and incommensurate to the needs and recommended the authorities to look for ways to increase the level of assistance to these minorities in their efforts to develop identity through education, culture and the media.¹⁷²

¹⁷¹ Slovenia, Government of Slovenia (2005), *Comments of the Government of Slovenia on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Slovenia*, pp. 25-26

¹⁷² Council of Europe – Advisory Committee on the Framework Convention for the Protection of National Minorities (2005), *Second Opinion on Slovenia*, pp. 6, 40-41

Legislation

Another year without the implementation of the Constitutional Court decision

In December 2005, the government discussed a draft proposal of the *Constitutional Act Supplementing the Constitutional Act for the Execution of the Basic Constitutional Charter on the Sovereignty and Independence of the Republic of Slovenia*, a law intended to regulate the legal status of the erased persons.¹⁷³ The proposal was prepared by legal experts commissioned by the Ministry of the Interior and is based on instituting individual hearing of cases and the possibility of restricting reparations. The proposed individual hearing of cases may be inconsistent with the 2003 Constitutional Court decision, which declared the erasure unlawful and unconstitutional and imposed on the Ministry of the Interior the obligation to issue “supplementary decisions on the establishment of permanent residence from 26 February 1992 onwards to all those citizens of other Republics who had been on 26 February 1992 removed from the register of residents and who have already acquired permits for permanent residence.”¹⁷⁴

The proposal was not released to the public, but only distributed to parliamentary parties for negotiations on their support in adoption of this constitutional act, which requires a two-thirds majority in the parliament. The confidentiality of the proposal should, according to the government, facilitate the discussion with the parliamentary parties.¹⁷⁵

The issue of the erased persons has recently been noted by several international organisations. In its concluding observations on the implementation of the International Covenant on Economic, Social and Cultural Rights in Slovenia, the UN Committee on Economic, Social and Cultural Rights expressed its concern that “this situation entails violations of these persons’ economic and social rights, including the rights to work, social security, health care and education.”¹⁷⁶

Even before the UN Committee considered the initial report of Slovenia on the implementation of the International Covenant on Economic, Social and Cultural Rights and issued these observations, Amnesty International submitted to the Committee a briefing with an overview of the issue of the erased and

¹⁷³ See NFP Slovenia (2005), *National Annual Report 2005*, p. 51, for a note on the erased persons.

¹⁷⁴ Slovenia / US / U-I-246/02, (03.04.2003)

¹⁷⁵ M.B./STA (2005) “Vlada išče podporo za ustavni zakon”, at http://delo.si/index.php?sv_path=41,35,105847, (08.01.2006)

¹⁷⁶ http://www.ohchr.org/english/bodies/cescr/docs/E_C.12_SVN_CO_1.doc, (16.01.2005)

recommendations to the Slovenian authorities on remedying the unlawful situation. Amnesty International called on the 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’.”¹⁷⁷

The Council of Europe’s Advisory Committee on the Framework Convention for the Protection of National Minorities in a similar but less specific fashion welcomed the 2003 Constitutional Court decision and called on the public authorities to settle the problems faced by the erased persons and to “assist these persons in their efforts to overcome the difficulties arising from this situation, and facilitate their effective participation and integration in the Slovene society by means of targeted measures.”¹⁷⁸

On Human Rights Day, the Association of the Erased Residents of Slovenia released a public letter, pointing out that the Slovenian government ignored not only the Constitutional Court decision, but also all international appeals. The Association thought that “the government is trying to hide its intentions with announcements of the constitutional act, whose only and obvious purpose is to circumvent the Constitutional Court decision in an illegal way.”¹⁷⁹

Appeals for strengthened minority protection

In its Concluding Observations on the report submitted by Slovenia, the Committee on Economic, Social and Cultural Rights raised its concern over “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.”¹⁸⁰

The same – recurring – issue was noted by the Advisory Committee on the Framework Convention for the Protection of National Minorities as an issue of concern, i.e. the ongoing legal uncertainty of the concept of “autochthonous”. The Committee thought that “insofar as the distinction between ‘autochthonous’ and ‘non-autochthonous’ has no basis in Article 65 of the Constitution, which deals specifically with the protection of Roma, and has still not been legally defined in Slovenia, its retention in the legislation can only lead to confusion

¹⁷⁷ Amnesty International (2005) *Slovenia: The ‘erased’ – Briefing to the UN Committee on Economic, Social and Cultural Rights*, p.9; available at <http://www.amnesty.si/datoteka.php?md5ime=90e764e0fa3947933cda83b8442de28b>, (16.01.2005)

¹⁷⁸ Council of Europe – Advisory Committee on the Framework Convention for the Protection of National Minorities (2005), *Second Opinion on Slovenia*, pp. 14-16

¹⁷⁹ STA (2005), <http://www.sta.si/vest.php?id=1004096>, (03.01.2006)

¹⁸⁰ UN CESCR (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*, p. 2

and delay the practical application of the legislation in question.” In this respect, the Committee urged the authorities to develop better co-ordination and to increase effective participation by the Roma by including without distinction “those who are considered “autochthonous” and those who are not, as well as those whose legal status has still not been regularised.”¹⁸¹

The Advisory Committee also pointed out the issue of lesser minority protection standards for persons belonging to ethnic communities of former Yugoslavia. The Committee noted that since most of these persons had settled in Slovenia before the independence and many possessed Slovenian citizenship “they are *de facto* in a minority position.” The Committee expressed “serious doubts regarding the relevance and justification, for the purpose of the application of the Framework Convention, of the distinctions made in Slovenia between the various ethnic groups present within the country. It notes that these distinctions are based on insufficiently defined concepts - such as that of ‘autochthonous’ - and do not take into account the specific situation linked to the dissolution of the former Yugoslavia (SFRY).” In this respect, the Committee urged the authorities to adopt a more inclusive approach and open a dialogue “with those persons who have shown an interest in the protection of the Framework Convention” and also discuss the possibility of including other persons, including non-citizens where appropriate.¹⁸²

Roma councillor still not provided for in Grosuplje

The issue of non-compliance with the decision of the Constitutional Court on provisions for Roma councillors in certain municipalities recently re-emerged. The *Local Government Act*,¹⁸³ which provided for the direct political representation of Roma on the local level in twenty municipalities, has been put into effect in all but one. The municipality council of Grosuplje failed to amend the statute of the municipality on previous three occasions. The issue will be on the agenda of the council again in February 2006, and if the council fails to comply with the decision of the Constitutional Court, it could be sanctioned with dissolution. The issue was also raised by the Advisory Committee on the Framework Convention for the Protection of National Minorities in its *Second Opinion on Slovenia*.¹⁸⁴ The Committee also thought that “more decisive efforts are needed in order to ensure more effective participation by the Roma councillors elected to municipal councils” and that participation of Roma in the decision-making process at central level could also be made.

¹⁸¹ Council of Europe – Advisory Committee on the Framework Convention for the Protection of National Minorities (2005), *Second Opinion on Slovenia*, pp. 37-38

¹⁸² Council of Europe – Advisory Committee on the Framework Convention for the Protection of National Minorities (2005), *Second Opinion on Slovenia*, pp. 9-12

¹⁸³ Slovenia / SOP: 1993-01-2629, (31.12.1993)

¹⁸⁴ Council of Europe – Advisory Committee on the Framework Convention for the Protection of National Minorities (2005), *Second Opinion on Slovenia*, p. 7

Housing

Investigation into the procedures of the Asylum Section

In relation to the introduced changes in the Asylum Home in Ljubljana and the concerns raised by several NGOs,¹⁸⁵ another issue was brought up in December 2005. A legal representative of the concerned asylum seekers submitted a complaint and a request for an investigation on the alleged illegal doings of the Asylum Section of the Internal Administrative Affairs Directorate, part of the Ministry of the Interior.

The complaint¹⁸⁶ outlined cases of two families handled by the Asylum Section and claimed that the handling of these cases was illegal and inhumane. One of the three cases involved an attempted deportation of a family from Bosnia and Herzegovina who have entered Slovenia two years prior and whose asylum applications have been turned down. The deportation was cancelled because one family member could not enter Croatia and the family was later returned to the Asylum Home on the account of a newly submitted asylum application. The second case involved the Asylum Section ordering another member of the same family, who had been living independently from the family outside of the Asylum home and is married to a Slovenian citizen, to join his father, mother and their two children in the Asylum Home. This request by the Asylum Section was denied by the legal representative of the family.

The third case was perhaps the most worrying, according to the complaint, in that there was no available information in how many other cases this measure has been undertaken. A family with a submitted asylum application, who has been residing with relatives in Ljubljana, was ordered by the Asylum Section to move to the Asylum Home; their failure to do so would result in a termination of the asylum application procedure. The legal representative claimed in the complaint that this measure did not have a legal ground, and was even in contradiction to the Asylum Act.¹⁸⁷

The legal representative submitted the complaint on the basis of these three cases where he was requested to intervene, but also pointed out that on the basis of his observation, these cases were not isolated but perhaps systemic. The complaint was addressed to the Minister of the Interior, requesting an investigation into the described cases. In a later letter,¹⁸⁸ a group of NGOs working on asylum-related issues expressed their support for the request for investigation. The NGOs pointed out that they have been warning about

¹⁸⁵ See NFP Slovenia (2005), *National Annual Report 2005*, pp. 39-40

¹⁸⁶ The complaint was submitted to the NFP by the lawyer by email.

¹⁸⁷ Slovenia / SOP: 2003-01-5827, (30.12.2003)

¹⁸⁸ The support letter was submitted to the NFP by the NGO group by email.

violations and inadmissible interpretations of the Asylum Act on several occasions previously, and further requested that illegal measures be forbidden and the responsible persons be sanctioned.

On the basis of the complaint, the minister ordered an investigation into the activities of the Asylum Section. The investigators conducted interviews with the involved public servants and reviewed the documentation and found out that both the Asylum Section and the Police acted within the scope of legislation. In relation to the case of ordering the family to move to the Asylum Home, the investigation report pointed out that there are conflicting interpretations of the right of asylum seekers to seek accommodation outside of the Asylum Home. The Asylum Section argued that it was the state and not asylum seekers themselves taking care of the accommodation and estimating if asylum seekers were allowed to use accommodation outside of the Asylum Home. The investigation did find, however, that the part of the official letter, which threatened the family with termination of their asylum procedure if they failed to move to the Asylum Home, was without legal ground. But the investigators also pointed out that despite this, the family's procedure was not terminated even though they failed to move to the Asylum Home and that this was so in other similar cases.¹⁸⁹

The situation of Roma in housing

Another issue not covered in the 2005 Annual Report is the adoption of the *Implementation Programme of Assistance to Municipalities in Solving Urgent Communal Infrastructure in Roma Settlements in 2005*.¹⁹⁰ The programme is based on a previous tender of the Public Fund of the Republic of Slovenia for Regional Development and Preservation of the Settlement of Slovenian Rural Areas whose purpose it was to co-finance projects of construction of basic communal infrastructure in Roma settlements. The programme provided for SIT 150 million (approximately €625,000) in 2005 and an additional SIT 156 million (approximately €650,000) in 2006 to the municipalities which took part in the tender. In view of failure of similar attempts in the past,¹⁹¹ the current programme seems solid and improved in its coordination of government services and municipalities.

In the meantime, several recent official documents again pointed to the unfavourable situation of Roma in housing. The *Fifth Report of the Republic of Slovenia*¹⁹² to the European Social Charter for the reference period from January

¹⁸⁹ Ministrstvo za notranje zadeve, Pritožba in zahteva za preiskavo nezakonitih ravnanj Sektorja za azil MNZ – Odgovor (šifra: 0602-2/2005/10 (143-13))

¹⁹⁰ Slovenia, Vlada Republike Slovenije (2005), *Izvedbeni program pomoči občinam pri urejanju najnujnejše osnovne komunalne infrastrukture v romskih naseljih v letu 2005*

¹⁹¹ See NFP Slovenia (2005), *National Annual Report 2005*, p. 40

¹⁹² http://www.coe.int/T/E/Human_Rights/Esc/3_Reporting_procedure/1_State_Reports/Slovenia_5th.pdf, (16.1.2006)

1, 2003 to December 31, 2004 does not introduce any new data on the housing situation of Roma, but reaffirms the conclusion of principal official policy documents that Roma are one of the most vulnerable groups in housing.¹⁹³

In a similar sense, the Advisory Committee on the Framework Convention for the Protection of National Minorities noted in its *Second Opinion on Slovenia*¹⁹⁴ that serious problems remain in the field of housing (amongst others) “with a significant number of Roma continuing to live in substandard conditions, and, in many cases, illegal settlements.” These problems were often accentuated by local authorities and their reluctance to assist Roma in the face of prejudice of non-Roma population. The Committee further noted that improvements in the situation of Roma have not been evenly distributed, pointing out the Dolenjska region where problems range from housing conditions, to employment, health and education. The Committee thought that “these differences between Roma residing in different localities appear to result from numerous factors, including the political commitment of local authorities, regional economic development and the involvement and efficacy of Roma councillors and organisations.” Another issue that the Committee noted with concern is the problem of settlements having become illegal after 1991 and the delay in resolving this situation.

¹⁹³ See NFP Slovenia (2004), *National Annual Report 2004*, pp. 33-35

¹⁹⁴ Council of Europe – Advisory Committee on the Framework Convention for the Protection of National Minorities (2005), *Second Opinion on Slovenia*, pp. 16-17

Racist crime

The so-called “frozen register” of the police, the principal source of data on racist incidents, is updated twice a year. The most recent available data from the register was published in the National Annual Report 2005,¹⁹⁵ which does not include data for the second half of 2005. This data will be released by the police in February 2006.

Recent developments

In the case of hate speech on the internet,¹⁹⁶ the District Court of Lendava found in December 2005 one perpetrator guilty of violating the prohibition of incitement to ethnic, racial or religious hate, discord or intolerance (Article 300 of the Penal Code) and of violating the prohibition of offensive accusation (Article 171). The perpetrator was given a six-month suspended sentence (one-year probation period). The judgement is not final. The court has not ruled on the other related case by the end of 2005.¹⁹⁷ This is undoubtedly a precedent ruling.

In the case of the offensive poster aimed at erased persons posted on the door of the office of the Slovenian National Party in the National Assembly, the police filed a criminal charge against an unknown perpetrator.¹⁹⁸

In the case of leaflets inciting violence against Roma,¹⁹⁹ the police conducted an investigation and filed charges against an unknown perpetrator for violating the prohibition of incitement to ethnic, racial or religious hate, discord or intolerance.²⁰⁰

The police also undertook investigation in the two cases of criminal charges against the authors and producers of the advertisement poster with a photograph of a Roma.²⁰¹ After the investigation, which found no elements of violation of Article 300, the police provided the competent prosecutor with a report with collected data.²⁰²

¹⁹⁵ See NFP Slovenia (2005), *National Annual Report 2005*, p. 43

¹⁹⁶ See NFP for Slovenia (2004), *Update of the National Annual report 2004*, pp. 7-8, and *National Annual Report 2005*, p. 43

¹⁹⁷ Two criminal charges were filed against two persons in this case for violating the prohibition of incitement to ethnic, racial or religious hate, discord or intolerance. Information submitted by the District Court of Murska Sobota upon request.

¹⁹⁸ Information submitted by the General Police Directorate upon request.

¹⁹⁹ See NFP Slovenia (2005), *National Annual Report 2005*, p. 45

²⁰⁰ Information submitted by the General Police Directorate upon request.

²⁰¹ See NFP Slovenia (2005), *National Annual Report 2005*, pp. 45-46

²⁰² Information submitted by the General Police Directorate upon request.

Combating ethnically and racially motivated hostility

In its Second Opinion on Slovenia, the Advisory Committee on the Framework Convention for the Protection of National Minorities welcomed the generally amicable inter-ethnic relations within Slovenian society and initiatives by the authorities, Human Rights Ombudsman, NGOs and some media to promote diversity and inter-ethnic dialogue. In addition, the Advisory Committee raised concern regarding the negative stereotypes towards Roma, German-speaking persons and populations originating from former Yugoslavia, and the still unresolved mosque issue in Ljubljana. The Committee also noted that “in some cases, such manifestations of intolerance towards persons belonging to more vulnerable groups come from members of high-level public authorities likely to have a considerable influence on social perceptions of cultural diversity and inter-ethnic dialogue.” The Committee also noted that some of the media “continue to carry damaging messages about certain groups. Rather than describing the presence of minorities or foreigners in Slovenia as a source of diversity that enriches society, these media refer to such groups as a potential danger or threat to the national identity and welfare of Slovenes.”

Considering these concerns, the Committee thought that further efforts to combat intolerance, racism and xenophobia are required. It recommended that the authorities “step up activities aimed at raising awareness of human rights and tolerance, including within the public administration and in political circles”. The media should be encouraged, according to the Committee, to focus on the multicultural situation of the society, and more support should be provided to media monitoring bodies and to the training of journalists and awareness-raising initiatives²⁰³

Policing racially motivated intolerance

According to the General Police Directorate the police developed in August 2005 specific guidelines providing police officers with instructions on how to detect, prevent and investigate racially motivated crimes and other forms of intolerance. The guidelines focus on prevention and elimination of causes for such kind of incidents and on strengthening closer cooperation between the police and local communities in a multicultural society.²⁰⁴

²⁰³ Council of Europe – Advisory Committee on the Framework Convention for the Protection of National Minorities (2005), *Second Opinion on Slovenia*, pp. 21-23

²⁰⁴ Information submitted by the General Police Directorate upon request.

Incitement to hatred not confirmed in two antisemitic incidents

Police investigation of two incidents²⁰⁵ recorded by the Jewish Community of Slovenia in 2005 found no elements of violation of Article 300 of the Penal Code.²⁰⁶

²⁰⁵ See NFP Slovenia (2005), *National Annual Report 2005*, p. 57

²⁰⁶ Information submitted by the General Police Directorate upon request.

Corrigendum

The following are corrections of errors in the National Annual Report 2005:

- p. 8: The sentence “The year 2005 showed an increase in recorded racially motivated crimes in comparison with previous years, although the absolute number of reported cases still remains low.” should instead read: “The number of recorded racially motivated crimes in the first half of 2005 is comparable to similar periods in previous years. The absolute number of reported cases remains low.
- p. 41: The sentence “In absolute numbers, this is a considerable increase in cases of racially motivated crimes handled by the police – in the first half of 2005, the number of cases equalled those from in the years 2003 and 2004 combined.” should be replaced with: “The following table shows the number of recorded racially motivated crimes in the last three years.

Table 1: Racially motivated crimes (Violation of Article 300²⁰⁷ of the Penal Code of the Republic of Slovenia)

	2003	2004	2005
Number of investigated cases	3	8	7
Number of criminal charges filed with the competent district attorney**	3	3	4
Number of reports provided to the competent district attorney***	-	5	2

* One case is still being investigated.

** According to the Criminal Procedure Act, the police, upon investigation, files criminal charges with the competent district attorney in cases of grounded suspicion of the violation of respective articles of the Penal Code.

*** According to the Criminal Procedure Act, the police, upon investigation, provides the competent district attorney with a report with collected data in cases where there is no substantial evidence for the violation of respective articles of the Penal Code.

Source: General Police Directorate”

²⁰⁷ Article 300 of the Penal Code prohibits incitement to ethnic, racial or religious hate, discord or intolerance.

- p. 43: The sentence “After police investigation, two criminal charges against one person were filed on the ground of violation of prohibition of incitement to ethnic, racial or religious hate, discord or intolerance, and the case is now in the hands of the prosecutors in Murska Sobota.” should instead read: “After police investigation, two criminal charges were filed against two persons on the account of violation of prohibition of incitement to ethnic, racial or religious hate, discord or intolerance, and the case is now in the hands of the prosecutors in Murska Sobota.”