

European network against racism

ENAR Shadow Report 2009-2010

ENAR SHADOW REPORT 2009/2010

Racism and Discrimination in Slovenia

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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This programme is managed by the Directorate-General for Employment, social affairs and equal opportunities of the European Commission. It was established to financially support the implementation of the objectives of the European Union in the employment and social affairs area, as set out in the Social Agenda, and thereby contribute to the achievement of the Lisbon Strategy goals in these fields.

The seven-year Programme targets all stakeholders who can help shape the development of appropriate and effective employment and social legislation and policies, across the EU-27, EFTA-EEA and EU candidate and pre-candidate countries.

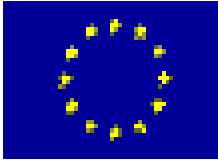
PROGRESS mission is to strengthen the EU contribution in support of Member States' commitment. PROGRESS will be instrumental in:

1. providing analysis and policy advice on PROGRESS policy areas;
2. monitoring and reporting on the implementation of EU legislation and policies in PROGRESS policy areas;
3. promoting policy transfer, learning and support among Member States on EU objectives and priorities; and
4. relaying the views of the stakeholders and society at large

For more information see: <http://ec.europa.eu/progress>

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I. Executive summary

The Constitution of the Republic of Slovenia contains a general anti discrimination clause in Article 14 that states that in Slovenia everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other conviction, material standing, birth, education, social status, disability or whatever any other personal circumstance'. On the other hand Article 63 stipulates that all incitement to ethnic, racial, religious or other discrimination, as well as the inflaming of ethnic, racial, religious or other hatred or intolerance shall be deemed unconstitutional.

Slovenia has adopted the two important EU directives, the Race equality (2000/43/EC) and the Employment Equality Directive (2000/78/EC) that were transposed into national legislation in 2004. While the adoption of the legislation remains essential as it plays an important role in preventing, punishing and providing redress for racist crime and discrimination, it however must be supplemented by legal protection that must be supported and complemented by a real political will to combat racism and discrimination.

The rising mobility of people in search of opportunities, decent work and human security has been commanding the attention of policy-makers and prompting dialogue for multilateral cooperation in practically every region of the world. Effective governance of labour migration can result in benefits to all the stakeholders. Governments, employers, inspectors, workers and NGOs have a vital role to play in helping to protect workers of third country nationals from undue risks. Labour migrants often work in the construction sector and in the informal sector, where the lack of legal protection and insufficient information about their rights leads to exploitation and abuse from recruiters, employers and authorities. They are also exposed to abuses resulting from xenophobia and racism.

The financial crisis has brought economic hardship to all citizens but it also created a breeding ground for populist politics who emphasise the difference between 'us and them' as a means of winning votes.

In the absence of an integrated study, survey, statistics and a genuine police record coupled with the absence of a traditional partnership of NGOs with government institutions, it is a challenging work to get an overall picture of racism and xenophobia in Slovenia. The other challenge according to the author is that most reporters or so called experts publish data on these subjects as intangible goods, but not as a challenge on the traditional infrastructure defending the rights of victims and the rule of law. Despite constant appeals from independent institutes, academics, NGOs and the civil society to responsible bodies and local communities to take appropriate measures, unfortunately exploitation, victimisation and prejudice are still being practiced on different levels within the society in the form of discrimination, exclusion or limitation on the basis of

gender, sexual affiliation, age, disability, nationality/citizenship, religion and ethnical background.

After the tragic experience that took place two years ago in the village of Ambrus 50 km south of Ljubljana where a Roma family was forced to leave their homes under police escort after having been targeted in ethnically motivated attacks by non-Roma Majorities, one would expect that by now the local and national decision makers would have developed a sustainable and holistic strategy to avoid similar events, however this was not the case. A recent event that took place in the village of Dobrava pri Škocjan where the burial of a Roma female was rejected by the majority community in the common cemetery shows that the difficulties are not yet solved.

To combat discrimination and defend human right NGOs play vital role. Consequently they must be funded to provide alternative victim support, services, training and complementary data collection mechanisms. Experience shows that where there are active NGOs there tend to be more effective strategies to dealing with discrimination, racism advocacy and better services to victims.

The author recommends the following:

- To respect and start implementing the decisions of the constitutional court, and practically implement the EU directives, International convention and declaration.
- To strengthen the competency of the national implementing bodies both financially and legally and monitor the degree of implementation.
- The government's office for equal opportunities needs to be more visible to the public, provide more support to victims and should be perceived as an independent, competent institution that can handle specific cases in relation to discrimination and victimisation, racism and racial violence.
- Build a coalition of civil society, trade unions, journalists, NGOs and different civil initiatives to collectively address and combat discrimination, racial violence, victimisation and xenophobia to different stakeholders, offer legal protection to victims and litigation as well as to participate in developing better alternatives and practices that will better serve victims.
- Encourage the dissemination and awareness raising activity to all stakeholders at national level based on annual reports or shadow reports such as this and others so that observed problems in the report get solutions.

The report has 10 parts and begins with an executive summary that introduces the report and highlights the challenges on fighting racism in Slovenia, followed by a table of contents. It then begins with an introduction in chapter III, where attributes racism and legislation can be applied. Chapter IV gives a list of vulnerable groups that are subject to racism, while chapter V presents the area of discrimination in employment, education, housing, health and in ethnic profiling,

racist violence and crime, access to goods and on media. Chapter VI is concerned on the legal and political development in the country in four areas: antidiscrimination, migration and integration, criminal justice (racism as crime, counter terrorism, ethnic profiling) and social exclusion. Chapter VII lists out national recommendations on all areas of discrimination followed by a conclusion in chapter VIII and bibliography in chapter IX and the last chapter X with the list of abbreviations and terminology or annex.

II. Table of contents

I. Executive summary.....	4
II. Table of contents	7
III. Introduction	8
IV. Communities vulnerable to racism and discrimination.....	10
V. Manifestations of racism and religious discrimination.....	12
V.i Employment	12
V.ii Housing	16
V.iii Education.....	18
V.iv Health.....	20
V.v Policing and ethnic profiling.....	21
V.vi Racist violence and crime.....	21
V.vii Access to goods and services in the public and private sector.....	23
V.viii Media, including the internet.....	24
VI. Political and legal context	26
VI.i Anti discrimination	26
VI.ii Migration and integration	30
VI.iii Criminal justice	33
VI.iii.i Racism as a crime	33
VI.iii.ii Counter terrorism	34
VI.iii.iii Ethnic profiling.....	34
VI.iv Social inclusion.....	35
II. National recommendations	37
VII.ii Anti discrimination	37
VII.iii Migration and integration	37
VII.iv Criminal justice	37
VII.iv.i Racism as a crime	37
VII.iv.ii Counter terrorism	38
VII.v Social inclusion	38
VIII. Conclusion.....	38
IX. Bibliography.....	39
X. Annex 1: List of abbreviations and terminology	43

III. Introduction

Today, across Europe, minorities, migration and integration are part of an important debate. Most Member States are now experiencing a migratory phenomenon and are confronted with integration challenges. The effective and responsible integration of immigrants in the labour market constitutes an important contribution to reaching the Lisbon strategy. The promotion of fundamental rights, non discrimination and equal opportunities for all are key integration issues. EU legislation provides a strong framework for anti-discrimination legislation. In its Communication on a framework strategy for non-discrimination and equal opportunities for all, the European Commission stresses the need to reinforce efforts to promote equal opportunities for all in order to tackle the structural barriers faced by migrants, ethnic minorities and other vulnerable groups.

Slovenia is a member of the European Union and a part of southern and Central Europe, at the extreme northern part of the Mediterranean. It is situated at the juncture of Central Europe, the Balkan and Apennine peninsulas, the Danube region and the Adriatic, and at the juncture of the Slavic, Latin and German cultures. This specific geographic position has significantly influenced the process and historical development of Slovenian statehood. According to the population census of 2002, Slovenia¹ is composed of 83% ethnic Slovenes, 1.98% Serbs, 1.81% Croats, 1.10% Bosnians, 0.32% Hungarians, 0.17% Roma, 0.11% Italians, and other minorities.

The Republic of Slovenia is a democratic republic with a multiparty system governed by democratically elected public representatives with a four year mandate. The 1991 Constitution of the Republic of Slovenia provides the statutes and other legislative measures to comply with the generally accepted principles of international law and international agreements. In Slovenia, the main legislative acts pertaining to matters of discrimination are:

- The Constitution 1991, the penal code the office for equal opportunity and others,
- All relevant International conventions and treaties for combating discrimination (UN), including the European Convention for the Protection of Human Rights and Fundamental Freedoms and others.

According to many reports (AI, EU human right, ECRI, and the Ombudsman's office in Slovenia, Freedom house) discrimination in recent years became one of the more serious violations of human rights, thus a direct violation of Slovenia's constitution. This contemporary form of racist violence and discrimination is even

¹Statistics information, 2002 CENSUS OF POPULATION, HOUSEHOLDS AND HOUSING, SLOVENIA, 31. MARCH 2002/ POPIS PREBIVALSTVA, GOSPODINJSTEV IN STANOVANJ, SLOVENIJA, 31. MARCA 2002, see also; <http://www.stat.si/popis2002/gradivo/si-92.pdf>, accessed 23.5.2010

worse in the cases of hate speech and victimisation by public figures on the grounds of race, colour, language, religion, nationality or ethnic origin and sexual orientation.

This report highlights discrimination and other developments in Slovenia in the period between 1st January 2009 and March 2010. For a better illustration and understanding, the report however has incorporated events and data that are beyond this period. Although discrimination takes place in different forms to different communities, groups of society or individuals, this report is concerned about:

- Roma Communities and their settlement issues,
- The problem of erased people and their legal limbo,
- Hate speech and freedom of speech,
- The political discourse of Muslim communities and Islam in the media,
- Third country nationals (TCN) in employment.

This shadow report refers to many annual reports at the national, European and global level, but most of the examples are drawn from the experiences of minorities, the Roma community, the Muslim community, marginal & vulnerable groups, the erased people, third country nationals and elder/aged population.

In the report, exemplary and best practices are highlighted in a table. Although the report is a collective work of many experts, the author bears responsibility for errors, misinterpretation or otherwise.

IV. Communities vulnerable to racism and discrimination

Minorities - The autochthonous Italian and Hungarian National Communities are two constitutionally recognised minorities in Slovenia. Their Constitutional rights include among others, the use of their national symbols, their own languages and to be directly represented in representative bodies of local self-government and in the National Assembly. According to the human right office report 2009², there was/is however a concern about utilities of their language at work places and the problem of under financing. There has also been a concern of nationalist and hatred debates on the Internet about minorities³. From the Slovenian side, some political parties and groups appeal to the Slovenian government to inquire and to follow up as to whether the minorities of Slovenian origin in Italy, Hungary and Austria are equally treated and financed as is the case in Slovenia. In addition to these two minorities, some reporters and experts report about the emergence of new minorities in Slovenia from communities of former Yugoslav republics who are not yet constitutionally recognised.

The Roma Communities - According to the 2010 report by the human rights council⁴ (independent expert on the issues of human rights note on the mission to Slovenia), 70% of the approximately 105 Roma settlements are illegal, out of which few have running water and electricity. Settlement disputes in some townships was evidenced since the parliamentary election in 2004 and the event that took place in 2006 in the village of Ambrus – a village some 70 km out of Ljubljana in the Doljenska region.

There is also a problem of classification of Roma into two categories as the autochthon or "indigenous" and "new" Roma communities. According to this classification only 40% of Roma people are autochthon or "indigenous" and are Slovenian citizens. This division has been brought to the attention of the European Commission Against Racism and Intolerance (ECRI)⁵ who expressed concern that discriminatory attitudes and practices against the Roma persisted and that the distinction between "indigenous" Roma and "new" Roma could give rise to new discrimination. Such a status created an additional barrier/exclusion to vital services such as social welfare, health care and access to employment.

The separation of Roma pupils in some subjects in one elementary school - the the Bršljin model in Doljenska region was a subject of discrimination⁶. The lack of a holistic approach on education as a whole and in particular the exclusion & separation of Roma pupils in this school is according to many reports De facto segregation⁷.

² The human right office RS- Annual report, 2009, Letno poročilo varuha Republike Slovenije za leto 2009, see also; www.varuh-RS.si

³ www.tu-jeslovenija.si, accessed 4.23.2010 and Ksenija. Šabec, Poročilo skupine za spremljanje nestrpnosti, Peace institute, Ljubljana, P.163-189, 2005, <http://www.obala.net/arhiv>

⁴ Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Preliminary note on the mission to Slovenia, human right council, Fifteen session, 24-28 May 2010, see also; http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/A.HRC.15.31.Add.2_en.pdf

⁵ ECRI report 2007: http://hudoc.ecri.coe.int/XML/ECRI/ENGLISH/Cycle_03/03_CbC_eng/SVN-CbC-III-2007-5-ENG.pdf

⁶ Bršljin: Model pouka nezakonit? Is the Bršljin model teaching illegal?, Ljubljana, 2006.

See also: <http://www.rtvlo.si/slovenija/brsljin-model-pouka-nezakonit/34635>

⁷ Ibid 5

The Erased people - there was continued concern about the status of thousands of people whose names were removed from the registry of permanent residents in 1992 (known as the "erased"). The erased people are from other former Yugoslav republics that had been living in Slovenia but had not acquired Slovenian citizenship after Slovenia became independent⁸.

Despite the Constitutional Court ruling in 1999 and 2003 that the removal of these individuals from the registry of permanent residents was unlawful, the implementation of the decision has still not been materialised⁹. The authorities failed to ensure that the "erased" get full access to economic and social rights, including the right to work and access to health care. In 2006 the "erased" people filed an application with the European Court of Human Rights claiming that the "erasure" resulted in violations of their rights and to protest the government's lack of action and failure to implement the court's decision. Nevertheless, after a long time in legal limbo this case seems to have come to an end. After the parliamentary election in September 2008, the winner / coalition government led by Social democrats has said that it will obey the decision of the court. Until 2008, the official data on the total number of the erased was believed to be **18,305** people, but after the current government took power and recounted the cases, the latest official number rose to **25,671**. Approximately one third of the "erased" still did not have Slovenian citizenship or a permanent residence permit.

Religious communities: In Slovenia the law provides for freedom of religion, freedom of worship, services and there are no governmental restrictions on any including the Muslim communities¹⁰. In Slovenia there are 43 registered religions, the largest being Catholics, Orthodox and Islam respectively. The challenge of the Muslim community (the official number is 47.488¹¹) was to get a place to worship as services are commonly held in private homes and different halls due to the fact there is no Mosque.

In 2007, the Government and the Islamic Community in Slovenia signed an agreement on the legal status of the Islamic community in Slovenia¹². In addition to this, the Municipality of Ljubljana and the Mayor in particular introduced plans for a location for the mosque on city-owned land close to the city centre; both city and Muslim community officials approved the site. After a number of discussion and consultation, the Muslim community acquired land and purchased it. Despite these positive developments, in April 2009, a rightwing group under the name Domoljube called a demonstration against the construction of the Mosque in Ljubljana.

Asylum seekers and refugees –The total number of asylum seekers granted refugee status in Slovenia has been decreasing annually. There is great concern from UNHCR and others regarding the very few number of individuals annually granted refugee

⁸ Reports on Human Rights Practices in Slovenia , U.S Department of States, 2009

⁹ www.izbrisani17let.si

¹⁰ Ibid 9

¹¹ Ibid 1

¹² An agreement on legal status of Islamic community in Slovenia - Sporazum o pravnem položaju Islamske skupnosti v Republik Sloveniji, Ljubljana 2007, see also on: http://www.uvs.gov.si/si/drzava_verska_svoboda_in_verske_skupnosti_v_republiki_sloveniji, accessed 14.5.2010.

status. There is a problem of differentiation between refugees, asylum seekers and third country nationals, they are all identified as one of the same and are all subject to racism and xenophobia in political discourses which have not diminished.

Third country nationals - There is a matter of concern and discrimination against a number of third country nationals /for seasonal work/ whose number on the one hand annually increases and on the other hand there is a rise of exploitation by employees, as well as living in worsening and deteriorating working conditions, and who lack of reasonable accommodation. It seems that there is no awareness on the rights of these individuals as regarding employment¹³ or bodies which they could contact that could be of assistance.

The following are good examples that took place during this period:

- *Roma communities in Murska Sobota near the Hungarian border can be mentioned as a good example that achieved integration within the larger community,*
- *The Roma have a constitutional right to have a mandatory representative in the council of 20 or municipalities where they are living.*
- *The new leadership of Municipality of Ljubljana, the capital of Slovenia,/ signed a memorandum of understanding with the Muslim community to build the mosque,*
- *The Municipalities of Ljubljana and Maribor in collaboration with other stakeholders opened a free medical treatment centre /pro Bono/ for disadvantaged groups, migrants and homeless, etc. In Late 2007 the newly elected president of the Republic of Slovenia stressed that his priorities during his mandate will be among others human right issues and to work with civil society. He has since then sponsored annual activities of different marginal groups.*

V. Manifestations of racism and religious discrimination

V.i Employment

In Slovenia discrimination in employment is prohibited and is guaranteed by the constitution. In 2004, Slovenia transposed the EU directives on race and employment – to the national legislation. As the result of transposition:

¹³ The ERA - Employment Relationships Act (ZDR – zakon o delovnih razmerjih - Uradni list št. 42/2002)

- the Implementation of the Principle of Equal Treatment Act –IPETA (ZUNEO - Zakon o uresničevanju načela enakega obravnavanja -Uradni list RS, št. 50/2004)¹⁴,
- The Vocational Rehabilitation and Employment of Disabled Persons Act (VREDPA)¹⁵ which came into force on 25 June 2004, (Zakon o zaposlitveni rehabilitaciji in zaposlovanju invalidov (ZZRZI-UPB1) Ur.l. RS, št. 100/2005, ZZRZI-A (Uradni list RS, št. 78/05)
- The Employment Relations Act (ERA)¹⁶ (ZDR – zakon o delovnih razmerjih - Uradni list št. 42/2002) which came into force on January 2003, can be applied to discrimination prohibition.

According to IPETA, equal treatment applies in every field of social life and especially in the fields of employment, labour relations, participation in trade unions and interest associations, education, social security and access to and supply of goods and services, is required irrespective of personal circumstances such as nationality, racial or ethnic origin, sex, state of health, disability, language, religious or other conviction, age, sexual orientation, education, financial situation, social status or other personal circumstances.

The ERA Act has an explicit anti-discrimination clause regarding laws relating to specific sectors, it contains anti-discrimination provisions: (1) in recruiting, (2) in the course of employment and (3) upon termination of a contract of employment, an employer may not put a prospective employee or an employee in an unequal position on the basis of sex, race, age, state of health or disability, religious, political and other convictions, sexual orientation or ethnic origin. However, the provisions of the ERA were not complete as they did not contain a definition of direct discrimination, harassment or instruction to discriminate. The Prohibition of discrimination in the fields of health care, social advantages and housing as well as access to and supply of goods and services were not explicitly mentioned, now they are all amended.

To enforce the law the victim can also complain to the Human Rights Office or to the office for Equal Opportunities, or make a complaint directly to the inspection authorities in the form of a formal, administrative procedure, or can initiate criminal proceedings for the prosecution of criminal offences.

Despite all these legal and procedural protection mechanisms, there are a lot of cases of discrimination in the work place yet few have been dealt with by any of these bodies or they have been unable to obtain help from them. In addition many cases do not reach any of these offices simply because individuals are not aware of their rights or do not have the knowledge of these institutions. There is also a belief that work inspectors, (the

¹⁴ IPETA - this Act has been adopted by the government with purpose of implementing the Racial Equality and Employment Directives, ZUNEO - Zakon o uresničevanju načela enakega obravnavanja-Uradni list RS, št. 50/2004

¹⁵Vocational rehabilitation services have been established in order to provide reasonable accommodation, which include *inter alia* producing a plan for required working equipment and necessary adaptations of work places and the working environment for the disabled.

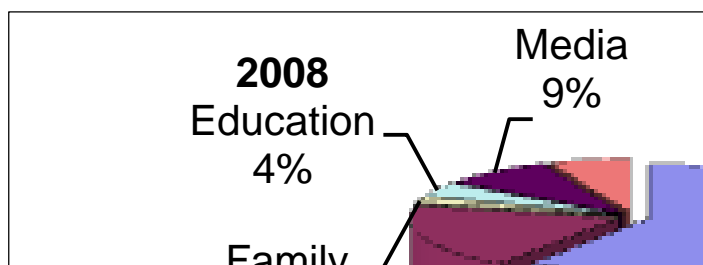
¹⁶The ERA - the Employment Relations Act (ZDR – zakon o delovnih razmerjih - Uradni list št. 42/2002).

office of equal opportunity office among others) have insufficient staff, legal competence or are under financed and that the courts do not wind up cases in a reasonable time.

Employment in the Roma community - In Slovenia according to the AI report 2008¹⁷ the unemployment rate among Roma people is 87%. The unemployment rate differs from region to region. According to the European Commission for Human Rights 2006 report the unemployment rate is 98% for Roma in Bela Krajina (south of the country) and 90% in Prekmurje (near the Hungarian border)¹⁸, today the situation is the same or worse.

Migrants - According to the statistical data of Ministry of Interior published in early 2007/9 there are 119 recognised refugees in Slovenia. Among them only 15 were employed. Apart from some additional provisions like language courses and supporting activities by different NGOs and a few vocational trainings for refugees provided by Government the situation has not improved. According to the work inspectors report 2006, (as an example), there were more than 4,000 violations, mainly in the area of catering, construction and shops, and in small businesses in general. The violations were mostly related to breaching contracts of employment, pay, overtime and holidays.

According to the annual report of the government office for equal opportunity 2009¹⁹, out of 74 complains it received /from 1st of January 2009 – 31 January 2010/, the most frequent were on working conditions and in employment. The same office, in its annual report 2008 has also reported that 60% of all 47 cases it received were on working conditions²⁰. Graph 1 illustrates the specific cases of complaint by sector in 2008.



Graph 1: Illustration of specific cases of complaint /by the government office for equal treatment/ in 2008, p.6.

According to this report, 60% of complaints at work are also the result of Mobbing and Bossing, while 9% of the complaints relating to the media is related to hate speech and victimisation. Although different institutions have been established and strengthened in recent years (the number of labour inspections has risen and the equal opportunity office was established and now functions relatively well), the effectiveness of these institutions still express doubts whether these mechanisms alone could fully address labour law violations and legal sanctions. It has to be noted that many institutions including the Commissioner for human rights recommended that the Slovenian authorities take measures to ensure equal access to employment for all, in particular the **elderly**,

¹⁷ Amnesty International report on Slovenia, December 2009, see also www.amnesty.org

¹⁸ <https://wcd.coe.int/view.doc.jsp?>, accessed 5.5. 2010

¹⁹ Annual report of the office of equal treatment /Poročilo o delu zagovornika načela enakosti za leto 2009, p.10, March 2010, see also, <http://www.uem.gov.si/fileadmin/uem.gov.si/pageuploads/ZagovornistvoPorocilo2009.pdf>, 10.5.2010

²⁰ Annual report of the office of equal treatment /Poročilo o delu zagovornika načela enakosti za leto 2008, p.6, March 2009, see also, <http://www.uem.gov.si/fileadmin/uem.gov.si/pageuploads/ZagovornistvoPorocilo2008.pdf>

women and the Roma; strengthen the monitoring of respect for labour laws, including those relating to minimum wages and offer swift legal redress to victims of irregularities.

As good examples:

In an effort to fight unemployment the Ministry of Labour, Family and Social Affairs supported an Action Programme regarding employing the Roma community. This has been adopted to include young unemployed Roma in primary and vocational schools; the inclusion of adult Roma in programmes of subsidised jobs; job creation through public works and the employment of Roma advisers at employment service offices. Roma assistants have also been employed in some regions to assist in communicating with other Roma that increases the confidence of Roma in public services. A group of 25 young Roma, all of whom have completed their secondary education, has been trained and employed as Roma tutors/mentors.

There is an informal platform of many NGOs, academics and researchers called the migration-form who regularly meet or communicate and collectively advocate migration, human right, integration, asylum and refugee issues.

A network of Association of pensioners Slovenia,²¹ -the largest NGO has been coordinating a European project 'progress' together with seven NGOs among which are migrant organisations like the Institute for African studies and other advocacy oriented NGOs come together to discuss issues of migration, refugees, human rights, human trafficking and family violence, poverty as well as discrimination on basis of sexual orientation.

NGOs like the Peace Institute and Philantropia in Ljubljana have been conducting a project that targeted judges, media, journalists and trade unions. The same institute also monitors the Media and publishes papers on important topics like hate speech, human rights, religion, and minorities such as the Roma. The peace institute also conducts an EU project to advocate for the erased people (www.izbrisani17leti.si).

Trade unions in the country²², especially the Zveza svobodnih sindikatov Slovenije –ZSSS together with other NGOs has been advocating against exploitation in employment, especially migrants and third country nationals, as advocating for an increase in the national wage and pension and called for descent work, better work treatment and work conditions.

The trade unions constantly threaten to demonstrate due to lack of dialogue with stakeholders. The latter envisage the future of the competitiveness in the global market by reducing existing labour laws along with the minimum wage as well as by what they

²¹ <http://www.zdus-zveza.si/index.php/projekti/raznolikost-je-bogastvo-drube>, accessed 10.5.2010

²² <http://www.zsss.si>

call it *work/employment flexibility* on labour rights and breaching contracts by employers.

There was a *hunger strike* by migrant workers /TCN/ from Bosnia who were legally employed in Slovenia through an agreement with their country of origin, Bosnia and Herzegovina. The employees went on hunger strike because their employer did not pay them their salary for two years and could hardly survive on ten or twenty euro they were getting informally from their employers with the promise that they will get their pay altogether. Civil initiatives called *ROG* and *Dostje* organised a petition and a public statement to the minister and the government to solve the problem²³. The activists occupied the ministry's office and managed to get a working visa for three more years, because the migrant workers had a visa that was tied to this particular employer. The employer was not paying not their salary nor medical insurance or other obligatory terms of their employment contract. This will remain as one of the many national scandals that the employer breached the national law and employment contract. Later, the company was under police investigation.

V.ii Housing

In Slovenia housing is financed by the National Housing Programme that promotes housing construction, renovation and maintenance of apartments and residential houses²⁴. The Housing Fund of the Republic of Slovenia, a public fund was established by the Housing Act (OJ RS 18/91-I, 19/91-I – corrigendum, 9/94 – Constitutional Court Decision, Among others it provides loans to legal and physical entities to buy, build or benefit from social and non-profit apartments that could be granted to marginal groups.

Under the current legal system, access to housing requires Slovenian citizenship as a precondition, and Citizenship is derived from either birth in the country or from the parents. Naturalization is also possible. Thus a person without the Slovenian citizenship cannot participate in any bid or grant to benefit in the national housing programme. Because of this precondition, the very people or individuals or communities (e.g. the erased families, migrants & TCNs, stateless people, the so called new-Roma communities, etc.) who need housing the most remain illegible. In addition, to meet the housing shortage and facilitate housing access to different marginal groups greatly depends on the ability and politics of the local governing bodies in small towns and municipalities as they are legally autonomous from the state.

Unfortunately, with the further splitting of municipalities and establishing new townships/councils with very little financial & human resources as well as limited infrastructure, and with further distancing of the national government from issues at local level, like housing, **legal and illegal settlements** of the Roma communities,

²³ Blanco, Call on Minister Ivan Svetlik- Minister for employment and social affairs and the government of RS /Poziv ministru za delo, družino in socialne zadeve Ivanu Svetliku in Vladi RS/, press release, 7 March 2010 · see also, <http://www.njnetwork.org/Poziv-Ministru-za-delo-druzino-in>, accessed 20.4. 2010

²⁴ <http://www.stanovanjskisklad-rs.si> - The Housing Fund of the Republic of Slovenia and Vidmar H. Ksenija, The future of intercultural dialogue in Slovenia: Ambrus and Beyond, Ljubljana 2006

minority and migrant issues etc., one cannot be very optimistic in fighting discrimination in housing strategy in short time.

For example, the event that took place in the village of Ambrus is a direct result of a lack of a sustainable national strategy that address the settlement issues of the Roma community where an ethnically motivated attack took place against approximately 30 members of a Romani family among whom were 14 children by non-Roma majority who forced them to leave their homes under police escort in 2006 and later demolished the houses on the grounds that they had been built illegally²⁵. The housing conditions of many of the Roma communities and their status continues to be difficult and unsatisfactory with many Roma living in isolated, often illegal settlements, far away from services and other communities. The legal and practical obstacles resulting from the lack of citizenship prevent some Roma from accessing housing, employment or social services. It is also true that there were/are efforts in developing the National Action Plan (NAP) on Social Inclusion, in education and housing. Altogether, it seems that only piece-meal progress has been made in addressing the challenging task that otherwise needs a holistic strategy and dialogue with broad range of stakeholders.

Despite these efforts, the Roma in Slovenia continue to face discrimination and exclusion and serious problems remain in the field of employment and housing and settlement legalisation in addition to the difficulties in education.

As good examples:

The municipality of Ljubljana provided accommodation to homeless and drug addicted groups normally called 'Kralj Ulice'- King of the street, It also developed a new strategy to substantially increase housing access especially to marginal groups. In 2008\9 alone the municipality of Ljubljana has doubled the number of available public houses to targeted groups.

A civil society by the name ROG Social centre and others NGOs organised a public demonstration in Ljubljana against the living conditions of third country nationals employees of a construction company VEGRAD that brought them from Bosnia, east and south east European countries who were literally packed in a room which housed as many as 10 individuals. The activist groups were also organising a public demonstration against the Erased people and against the deportation of asylum seekers and providing shelters and services²⁶.

Housing to asylum seekers is formally under the remit of the Ministry of Interior. But in practice many NGOs doubt the simplicity of this intention as housing access is difficult in general and for asylum seekers in particular. Asylum seekers find it hard to get

²⁵ Vidmar H. Ksenija, The future of intercultural dialogue in Slovenia: Ambrus and Beyond, Ljubljana 2006

²⁶ www.dostje.org

affordable accommodation because they are not entitled to social housing as this is reserved solely for Slovene citizens. Private landlords often refuse to issue official contracts for reasons of tax evasion. However, asylum seekers need a written contract to receive rental subsidies and to have an official permanent address which in turn is a prerequisite for obtaining a work permit.

There is also ample evidence that indicate that the Roma are the most vulnerable group to be confronted with discrimination and racism in the housing sector. There is also evidence that foreign nationals are asked to pay higher rents, unacceptable terms of contract or even the absence of any contract, excessive demands for advance payment, refusal to accept guarantors, and requests for excessive and unnecessary documentation. This situation is exacerbated by the fact that foreigners are not eligible for social housing.

V.iii Education

Slovenia has the highest degree of adult literacy 99.7 %²⁷. In November 2009, a draft National Roma Programme was presented to the general public and for consultation with NGOs. The programme outlined measures to improve the situation of the Roma community for the period 2010-2015. It covered several social aspects where Roma face discrimination, such as in housing, education, employment and access to health. Although this time new positive developments are evident, there is always cynicism, because before the parliamentary elections in 2004, there was already a new Strategy of Education of Roma in the Republic of Slovenia²⁸. That strategy reflected the policy directives included in the Committee of Ministers' Recommendation on the education of Roma/Gypsy children in Europe. That strategy was needed mainly:

- *to achieve early integration of Roma children in pre-schools in order to help them learn Slovenian language;*
- *to additionally support to classes with Roma children;*
- *to introduce Roma assistants;*
- *to introduce the Roma language as an optional subject and the inclusion of Roma culture and history in the curriculum.*

But after the parliamentary election in October 2004, a change of government took place from centre left to centre right parties. With the change of government the new education strategy also changed. In 2005 the then coalition government was led by the Slovenian Democratic Party SDS which introduced another new strategy that was not in practice before the election 2004. It introduced the so called '*Bersiljin elementary school Model*' (in the south-eastern Dolenjska region of Slovenia). According to them, Roma children, who often have difficulties with the Slovenian language, require much more time and attention of the teachers. In the absence of an agreement, the Minister of Education proposed a solution which continued the segregation of Roma pupils to meet the request of the non-Roma parents by creating 'separate classes' for Roma pupils'.

²⁷ Amnesty International report on Slovenia, may 2010

²⁸ <https://wcd.coe.int/ViewDoc.jsp?id=984025&Site=COE#RelatedDocuments>, accessed, 23.3. 2008

This then led to a boycott by Roma parents. Following appeals by parents of Romani pupils and non-governmental organizations, including Amnesty International, the Minister of Education retracted its initial proposal and reportedly suggested that different classes could be created on the basis of the pupils' 'knowledge and performance' in school. The Minister of Education decided to create special separated classes at the school in certain subjects for Romani children only - from the first year onwards by what they call 'ability-based streaming' for certain subjects like - Slovene, foreign languages and mathematics' for pupils who do not perform sufficiently well. The introduction of this model and measure, which run counter to the standard practice of streaming only after the third year, was a subject of critiques by Education experts & CSOs. In March 2006 the Council of Europe commissioner for human rights described it as 'de facto segregation'²⁹. The separation of these groups from others in certain classes encouraged an over-readiness to label Roma children as educationally disabled who have learning difficulties. This method is now terminated and another new strategy is again at hand. Currently, the **new coalition** government again started a new strategy; hopefully, the new strategy /National Roma programme/ that outlined measures to improve the situation of the Roma community for the period 2010-2015 will be final. This programme covers several social aspects where Roma face discrimination, such as housing, education, employment and access to health. It was also presented to the general public and for consultation with NGOs.

The US Department of State on Human Right Report 2008 noted that Roma children are enrolled in 40 nursery schools throughout the country but that school attendance varies widely by region. According to that report only 39% of Roma children attend school in the south-eastern Dolenjska region and 70% attend school in the north-eastern Prekmurje region). AI report 2008 states that the Roma literacy rate is 10%.

Disproportionate representation as discrimination - The issue of disproportionate representation of members of ex-Yugoslav minority children in certain schools in Ljubljana is a matter of concern and has come to the public's attention. In particular, in one primary school in Ljubljana (Livada) as many as 97% of the pupils were children from families from other ex-Yugoslav countries, whereas their proportion according to the ethnic composition of the school district should have been around 50%³⁰. This situation appears to be the result of the decision of the parents of ethnic Slovenian children to enrol their children in other schools. Despite the effort by the school to promote itself publicly and in the school district, virtually all children enrolled in Livada primary school continue to come from non-ethnic Slovenian families. They contacted the Mayor about the case and recommended strengthened consultations with the school communities and other stakeholders that they should monitor the situation and to take the necessary swift measures to avoid an ethnic profiling and de facto segregation in schools.

²⁹ Council of Europe commissioner for human rights on Slovenia, March 2006 "The Implementation model for the **Brsiljin Elementary School** is in conflict with the profession and the law", also see <https://wcde.coe.int/view>, accessed, 23.3. 2008

³⁰ ECRI – Third report on Slovenia, 13. February 2007

According to some reports there are 4000 stateless people in Slovenia. Lack of citizenship can deny and hinder the benefits and opportunities education can offer and their ability to cope up with the education system. Families of these people have little or no education.

Good practice

There are Initiatives in some schools to include a new inter cultural education syllabus, and new parts of the curriculum are designed to address racism and anti-Semitism. There are many reported initiatives to address discrimination against Roma children, such as the project to integrate Roma children into mainstream education in Slovenia, which was producing positive results. They used motivational means, such as awarding grants to projects aimed at instructing teachers in the education of Roma children.

V.iv Health

According to Slovenian legislation (Health care and health insurance act) emergency health care is only provided to the following groups of people: persons without residence, asylum seekers, rejected asylum seekers, undocumented migrants and persons with status of temporary residence.

However the NGO Slovene Philanthropy noted that in practice, this is not afforded to all those who are in need of it. This is partly because the medical personnel in these institutions don't know that they can provide emergency help and partly because of the difference in the opinion of the physician regarding what is emergency medical help and what is not. Above all, the matter does not function in practice, because all fear, that they will not get paid for the medical services which they offer, though the law assures this kind of help. The emergency health care services are financed by The Ministry of Health.

Good Practice:

There are two health care Pro-bono centres in Ljubljana, the capital and Maribor the second city. The Clinic with a Consulting unit for People without Health Care Insurance could be mentioned. The Clinic started its work in January 2002. It was set up by the Municipality of Ljubljana, the Health Centre of Ljubljana, Karitas Štepanja vas and the Slovene Philanthropy. The initiative for its establishment came from some physicians and other health workers as well as social workers.

It should also be stressed that the Clinic is an example of good cooperation between public institutions (the Health Centre of Ljubljana), NGOs (Karitas Štepanja vas and the Slovene Philanthropy) as well as the state (the Ministry of Work, Family and Social Affairs) and the local community (Municipality of Ljubljana). The aim is to improve together the quality of life and health of the

people on the edge of society. Their problems are the problems of our society. At the Clinic three persons are regularly employed: a hospital nurse, a social worker and a cleaning lady. All of them have an eight-hour working day. In addition, 37 physician specialists work there as volunteers, together with 3 hospital nurses and 2 pharmacists, 2 pharmacy students and 10 other volunteers. The Clinic is meant for persons, who do not have settled basic medical care insurance and live in the Municipality of Ljubljana region. Annually there was an average of 4,492 doctor visits documented in the Clinic. At the hospital 4000 visits for consulting and other help were documented. The users are classified in the following groups: homeless persons, foreigners with or without residence permits in Slovenia (asylum seekers are not included here), Slovenian citizens without permanent residence, former entrepreneurs with debts (not paid contributions for pension and medical insurance, not paid taxes), so called "erased" [a special group, citizens of the former Republic of Yugoslavia (SFRJ), who did not regulate their status after the independence of Slovenia].

There is an inappropriate level of medical care for asylum seekers, especially for children and other vulnerable categories as well as a lack of information among asylum seekers on eligible to health care

V.v Policing and ethnic profiling

In Slovenia, the law prohibits racial profiling. Nevertheless, it is a public secret that in many cases the police unlawfully practice racial profiling at airports and other locations as well as in the cities, where skin colour, dress or religious attributes or ethnic background are the main reasons why people are stopped. In 2002 a police stopped a female and asked her to identify herself, who was wearing a headscarf. The only thing that made her different from others around that area was the headscarf that presumably shows that she is a Muslim. The police did not explain the reason behind his decision. As a result of this event and others, the constitutional court repealed first paragraph of Article 36 of the law on Police which allowed the police to do so on unclear and inexplicit terms or on grounds of perception. Based on the opinion note made by the Commissioner for Human Rights in Strasbourg July 2009³¹, it seems that this kind of practice is wide spread in Europe too. The commissioner said "Police stop members of minorities more often than others, requiring their identification documents to be interrogated and investigated. They are victims of so-called "ethnic profiling", which is prevalent in today's Europe and the methods are contrary to the agreed human rights standards. There are also counter productive because it discourages people to participate in police efforts to discover the real crimes".

V.vi Racist violence and crime

³¹ Ethnic and religious profiling is inconsistent with humanright standards, strasbourg, 7, July 2009, see also; http://www.coe.si/sl/novice/eticno_in_versko_profiliranje_je_v_nasprotju_s_standardi_clovekovih_pravic/, accessed 30.5.2010

According to a survey conducted by ENAR Slovenia 2010 on racial violence³², it can be said that the erased people, Roma, homosexuals, religious minorities and the Muslim community in particular, followed by ethnic and race victimisation have been the subject of racist violence. Racially motivated assaults (on a person of African origin) was reported in June 2001, followed by attacks on other communities and groups like Roma, gays and lesbians, erased, pensioners, etc. It should be noted that in most cases victims of racist violence do not report to the police. This is because *the victims* believe that the police do not always pay the necessary attention to the racist aspect of an offence, and instead considers it as a common offence such as a street fight. This argument is supported by various reports and academic commentaries³³. Furthermore, the amount of hate speech and victimisation published on the internet is on the rise which is a matter of concern³⁴. The following are some examples of discrimination, racist violence and crime registered by different NGOs, institutes and individuals who experienced racist violence which targeted them or their property.

Some 25.671 non-Slovene citizens of the former federation who remained in Slovenia after independence were removed from official records after they failed to apply for citizenship or permanent resident status during a brief window of opportunity in 1992. As a result they are referred to as the 'the erased people'. Their status remains largely unresolved to date, despite considerable international criticism and a Constitutional Court ruling in 1999 and 2003 in their favour. Some 95% of referendum voters in 2004 rejected a government-backed bill to grant residency rights to the erased, although only 31% of the electorate turned out.

In 2005, there was xenophobic graffiti on the graves of fallen *Muslim soldiers*' in the western part of Slovenia - one of the biggest battle zones during World War I. In the same year, the Muslim communities were the subject of xenophobia and victimisation by amongst others, political figures when they wanted to build a mosque in Ljubljana. For example, a visible member of the Slovenian people's Party said '*... the construction of a mosque in Ljubljana would, knowingly or not, mean the expansion of the infrastructure of Al Qaida and other terrorist organizations*'. He then went on to say that the planned mosque would act as a 'drug market and a terrorist breeding ground'.³⁵

According to an NGO, at the end of 2009³⁶, there was racist attack on a person of African origin in Kranj. The incident was reported to a police. Based on the victim's report, the perpetrator used a poison spray on the victim's face while he was walking in the centre of the city. The police identified the perpetrator as a white male in his late 20s who was known to them. The police did not record this as a racist offence. The victim subsequently needed medical assistance. In early June 2010, there was a media and a

³² Eyachew. Tefera, *Data Collection on Racial Violence in Slovenia*, Institute for African Studies (Ljubljana, 2010)

³³ ECRI, country report, 2002, p.9, Roman, Kuhar, *At the cross roads of discrimination*, (Peace Institute, 2009) p.56, European Union Agency for Fundamental Rights, *European Union Minorities and Discrimination Survey: Data in Focus Report The Roma*, (Vienna, 2009).

³⁴ Spletno Oko, Porocilo (Annual report), 2007 /2009, http://www.spletno-okno.si/uploadi/editor/1239375991spletno_okno_slo.pdf, accessed 10.7. 2010.

³⁵ *Novice Dnevnik.si*, 04 January 2010, 'Krajani se niso strinjali s pokopom Rominje na vaškem pokopališču' <http://www.times.si/read/245ebbe52b/780fb58b11/index.html> accessed 6.9.2010.

³⁶ Ibid 34

police report that a person of Cuban origin was physically attacked at night by a group of approximately 20 young white male skinheads near Plečnikov Trg in Ljubljana. The incident was reported to police³⁷.

There have been assaults on the Jewish population however these are not thought to be numerous. According to an NGO, in 2007 during a football match between Slovenia and Croatia, a football hooligan group from Croatia saw a Jew sitting in a bar with a 'kippah' on his head and started to insult him. He subsequently left the bar but they met him again later that night on one of the main roads. They began to salute him with Nazi greetings and shouted 'Heil Hitler'. They told him to go to Auschwitz and that they will kill all the Jews. One of the Hooligans approached him and told him that he will cut off his head. This criminal offence and racial assault was not reported to police. However according to the survey that was sent to other NGOs, there have been some positive prosecutions.

Good Practice:

For stateless persons or 'erased persons', after a long journey of legal limbo as well as being victimised by political figures and parties they received a positive verdict in the European Court of Human Rights in 2010 thanks to the support from NGOs, legal experts and civil society who relentlessly fought for their situation to be resolved³⁸.

The annual report on internet violence and hate speech/incitement by an online website that monitors cyber offence called 'spletno oko'³⁹, states there is an increase of hate incitement and hate speech. The site noted that in 2008 it identified approximately 20 cases per month of hate related communication and hate speech. According to the report /from March 2007 to March 2008, there were 7cases reported to police, while from 2008 to 2009 were 21 cases reported to police every month. Annually the site monitored 69% of the communication as a hate offence and reported this to the police.

The author believes that there is a rise in criminal offences/racial assaults and victimisation of the Roma, Gays and Muslims respectively, while race based assaults are occasional, indirect and verbal. The frequency of victimisation increases when local and national elections approach.

V.vii Access to goods and services in the public and private sector

³⁷ Vlado, Mihelj; Raj pod Triglavom – (kdo gnoji in zaliva obrite glave?), Heaven under the Alps – (who manure and breeds skinheads?), <http://cm.dnevnik.si/debate/kolumne/1042373710>

³⁸ Neža.Kogovšek et al, Izjava za medije, Mirovni inštitut: (o Evropskemu sodišču za človekove pravice o Izbrisani)(press release-European court of human right decision on the Erased case , July 13 2010)

Kurić And Others V. Slovenia, Application No. 26828/06,13 July 2010, see also, Popisane zgodbe izbrisanih <http://www.izbrisani17let.si/?id=1&leto=2>, accessed 30 May 2010. See also,

³⁸ <http://tovarna.org/blog/76?from=10>, <http://www.dostje.org/izbrisani/izbrisani.html>

³⁹ Delo (nError! Bookmark not defined.)

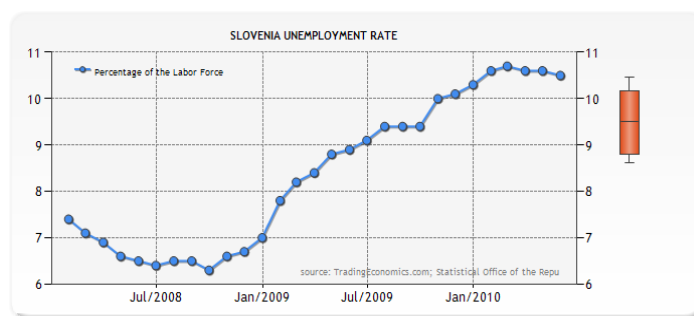
According to the Constitution, Slovenia is a social state. Access to goods and services for adult individuals without income is available by applying and registering with the unemployment office. This institute facilitates different social transfers for social protection due to job loss, unemployment, lower income, etc, but it is conditioned by citizenship and work.

However, there was a claim that in 2007/2008 the then government illegally erased some registered job seekers, jobless persons and unemployed individuals from the data of unemployed office for employment, thus losing the right to access to goods and social welfares.

Good Practice:

The government has raised the minimum wage to lift those who are on a lower income. But as a result of the financial crisis, the government developed a financial reform package. According to the trade unions and pensioners, there is resistance to it as they fear the reform will affect mostly those who already have a low income or pension. They are in a constant dialogue with the government.

In an environment where there are approximately 4000 stateless persons, along with the 'new Roma' group who do not have citizenship or legal status, these groups are unduly affected by these policies. Such a status created an additional barrier to vital services such as social welfare, health care and access to employment, etc.



Graph 2: No of unemployment from 2008-2010⁴⁰

V.viii Media, including the internet

The media industry enjoys a high degree of freedom and independence. The constitution and law provide for freedom of speech and of the press and is generally respected these rights in practice. The penal code criminalizes the promotion of "national, race, or religious discord or intolerance or the promotion of superiority of one race over others." There were no reports that authorities charged any individuals or publications under this provision during the year.

⁴⁰ Slovenian Unemployment rate, see also, <http://www.tradingeconomics.com/Economics/Unemployment-rate.aspx?symbol=SIT>, accessed 22.4.2010

The independent media were active and expressed a variety of views, and the international media operated freely. Private investment and advertising supported the major print media; however, the government owned substantial stock in many companies that were shareholders in the major media houses. Reports of indirect government influence on the media is still a matter of controversy. On 20 June 2004 the parliament of Slovenia ratified the Convention on Cybercrime and the Additional Protocol to the convention on Cybercrime, concerning the Criminalization of Acts of a Racist and Xenophobic Nature committed through Computer Systems.

Internet Freedom - There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by electronic mail. However, an on line monitoring internet website ***spletno oko***⁴¹ reported that there is a growing trend of racial hatred discourse on the internet. According to its annual from March 2007 to March 2009, it received and detected 443 incidents of hate speech, 334 of these were reported to police.

⁴¹ Ibid 39 p.9-10

VI. Political and legal context

VI.i Anti discrimination

Political developments - In late 2007, there was a Presidential election where the former long time serving diplomat at the UN and Law professor contested as an independent candidate with backing of centre left political parties. After a 2nd runoff in November 2007, he won with 68% of the vote, defeating the then government's candidate. On the 21st of September 2008 there was a parliamentary election in Slovenia. Two months before the election, a **corruption allegation** was reported. The investigation of several officials and private individuals in **Finland** and **Slovenia** for corruption related to the 2007 Ministry of Defence purchase of armoured vehicles from a Finnish defence contractor was ongoing when this report was prepared.

In that parliamentary election (2008), the social democrats were victorious and captured 29 seats and some 30% of the vote, then formed a coalition government with three small parties, with Borut Pahor as the prime minister. There were 13 women in the 90-seat National Assembly and one woman in the 40-seat National Council and four women in the 18-member cabinet. There were two members of minority groups in the National Assembly, one seat each to the two minorities - the Hungarian and Italian ethnic minorities.

Legal developments – Slovenia is a parliamentary democracy and constitutional republic. Members of the Italian and Hungarian ethnic minorities enjoy the status of indigenous minorities. Article 14 of the Constitution guarantees equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other conviction, material standing, birth, education, social status or any other personal circumstance. In addition to the general equality clause, some other provisions of the Constitution guarantee equality regarding the individual's rights in judicial and administrative proceedings, voting process, employment, participation in public affairs, marriage and family, parenthood, religious communities and criminal charges. Slovenia is bound to respect international treaties for combating discrimination, including the European Convention on Human Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of all Forms of Racial Discrimination, the Revised European Social Charter, the International Convention on Economic, Social and Cultural Rights and relevant International Labour Organization conventions.

Slovenian legislation contains several general provisions prohibiting discrimination, according to which the state and other bodies, organisations and associations shall ensure in their activities protection from any kind of discrimination on the grounds of racial, national, ethnic or other differentiation. The Implementation of the Principle of Equal Treatment Act, adopted in May 2004 (Official Gazette No. 50/2004) is aimed at improving the protection in relation to discrimination based on different grounds, such as

race or ethnic origin, sex, health condition, disability, language, religious or other conviction, age, sexual orientation, education and social status. The Act bans direct and indirect discrimination, harassment and victimization and determines sanctions for violations, allows positive measures if they promote the achievement of its aims or are used as compensation for less favourable position of persons with particular personal circumstances. The Council of the Government for the Implementation of the Principle of Equal Treatment Act that among other tasks, provide for implementation of the provisions of the Act, monitor their implementation and initiate educational, awareness-raising, information and research activities for the promotion of equal treatment. The Act also assigns duties in relation to the consideration of informal complaints in relation to anti-discrimination rules to **the Advocate of the principle of equality**, a body for investigating complaints about alleged breaches of the equal treatment principle, and determines circumstances in which the Advocate shall cede a case to the competent inspection service and assistance to discriminated persons by dealing with cases of alleged unequal treatment under the provisions of this act.

Good Example:

The Penal Code sanctions the violation of equality and the incitement of ethnic, racial or religious hatred, strife or intolerance among others. In accordance with the provisions of Article 141 of the Penal Code, anyone who deprives another person or restricts them from any human right or fundamental freedom recognised by the international community or laid down by the Constitution or the Statutes, or grants another person a special privilege or advantage on the grounds of nationality, race, colour, religion, ethnic background, gender, language, political or other beliefs, sexual orientation, social status, birth, education, social position or any other circumstance, shall be punished.

Enforcing the law - A victim of discrimination has at his or her disposal formal or informal procedures for the protection of the right to equal treatment. The victim can make a petition to the Advocate for Equal Opportunities or, in the event of a violation of his or her human rights or fundamental freedoms by the State or a State-related body, the victim can complain to the Human Rights Ombudsman. The Advocate can advise the competent inspectorate or body to initiate a formal procedure regarding the alleged discrimination. The victim can also make a complaint directly to the inspection service in the form of a formal, administrative procedure. In the event of discrimination being established as having taken place, the misdemeanour and offender shall be punished by payment of a fine. The victim can also initiate civil proceedings in order to secure his or her right to be compensated for the damage suffered as a direct result of the discrimination. The victim also has the option to use administrative procedures, judicial review and the constitutional complaint mechanism for the protection of his or her rights.

Equality bodies - IPETA establishes two specialised bodies for the implementation of the principle of equal treatment (Uradni list RS, št. 93/2007 – UPB1): (1) the Council of the Government for the Implementation of the Principle of Equal Treatment and (2) the Advocate for the Principle of Equality, 2005. The Council of the Government for the

Implementation of the Principle of Equal Treatment has the following duties: (1) to provide for the implementation of the provisions of the Act, (2) to monitor, ascertain and assess the position of individual groups within society with regard to the implementation of the principle of equal treatment, (3) to submit to the government proposals, initiatives and recommendations for the adoption of directives and measures that are necessary for the implementation of the principle of equal treatment, (4) to submit proposals for the promotion of education, awareness-raising and research in the field of equal treatment, and (5) to perform other duties, determined by the decree establishing it.

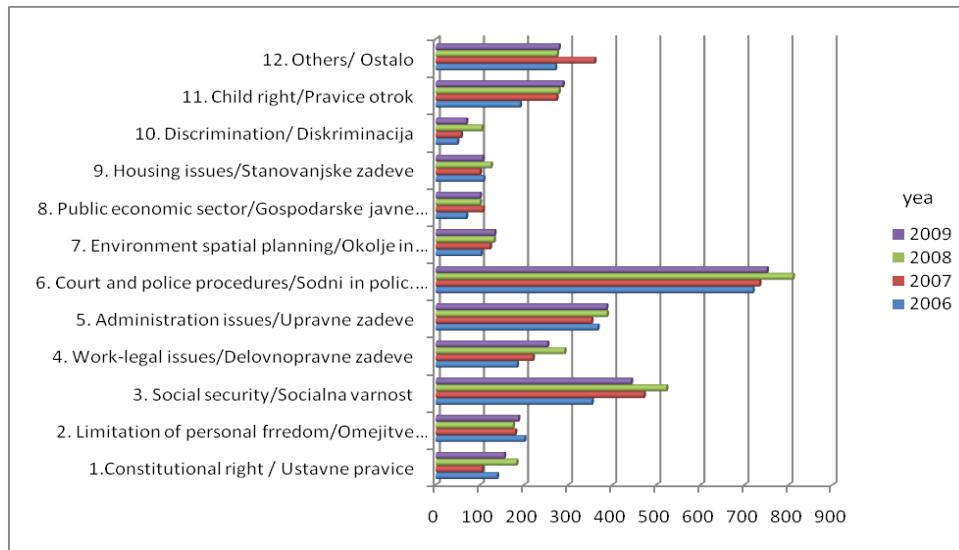
As good examples: Members of the council of the government for the Implementation of the Principle of Equal Treatment are among others, three representatives of NGOs and representatives of marginal groups.

Informal complaints in relation to violations of human rights and fundamental freedoms by an act or deed of State authorities, local authorities and bearers of public office can be lodged with the Human Rights Ombudsman. **The Ombudsman's** office can obtain all data from the State and other bodies. It can serve the Constitutional Court with constitutional complaints and proposals for the assessment of compliance of certain legislative and regulatory documents with the Constitution. It also issues annual reports and are considered by the National Assembly. Today, it is one of the very important institutes in the country. As an example, table 1 below illustrates different cases intervened annually by this office in 2009⁴².

Year	2006	2007	2008	2009
1. Constitutional right / Ustavne pravice	139	105	183	155
2. Limitation of personal freedom/Omejitve osebne svobode	201	180	175	187
3. Social security/Socialna varnost	354	472	523	443
4. Work-legal issues/Delovnopravne zadeve	184	220	292	253
5. Administration issues/Upravne zadeve	367	353	388	387
6. Court and police procedures/Sodni in polic. postopki	719	734	810	751
7. Environment spatial planning/Okolje in prostor	102	123	132	133
8. Public economic sector/Gospodarske javne službe	69	107	100	100
9. Housing issues/Stanovanjske zadeve	108	100	125	106
10. Discrimination/ Diskriminacija	49	57	104	69
11. Child right/Pravice otrok	191	274	279	288
12. Others/ Ostalo	271	360	275	279
Total	2.754	3.085	3.386	3.151

Table 1: Comparison no.of accessed cases by the human rights office in the period of 2006 to 2009

⁴² Ibid 2 p.439



Graph 3: Illustrating number of cases that reach the human rights office

The highest and most constant complaint in graph 3 lies in the court and police procedures for all years, followed by social protection or security that can be the subject of poverty and low income. While numbers show the magnitude of cases in volume, it can as well be understood that smaller numbers of cases can be an indicator of the implementation of the law

Today we have an established **office of equal opportunities** and an advocator for **the Principle of Equal Treatment** office as an advisory body to the government. Nevertheless, the office has recently engaged in awareness activities on discrimination, racism etc. and prepared annual reports.

The same institute (annual report 2009) on discrimination on grounds of individual or personal circumstances is also reported as is given in table 3 below.

Sex	16
Ethnicity	10
Handkeped/health	6
Age	8
Religion	2
Sexual orientation	5
Maternity/pregnancy	8
Single or not single	1
Material wealth	2
Education/work experience	2
Unknown area	10
Total	70

Table 3: The type and number of presumably discrimination or racism cases appealed to the office advocacy for equal treatment from personal/individual view point

NGO assessment

Recent experience shows that NGOs are working together, exchanging expertise, launching joint campaigns, initiatives or organizing events and demonstrations, strengthening their position and creating common positions, networking in EU projects. NGOs co-operate in a formalized way by establishing Platforms, by the establishment of alliances (trade unions) and having a non-formalized and formalised form (eg. organizations dealing with migration, asylum and refugee issues). They become partners with the government in the dialogue.

VI.ii Migration and integration

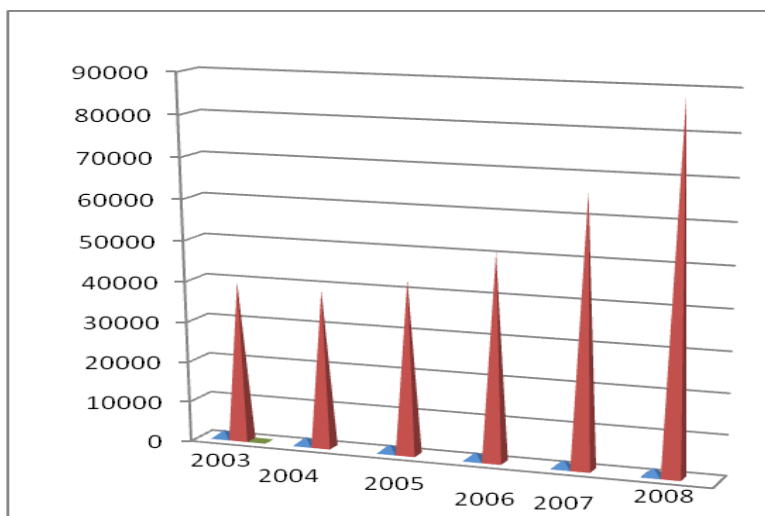
Legal migration and integration of third-country nationals are part of an important debate today across the enlarged European Union. Most Member States are now experiencing a migratory phenomena and are confronted with integration challenges. The effective and responsible integration of immigrants in the labour market constitutes an important contribution to reaching the Lisbon targets. The promotion of fundamental rights, non discrimination and equal opportunities for all are key integration issues. EU legislation provides a strong framework of anti-discrimination legislation. In its Communication on a framework strategy for non-discrimination and equal opportunities for all, the Commission stressed the need to reinforce efforts to promote equal opportunities for all in order to tackle the structural barriers faced by migrants, ethnic minorities and other vulnerable groups.

In Slovenia, the basic framework for an *integration policy* was setup in 1999 and for a *migration policy*, the government established a committee to study and develop a national strategy for migration in 2002. Integration has to be understood as two-way process and as such should develop strategies accordingly.

Migrant workers: According to statistics office report 2007, among the active population of Slovenia 56.030 or 6.8% were foreigners, and 93.5% of these were from non EU countries.

Graph 5 below shows the no. of foreign or migrant workers with valid working visa in Slovenia from 2003 to 2008⁴³.

⁴³ Karmen, Medica, Goran, Lukic, , National report on the situation of migrants workers in Slovenia, (Ljubljana 2008 p.18), see also, http://www.google.si/search?sourceid=navclient&ie=UTF-8&rlz=1T4RNSN_enSI390SI393&q=Report+on+migration+in+Slovenia+by+Karmen+Medica+in+Goran+Luki%c4%8d



Graph 4: No. of migrant workers with valid working visa in Slovenia from 2003 to 2008⁴⁴

For integration and empowerment of minorities and vulnerable groups, the government provides substantial financial support in the form of grants through the ministry of Culture. Marginal groups produce and publish news papers, bulletin in their own language.

Asylum-seekers and refugees: There has been a serious concern by UN and UNHCR representatives about how to increase the percentage of those being granted protection, on how to provide access to all asylum-seekers and refugees to adequate healthcare and education and how to regulate the situation by law. According to the UNCHR report 2007⁴⁵, in all of Central Europe, Slovenia had the smallest number of refugee recognitions and the lowest refugee recognition rate i.e. 0.6%. As an example, in 2007, out of a total of 425 applications lodged only two persons granted refugee status and only one out of 521 lodged in 2006. At the same time, Slovenia saw the biggest decrease (-18%) in the number of asylum claims. More than half of all applicants came from Serbia (55.8%), followed by Turkish nationals (9%), and applicants from Albania, Bosnia-Herzegovina and Macedonia (5% respectively).

In 2004, a new Integration Decree was adopted. The new Decree provides for additional support measures for recognised refugees, such as a six-month special housing allowance. An individual integration plan is concluded between the Ministry of Interior, which is responsible for refugee integration, and the refugee, who will also be provided with necessary information by integration counsellors.

Table 4 below shows the number of asylum seekers and other entities, data provided by the Ministry of interior of the Republic of Slovenia.

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Asylum seekers in Slovenia	9.244	1.511	532	1.040	1.173	1.674	521	434	260	202

⁴⁴ Ibid 55

⁴⁵ UNCHR refugee agency, Being a Refugee, Age, Gender and Diversity Mainstreaming Report (Budapest , 2007)

Refugees recognized	11	25	3	37	39	26	9	9	4	20
Unaccompanied minors		255	117	77	192	140	91	27	18	26

Table 4: Number of unaccompanied minors, asylum seekers and irregular entries to the territory of Slovenia

The no. of asylum seekers granted refugee status annually was not available. There is also a concern about the low number of unaccompanied minors who received recognition and support. As can be seen in table 5, the number of people who applied for international protection/unaccompanied minors/ in the past 14 years /1995-2009/ was just one percent (1%), and 84.5% of application terminated.

Year	No. application	Recognised status	Termination of procedure	Rejected application
1995	6	2	10	4
1996	35	0	5	0
1997	72	0	15	8
1998	337	1	13	27
1999	744	0	237	87
2000	9244	11	831	46
2001	1511	25	9911	97
2002	640	3	619	105
2003	1101	37	964	123
2004	1208	39	737	317
2005	1674	26	1120	661
2006	579	9	288	561
2007	434	9	238	276
2008	260	4	164	145
2009	202	20	96	89
Total	18.047	186 (1%)	15.24884.5%)	2.546

Table 5: The number of applicants for international protection by unaccompanied minors

Long term housing support for refugees was described as inadequate. The regulations regarding the rights of asylum-seekers in the field of health care and education is limited to primary education only and health services are limited to emergency care with no provisions for persons with special needs. Recognised refugees often require support and assistance by the authorities, as well as the non-governmental sector, in order to be able to fully integrate into a society. To ensure that the support given to the refugees is adequate, it is necessary to improve co-operation between the various authorities and provide more funding to NGOs working in this field.

In the past, Slovenia has been criticised by regional representatives of the UN High Commissioner for Refugees for introducing a new asylum law that reduced legal standards below international levels and restricting the prospects of asylum seekers to find protection in Slovenia and putting asylum seekers at risk of detention or deportation. Although it is now changed, the new law may have led to people being

deported while their appeal is still ongoing and this contributed for being one of the lowest refugee recognition rates in the region.

Good practice:

For better integration the ministry of interior, the department for immigration and integration published an information booklet in seven languages with important data for third country citizens in general and for asylum seekers in particular⁴⁶.

VI.iii Criminal justice

VI.iii.i Racism as a crime

According to the EU, the Slovenian judiciary enjoys a high degree of independence. The constitution guarantees citizens due process, equality before the law, and a presumption of innocence. However, the system faces a growing backlog of cases, with some criminal cases taking two to five years to complete. There are an excessive number of inexperienced judges and political infighting over the appointment of judges. However, Slovenia has persistent problems in dealing with various minorities – Italians, Hungarian, Muslim residents and guest workers, and citizens of the former Yugoslavia. It has been huge problems in implementing the court's decisions, the inability to draw the line between freedom of speech and hate speech, it has problems in tolerating race and ethnic based victimisation that comes not only from ordinary citizens and gangsters but also from law makers.

The law limits the work to 40 hours and provides for minimum annual leave of 20 days and a mandatory rest period of at least one day per week. Collective agreements regulated premium pay for overtime and were not standardized. The law limits maximum overtime to eight hours per week, 20 hours per month, and 170 hours per year. The Ministry of Labour, Family, and Social Affairs is responsible for monitoring labour practices and has inspection authority; police are responsible for investigating violations of the law. Authorities enforced the laws effectively, except in some cases involving migrant workers. According to a complaint filed by the Association of Free Trade Unions of Slovenia to the International Labour Organization (ILO) Committee of Experts, migrant workers were often orally notified to perform forced and excessive overtime in violation of labour law provisions limiting overtime and specifying methods to formally request it. The Free Trade unions also noted that foreign nationals in the country on employment permits were made more vulnerable to exploitation in terms of overtime, wages, rest periods, and annual leave by virtue of being tied to the employer who provided the permit.

According to the ILO's 2009 Report, inspectors also found numerous violations of the Employment and Work of Aliens Act with respect to migrant workers, especially in the construction industry, which employed approximately 50-70% of such workers. These

⁴⁶ Ministry of interior Slovenia, Integration into Slovene society, Information for foreigners (Ljubljana 2009)

workers came primarily from Bosnia and Herzegovina, Serbia, and Montenegro. Violations included the practice of employers' illegally trading foreign workers who were in the country on the basis of employment permits. Some migrant workers, especially seasonal labourers, lived in substandard housing conditions segregated from the national population and lacking minimum standards, in violation of the 2007 Principle of Equal Treatment Act.

Special commissions under the Ministry of Health and the Ministry of Labour, Family, and Social Affairs set standards for occupational health and safety for all workers. The ministry's Inspector General Department conducted over 17,000 inspections in 2008, with almost 9,000 enforcement actions, including fines, prosecutions, and resolution of conditions resulting from those inspections. Workers had the legal right to remove themselves from dangerous work situations without jeopardy to their continued employment, and authorities effectively enforced this right.

The government should furthermore make the effort to implement Constitutional Court rulings in which **laws and bylaws** were found to be in violation of the Constitution.

The problem of the **ethics of public speech** became especially pronounced, frequently underscoring the helplessness of individuals when the media, especially the commercial media, make unjustifiable intrusions into their privacy, disclosed their identity or issued false information. We have also seen that legal remedies are often ineffective. The fact that politicians are often the first in line to express intolerance towards various minorities is also especially worrisome.

VI.iii.ii Counter terrorism

According to the report by United States Department of State on Slovenia 2010⁴⁷, Slovenia is generally classed as a low-threat country for terrorism and terrorist activity. The National Security Council chaired by the president, includes the defence, interior, justice, foreign affairs, and finance ministers, it is the main body for counterterrorism policy. In the case of a terrorist incident, the NSC's secretariat, led by the prime minister's national security advisor, would lead the inter-ministerial working group tasked with a response, with subgroups focusing on specific threats. If the counter terrorism measures impact on ethnic and religious minority communities is not known to the Author.

VI.iii.iii Ethnic profiling

The law prohibits racial profiling, but in many case politicians and parliamentarians often use it. A group of neo-fascists also use it on internet forms although Slovenia has ratified the Convention on Cybercrime and Additional Protocol to the convention on Cybercrime, concerning the Criminalisation of Acts of a Racist and Xenophobic Nature committed through Computer Systems.

⁴⁷ United States Department of State, *2009 Country Reports on Terrorism - Slovenia*, 5 August 2010

In 2004, there was racial violence through an internet forum. A person was identified by the computers' IP and caught inciting hate rate through the interne. Some of the warriors messages included, 'The Roma invasion of Lendava', 'kill Roma, we need Hitler' /Romska invazija na Lendovo, ubiti Rome in Rabimo Hitlerja/. The perpetrator was brought to court by an exemplary and personal commitment of the Mayor of Lendava.

According to a report by the Office of State Prosecutor, a district prosecutor in Ljubljana at the end of 2006 indicted the president of one right wing political party for allegedly offending, inciting hatred, discord and intolerance when he appeared on a TV programme called Pyramida and made comments against a Roma person who was on the same programme as well as the Roma community at large. The indictment was based on a breach of the principle of equality, which can be found in Article 300 (1) of the Criminal Code

VI.iv Social inclusion

In Slovenian's national strategy programme, it prioritized the social and economic dimension of vulnerable groups. The strategy aims among others are:

- to provide adequate income support to vulnerable groups in order to prevent social exclusion;
- to raise the potential of an inclusive labour market in the fight against poverty and social exclusion;
- to provide access to social services of general significance in order to prevent social exclusion.

The strategy has envisaged that vulnerable groups of the population are facing a higher degree of risk of social exclusion and/or poverty.

Often the problems of these groups overlap or are very complex and have to be solved by a combination of different policy measures (e.g. in the field of employment, housing policy, social and health care services, etc.).

Roma: Important progress was recorded in 2007 and 2008 with respect to the Roma community – e.g. in preparing radio and television programmes for Roma. Such programmes have been prepared by local radio and television stations for many years and are now being prepared and broadcast by the national radio. Two very important regulations for the Roma community were adopted in the field of culture in the first half of 2008: the Cultural Heritage Protection Act includes in its entirety the Roma community, and the Resolution on the National Programme for Culture for 2008–2011 lists among ***cultural priorities the promotion of the cultural development of the Roma community.***

A new penal code was adopted, and the chapter “Criminal offences against honour and reputation” now includes the Roma community. With respect to hostile statements, the code supplements the approach to regulating the status of members of the Roma

community by recognising the significance of respect for ethnic and national identity of the Roma community in the public arena. Therefore we can now speak of 14 laws in different fields that serve as a basis for regulating the status and special rights of the members of the Roma community, in addition to the Constitution of the Republic of Slovenia and the Roma Community in the Republic of Slovenia Act.

II. National recommendations

VII.ii Anti discrimination

- Strengthen the office for equal opportunities, and monitor the different offices whether they collect data and disseminate the outcome.
- Protect migrants and implement EU directives in practical terms.
- Make a distinction between hate speech and freedom of speech. Where appropriate, prosecute for hate speech under Article 63 of the Constitution, Penal Code of the Republic of Slovenia,⁴⁸ Article 141, 300 and related articles on criminal offences and others.
- Encourage public dialogue, dialogue with NGOs and experts before developing one-fits-all strategy, partner with Media.

VII.iii Migration and integration

- Re-assess the national migration and integration strategy and its functionality to produce a desired result.
- Implement an employment framework agreement, strengthen legal protection, use the power vested in the office for equal treatment vis-a vis labour market in general and migrants workers in particular.
- Create a legal basis for asylum seekers to live outside Asylum centres
- NGOs, in cooperation with labour offices are encouraged to promote a counselling system regarding employment and self-employment possibilities for refugees.
- Target best practices, implementing policies and programmes to prevent and combat racism and xenophobia against migrant workers, taking into account relevant recommendations in the Programme of Action adopted at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

VII.iv Criminal justice

VII.iv.i Racism as a crime

- Understand the magnitude of racist violence and its importance rather than to be left for individual's interpretation,
- review and amend as well as explicitly define the legal basis and boundaries between freedom of speech and hate speech.

⁴⁸ This Article Prohibits Incitement of discrimination and intolerance and prohibits Incitement to violence and war - see http://www.pf.uni-mb.si/datoteke/janja/Angleska%20PT/anglesko-slovenska_urs.pdf

- Organise training for prosecutors and judges, the police and other law enforcement agencies and the criminal justice system on issues related to racist violence
- To design a strategy that elaborates practical and procedural guidelines for the police on hearings, identifying and investigating hate crimes and qualifying as such.

VII.iv.ii Counter terrorism

While national security is vital, make sure that counter terrorism is not applied at the expense of human rights.

VII.v Social inclusion

- Question whether there is an institutional racism.
- Re-assess the state of stateless people in the country, open broad base dialogue and bring a lasting solution to the invisibles and a sustainable social inclusion.
- Continue to empower minorities by granting financial support to enrich multiculturalism,
- Open the political space and encourage minorities to participate decision making,
- Use effectively the equal treatment legislation in developing the social inclusion strategy,
- Encourage pre-elementary school to Roma children as it can help to avoid barriers in language with others who have the privilege to enrol default,
- Solve settlement issues of Roma community and facilitate water access and electricity so that their children can do their homework at home and compute with others; understand this as it will end the vicious circle and dichotomy of labelling the Roma community in general and their children in particular as incapable.
- Continue to monitor the degree of poverty and provide support to people including pensioners,
- Open inter generation dialogue,
- Continue supporting employment through subsidies from social cohesion funds and Progress.
- Include themes on minorities, racism, migration and religion in the formal education, but develop the content not only by 'experts' but together with the Diaspora and representatives.

VIII. Conclusion

End the legal limbo in relation to the erased people; commit to implement the decision of the constitutional court.

Empower and strengthen the performance of the office of equal opportunity and advocate for equal treatment. Monitor different independent and government bodies whether they discharge their duties, communicate with each other; educate and train them, especially the police in recording incidents and the management of these records vsi-a-vis qualifying an incident as racist or not, collect data and disseminate it so that to analyse it and develop a better policy.

Third country nationals labour migrants often work in the informal sector, where there is a lack of legal protection and insufficient information about their rights. It makes them vulnerable to exploitation and abuse from recruiters. They are also exposed to abuses resulting from xenophobia and racism. Develop partnership with the media, define the difference between **hate speech and freedom of speech** and take measurable action against those who practice racial crime, victimisation and ethnic profiling against all marginal groups or otherwise.

Develop an effective strategy in order for the established inter-governmental bodies to function collectively and holistically. Slovenia is not an asylum destination country, but a transit state. It is also within the Schengen area, likely to filter out some along the flow of migrants and asylum seekers. As stated, Slovenia has one of the lowest grant rates for refugee status in the EU. As a member of UN and signatory of important international convention, lift the standard and increase the number of asylum recognized asylums number, solve their problem of health insurance cards for refugees.

In order to raise awareness regarding xenophobia and racial discrimination and to promote best practices, NGOs and European agencies should work with migrant organisations. To confront these complex challenges NGOs play a vital role, so they should network with each other and share experiences as well as knowledge in their respective areas.

By the time this shadow report was finalised, there was massive media coverage about an individual of **African origin** who was running for Mayor of the tourist **municipality Piran** at the local election supported by the social democrats party. Educated in medicine in Slovenia and working for a long time in the health sector in his respected Municipality Piran, he has shown himself to be a formidable candidate against the current Mayor who is also a medical doctor. If he wins, he will be the first black Mayor in all south east Europe. It will also position Slovenia not to be preached to on how to open a political space for participation, rather, Slovenia will be a show case for an inclusive strategy at a time when others' integration models are falling apart across Europe.

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X. Annex 1: List of abbreviations and terminology

AI = Immensity International 2008

LDS = Liberal democrats

SD = Social Democrats

SDS = Slovenian Democratic party

IPETA = Implementation of the Principle of Equal Treatment Act (ZUNEO = Zakon o resničevanju načela enakega obravnavanja (Uradni list RS, št. 50/2004)

ERA = Employment Relationship Act (ZDR = zakon o delovnih razmerjih (Uradni list št. 42/2002)

VREDPA = Vocational Rehabilitation and Employment of Disabled Persons Act (Zakon o zaposlitveni rehabilitaciji in zaposlovanju invalidov (ZZRZI-UPB1) Ur.l. RS, št. [100/2005](#), ZZRZI-A (Uradni list RS, št. 78/05)

RS = Republic Slovenia

ECRI = The European Commission against Racism and Intolerance

URS = the Constitution of Slovenia - Ustava Republike Slovenije (Uradni list RS, št. 33I/1991-I, 42/1997, 66/2000, 24/2003, 69/2004, 69/2004, 69/2004, 68/2006)

ZEMŽM = Zakona o enakih možnostih žensk in moških (Uradni list RS, št. 59/2002)

ZS = Zakon o sodiščih (Uradni list RS št. 100/2005)

ZDoh = Zakon o dohodnini (Uradni list št. 21/2006)

ZOZKD = Zakon o odškodnini žrtvam kaznivih dejanj // (Ur.l. RS, št. 101/2005)

DeSBT = Deklaracija o skupnem boju proti terorizmu (Ur.l. RS, št. 81/2001),

DeReTer = Deklaracija o podpori Resoluciji o terorizmu (Ur.l. RS, št. 50/2002)

ZUSDDD = Zakon o urejanju statusa državljanov drugih držav (Ur.l. RS, št. 61/1999, 54/2000)



