

European Commission
against Racism and Intolerance

ECRI
Commission européenne
contre le racisme et l'intolérance

COUNCIL OF EUROPE



CRI(2019)21

ECRI REPORT ON SLOVENIA

(fifth monitoring cycle)

Adopted on 3 April 2019

Published on 5 June 2019

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FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States of the Council of Europe regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country monitoring deals with all member States on an equal footing. The work takes place in 5-year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, and those of the fourth round in the beginning of 2014. Work on the fifth round reports started in November 2012.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national Authorities.

ECRI's reports are not the result of inquiries or testimonial evidence. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national Authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national Authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The fifth round country-by-country reports focus on four topics common to all member States: (1) Legislative issues, (2) Hate speech, (3) Violence, (4) Integration policies and a number of topics specific to each one of them. The fourth-cycle interim recommendations not implemented or partially implemented during the fourth monitoring cycle will be followed up in this connection.

In the framework of the fifth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

The following report was drawn up by ECRI under its own responsibility. It covers the situation up to 5 December 2018; except where expressly indicated, developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.

SUMMARY

Since the adoption of ECRI's fourth report on Slovenia on 17 June 2014, progress has been made in a number of fields.

The Protection against Discrimination Act (PADA) ensures an adequate protection against racism and racial discrimination in all fields of everyday life and provides for the establishment of an equality body, the Advocate of the Principle of Equality (the Advocate), which is in accordance with the standards recommended by ECRI.

Under the PADA, hate speech is now defined in greater detail and there is a public anonymous reporting system which since 2009 has collected data on hate speech cases.

The police are actively involved in preventing racial discrimination and racist violence, among others, with a wide use of community policing.

There are a number of initiatives by the central authorities to find solutions to the many forms of discrimination and consequent lack of integration of part of the Roma population in the country.

The construction of the country's first mosque and Islamic cultural centre is underway in Ljubljana.

The new Civil Unions Act makes registered partnership for same-sex couples comparable to marriage in almost all aspects.

ECRI welcomes these positive developments in Slovenia. However, despite the progress achieved, some issues give rise to concern.

Hate speech is rarely prosecuted in Slovenia due to an interpretation of the law by the prosecution authorities based on which cases almost never meet the conditions for the imposition of criminal responsibilities.

There are inconsistencies and ambiguities in the PADA, in particular concerning the relation of the Advocate's competencies and powers with those of other institutions, such as the inspection services.

The data collected by the different institutions on hate speech cases is not classified in the same manner and is too fragmentary. Moreover, there is a strong hesitation by the authorities to collect disaggregated data on equality concerning vulnerable groups due to the law protecting personal data.

The impact of central authorities' initiatives to improve the integration of the Roma population relies heavily on the political will of the local authorities, which often show lack of cooperation.

There is no specific legislation explicitly regulating the change of name and gender for transgender persons in Slovenia.

In this report, ECRI requests that the authorities take action in a number of areas; in this context, it makes a series of recommendations, including the following.

The prosecution authorities should refrain from applying conditions for the imposition of criminal responsibility of conduct inciting to hatred and violence, which are not provided by the law.

All the necessary conditions for the effective functioning of the Advocate and adequate awareness of its functions among the public should be ensured.

Disaggregated equality data for the purpose of combating racial discrimination should be collected. If necessary, the authorities should propose legislative clarification to ensure that data is collected in all cases with due respect for the principles of confidentiality.*

The law should clearly provide for the power of the central authorities to take substitute measures if and when local authorities fail to act in the implementation of the legislation.

The change of name and gender for transgender persons should be explicitly regulated by law.

* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. Common topics

1. Legislation against racism¹ and racial discrimination²

- Criminal law

1. ECRI has already reviewed in its previous monitoring reports whether Slovenian criminal law is in line with its General Policy Recommendation (GPR) No. 7 on national legislation to combat racism and racial discrimination. Therefore this section will mainly address any remaining shortcomings and new developments.
2. Article 131 of the Criminal Code punishes with a fine or imprisonment whoever, on account of nationality, race, skin colour, religion, ethnic origin, gender, language, political or other beliefs, sexual orientation, financial situation, birth, genetic heritage, education, social position or any other circumstances, deprives another person of any human right or liberty recognised by the international community or laid down by the Constitution or statute or restricts the enjoyment thereof, or grants another person a special privilege or advantage on such a basis.
3. ECRI understands that the list of “prohibited grounds” of Article 131 is not exhaustive and that any other personal characteristic of the potential victims of racial discrimination, which is not explicitly mentioned, is assumed to be implicitly covered by the term “any other circumstances”. However, according to the information provided to ECRI, this provision has never been applied in practice.
4. Article 297 of the Criminal Code contains a general prohibition of incitement to hatred, violence or intolerance, including the denial, trivialisation or advocating of genocide, the Holocaust, crimes against humanity and war crimes.³ An amendment of Article 297, to transpose into national legislation the Framework Decision 2008/913/JHA of the Council of the European Union on combating racism and xenophobia (Framework Decision), provides that conducts described in this Article are punishable by criminal law only when 1) they are likely to disturb public order or 2) they are expressed in a manner which is threatening, abusive or insulting. A legal opinion issued by the Office of the Prosecutor General⁴ interprets the Article in a way that an act of incitement to hatred can be prosecuted as a crime only in case of concrete danger to public order.
5. Many legal practitioners, academics and NGOs find that the causal link of public disturbance provided by the law and the even stricter requirements contained in the Prosecutor General’s legal opinion have caused a significant impunity gap, with hate speech almost never prosecuted in Slovenia, and great frustration among victims. Moreover, the absence of an effective legal remedy for the alleged victim if a prosecutor dismisses a criminal complaint or decides not to initiate prosecution also remains a concern.⁵ In this context, ECRI would like to refer to Article 43 of

¹ As in the text of ECRI’s General Policy Recommendation (GPR) No. 7 on national legislation to combat racism and racial discrimination, “racism” shall mean the belief that a ground such as “race”, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or group of persons.

² Slovenia has ratified Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, which entered into force on 1 November 2010.

³ It punishes with up to two years’ imprisonment “whoever publicly incites or stirs up hatred, violence or intolerance based on national origin, race, religion or ethnicity, gender, skin colour, origin, property situation, education, social position, political or other belief, disability, sexual orientation, or any other personal circumstance, and commits the offence in a manner that can jeopardise or disturb public order and peace, or by the use of threat, scolding or insult”. The same article also prohibits the denial, trivialisation or advocating of genocide, the Holocaust, crimes against humanity and war crimes.

⁴ Legal opinion prepared on 27 February 2013 and available at: www.spletno-oko.si/sites/default/files/sovrazni_govor_pravno_stalisce_-_vrhovno_tozilstvo_0.doc.

⁵ Human Rights Ombudsman 2017: 120.

the EU Directive 2012/29/EU⁶ providing for the victim of a crime the right to a review of a decision not to prosecute and the corresponding duty of the state to make such a review not only possible but also effective.

6. As a matter of principle, criminal law sanctions against the use, in a public context, of hate speech should be provided when no other, less restrictive, measure would be effective and the right to freedom of expression and opinion is respected. However, ECRI finds that the interpretation contained in the legal opinion of the Office of the Prosecutor General is not fully in conformity with the wording of Article 297; that the “disturbance of public order” causal link is only optional under paragraph 2 of Article 1 of the EU Framework Decision;⁷ and that paragraph 18 a) of GPR No. 7 requires only the public context of the incitement for its criminal liability. In addition, according to GPR No. 15 on combating hate speech, the disturbance of public order requirement may well be relevant to the assessment of the risk of whether any incitement can reasonably be anticipated, but its separate specification as an essential element of criminal liability is considered to add further obstacles to securing convictions.⁸
7. In keeping with ECRI General Policy Recommendations No. 7 on national legislation to combat racism and racial discrimination and No. 15 on combating hate speech, ECRI recommends that the Slovenian authorities remedy the gaps identified in paragraphs 4-6 of this report. In particular the prosecution authorities should refrain from introducing requirements for the imposition of criminal responsibility of conduct inciting to hatred and violence, which are not provided by the law.
8. In accordance with the specific recommendations of GPR No. 7, ECRI’s fourth report on Slovenia found two additional gaps in the criminal law provisions. Firstly, there was no provision specifically requiring racist motivation to be taken into consideration as an aggravating circumstance for *all* offences, as recommended by paragraph 21 of GPR No. 7. Secondly, there was no provision against the creation or the leadership of a group which promotes racism, as recommended by paragraph 18 g) of GPR 7.
9. Concerning the latter, ECRI understands that other than a general prohibition set out in Article 297 (3) (leadership of a group committing violence against people or damage to property) there is still no specific provision against groups promoting racism.
10. Concerning the racist motivation of a crime, crimes motivated by hate which are not covered by Article 297 of the Criminal Code (see above) are dealt within the context of specific articles of the Criminal Code.⁹ In addition, Article 20 of the Protection of Public Order Act provides that offences punished by this act are considered to be aggravated forms of violation when committed with the intention of public incitement to intolerance.¹⁰ Finally, Article 49 of the Criminal Code contains a general norm on the grading of the sentence (mitigating and aggravating circumstances) which allows taking into account the discriminatory motive in determining a sentence.

⁶ EU Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crimes, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=EN>.

⁷ “For the purpose of paragraph 2, Member States *may* choose to punish only conduct which is either carried out in a manner likely to disturb public order or which is threatening, abusive or insulting”. Article 1 of Framework Decision 2008/913/JHA of the Council of the European Union on combating certain forms and expressions of racism and xenophobia by means of criminal law.

⁸ ECRI General Policy Recommendation No. 15 on combating Hate Speech, paragraph 177.

⁹ Murder, Article 116 of the Criminal Code, threat to safety (Article 135), violent conduct (Article 296), light, severe or particularly severe bodily injury (Articles 122, 123 and 124, respectively).

¹⁰ Article 6 (Violent and threatening behaviour), Article 7 (Indecent behaviour), Article 12 (Damaging official sign, mark or decision), Article 13 (Writing on buildings) and Article 15 (destroying national symbols).

11. Parliamentary debates have highlighted the fact that the hate element should have been taken into account more often in grading the sentence.¹¹ This concern confirms ECRI's belief that in accordance to paragraph 21 of its GPR No. 7 the criminal code should provide expressly that racist motivation constitutes an aggravating circumstance in *all* crimes. The general norm on the grading of the sentence (mitigating and aggravating circumstances) is not sufficient to satisfy this requirement, since the evidence of such a motive may already be lacking at the investigation stage.
12. Also contrary to paragraph 18 b) of ECRI GPR No.7, the Criminal Code does not punish as a separate criminal offence public insults or defamation when committed intentionally against individuals or a grouping of persons on grounds of their race, colour, language, religion, citizenship, or national or ethnic origin.
13. In keeping with its General Policy Recommendations No. 7 on national legislation to combat racism and racial discrimination, ECRI reiterates its recommendation that the Slovenian authorities introduce a criminal law provision expressly considering racist motivation as an aggravating circumstance for any criminal offences. ECRI recommends also strengthening sanctions against racism and racial discrimination by introducing a provision specifically prohibiting the creation or the leadership of a group which promotes racism, as well as a separate provision criminalising insult and defamation when committed intentionally against individuals or a group of persons on grounds of their race, colour, language, religion, citizenship, or national or ethnic origin.

- **Civil and administrative law**

14. Despite some inconsistencies (see further in paragraph 34) the new Protection against Discrimination Act of 2016 (PADA) and the Employment Relationship Act of 2003 ensure an adequate protection against racism and racial discrimination in all fields of everyday life, with open-ended discrimination grounds. PADA is deemed in line with the specific recommendations contained in paragraphs 4-15 of GPR No. 7, as well as including sexual orientation and gender identity as prohibited grounds of discrimination.
15. However, it appears that there has not been any notable development as regards the follow up to ECRI's recommendations contained in GPRs No. 7 and No. 15 to provide by law for an obligation to suppress public financing of organisations which promote racism, including political parties, and, in the most serious circumstances, the possibility of dissolution of such organisations.
16. ECRI recommends that authorities provide by law for an obligation to suppress public financing of organisations which promote racism, including political parties, and, in the most serious circumstances, the possibility of dissolution of such organisations.

- **Equality bodies¹²**

17. The PADA of 2016 provides for the establishment of the Advocate of the Principle of Equality (the Advocate). In its Conclusions of 2016¹³, ECRI found the Advocate in accordance with the standards recommended by its GPRs No. 7 and No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.
18. The formal establishment by law of this institution is a very positive development. However, the new Advocate has dealt almost exclusively with matters related to

¹¹ According to written information provided to ECRI by the Slovenian Authorities.

¹² The term "national specialised bodies" was updated to "equality bodies" in the revised version of GPR No. 2 which was published on 27 February 2018.

¹³ ECRI 2017, <https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/16808b78bb>.

adequate budget, staff, administrative support and premises in order to ensure the necessary conditions for its independence and effectiveness.¹⁴ This has caused a backlog of cases, new or inherited from the previous institution. Moreover, the removal of inconsistencies and ambiguities in the PADA is necessary, in particular in relation to similar competencies and powers of other institutions such as the inspection services (see paragraph 34 below).

19. Moreover, there is still a limited awareness of the Advocate's role and powers among the public. Therefore, there is a need to intensify efforts in this direction, including improving the efficiency of the training of those involved with the implementation of the new legislation.
20. The activity of the Human Rights Ombudsman (Ombudsman)¹⁵ is also relevant to the fight against racism and discrimination. In 2017, amendments to the Human Rights Ombudsman Act brought this institution into compliance with the requirements for "A" status under the United Nations Paris Principles relating to the Status of National Institutions. Among others, the establishment of a human rights centre should increase the Ombudsman's capacity to conduct research and education, providing additional visibility to the institution. The Ombudsman receives a number of individual complaints related to discrimination each year. This report will mention the findings of the Ombudsman and the Advocate whenever relevant.
21. ECRI encourages all the authorities to support adequately the enhancement of the national human rights system provided by the creation of the Advocate and the amendments to the Ombudsman Act. In particular, support to the Advocate should be ensured by a stable and adequate biannual budget and by further clarifying and strengthening its powers in the law, as well as by continued cooperation and mutual support between this new institution and the Ombudsman.
22. ECRI recommends that the authorities ensure all the necessary conditions for the effective functioning of the Advocate of the Principle of Equality and adequate awareness of its functions among the public, in line with ERI General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level. Without affecting their distinct mandates and powers, strict co-ordination should be ensured between the Advocate and the Human Rights Ombudsman to address overlaps, enable joint actions and optimize the effective use of resources. In particular, they should develop a common interpretation of the anti-discrimination legislation and make co-ordinated use of their competences and powers in this area.

¹⁴ Advocate of the Principle of Equality 2018.

¹⁵ According to Article 159 of the Constitution, the Ombudsman's responsibility is the protection of human rights and fundamental freedoms in relation to state authorities, local authorities, and persons in public offices.

2. Hate speech¹⁶

- Data

23. The police, the Prosecution Service, independent institutions and NGOs collect statistical information on hate speech. In practice, most data gathering on hate speech is carried out by civil society and academia with the financial support of the authorities.
24. The project spletno-oko.si (Web Eye hotline), a public anonymous reporting system of hate speech cases and other illegal content spread via the Internet, has recorded for the period 2007-2017 16 685 reports of hate speech, 541 of which were transmitted to the police for possible prosecution.¹⁷ In recent years, in the majority of cases of alleged hate speech, immigrants, in particular of Islamic faith, were the target.
25. During the period 2015-2016, the Ombudsman reported an increase of hate speech against refugees/asylum seekers due to the migration crisis. In 2017, the institution processed 68¹⁸ complaints of discrimination, the majority of which were related to Roma and based on ethnicity or nationality grounds, followed by complaints related to sexual orientation (7). The latter category peaked in 2015 due to the December referendum campaign on amendments to the Marriage and Family Relations Act.¹⁹
26. Article 16 of the PADA provides that the Advocate and competent inspection services shall collect anonymised data on the number of discrimination cases according to individual personal circumstances, forms of discrimination and field of life as foreseen in Article 2 of the same PADA (mainly related to discrimination in employment). The Advocate's report for 2017 indicates that his institution received a total of six complaints concerning incitement to discrimination out of a total of 79.
27. ECRI welcomes all these data gathering efforts and legislative provisions (in particular Article 16 of the PADA). However, the data collected by the different institutions is not classified in the same manner and is too fragmentary to give a homogenous picture of the situation in the country.
28. ECRI recommends to the authorities to ensure that specific and reliable data on hate speech offences and the follow-up given to them by the justice system is available and made public. In addition, the authorities should arrange for the gathering of disaggregated data as provided by Article 16 of the Protection against Discrimination Act for the purpose of combating hate speech and racial discrimination, while ensuring that this is done in all cases with due respect for the principles of confidentiality.

¹⁶ According to ECRI's GPR No. 15 on combating Hate Speech, "hate speech" shall mean the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatization or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of "race", colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status.

¹⁷ In 2017 there were no criminal charges made by the police out of 25 cases reported by spletno-oko.si In 2016 there were two criminal charges out of 23 cases reported.

¹⁸ Out of these 68 cases, 56 were resolved positively. Human Rights Ombudsman: 2018, page 91.

¹⁹ Human Rights Ombudsman of the Republic of Slovenia 2015, 2016 and 2017. The Ombudsperson's Office cannot deal directly with these cases if they do not originate from a public institution, but it regularly seizes the occasion to publicly condemn them and transmit the most serious ones to the police and the prosecution service.

- **Hate speech in political and other public discourse**

29. In 2017 the UN Human Rights Committee expressed concern about the use of racist and xenophobic rhetoric by politicians towards persons belonging to minority groups, including migrants and refugees.²⁰ The Ombudsman also points to the frequently low level of ethics in public discourse and the worryingly limited case law in this field due to the reasons explained above under the “criminal law” subsection.²¹ Concern was also voiced by the OSCE/ODIHR that the pre-election campaign before early parliamentary elections on 3 June 2018 was tainted by negative campaigning and intolerant rhetoric by some contestants.²² There exist however some reactions to manifestations of hostility and the use of hate speech, in particular towards migrants and asylum seekers. In 2017, the Municipality of Nova Gorica reacted to the distribution of stickers with an offensive slogan against refugees in town by ordering their immediate removal.²³ In May 2018, some hundred people attended a peaceful demonstration in Ljubljana against the increasing dissemination of hate speech in the political campaign.²⁴ In September 2018, a petition signed by more than 3 000 persons reacted against the nomination of a state secretary, referring to his xenophobic posts on social media posted before his appointment.²⁵
30. Jewish community representatives also reported some prejudice, ignorance, and false stereotypes of Jews propagated within society. However, there were no reports of antisemitic violence or overt discrimination.²⁶ Offensive public speech also continued to target Roma in recent years, although in more subtle forms than in the past.²⁷

- **Hate speech in traditional media and Internet**

31. The UN Human Rights Committee also expressed concerns that hate speech on the Internet, including online forums, was on the rise, particularly against migrants, Roma, LGBT persons and Muslims. The Committee regretted the low rates of reporting of and legal responses to cases of racial discrimination, including the prosecution of those involved in serious cases of hate speech amounting to incitement to hostility or violence.²⁸
32. The so-called migration crisis raised islamophobic reactions in some printed and online media, such as [Nova24tv](#) and [Demokracija](#).²⁹ The practice of state owned companies advertising in such media has evoked public criticism urging the Prime Minister to warn against it.³⁰ Moreover, a number of Facebook pages regularly

²⁰ UN Human Rights Committee 2016: § 7.

²¹ Human Rights Ombudsman 2016: 15.

²² OSCE-ODIHR 2018, <https://www.osce.org/odihr/elections/slovenia/394106?download=true>.

²³ Human Rights Ombudsman 2018: 81.

²⁴ OSCE-ODIHR 2018.

²⁵ <https://siol.net/novice/slovenija/sarec-in-lms-v-bran-crncecu-peticijo-proti-drzavnemu-sekretarju-podpisalo-ze-tri-tisoc-ljudi-477961>

²⁶ U.S. Department of State 2017: 13.

²⁷ ACFC 2018: 2.

²⁸ UN Human Rights Committee 2016: § 7.

²⁹ http://www.demokracija.si/images/demokracija_35_low_Page_01.jpg (The cover of the weekly Demokracija, where the title reads: "With migrants the culture of rape is also entering Slovenia"). <http://nova24tv.si/slovenija/foto-rjuharce-v-istanbulu-ne-v-mariboru-tista-na-desni-bo-verjetno-zaprosila-za-borcevsko-pokojnino-ostali-dve-pa-sta-otroski-kirurginiji/> (This article says among others: "The capital of Styria occupied by "rjuharice"(translation of rjuharice - sheet women), showing women wearing the hijab).

³⁰ <https://siol.net/novice/slovenija/sarec-problematiziral-ogljase-drzavnih-podjetij-v-medijih-ki-spodbujajo-nestrpnost-483780>

publish islamophobic material of the most extreme form.³¹ They maintain a considerable audience on social networks even though the number of asylum seekers and migrants crossing Slovenia has drastically reduced. This islamophobic rhetoric on the internet is especially worrying as it reduces Islam to stereotypical images in which Muslims are dehumanized.³²

- **The authorities' response**

33. ECRI refers to its recommendation in paragraph 7 to remedy the significant impunity gap, with hate speech almost never prosecuted in Slovenia. Since its last report on Slovenia, only a few blatant cases of hate speech have given rise to judicial proceedings against those responsible for hateful remarks, but exclusively on a threat-to-public-order ground. This can be explained not only by the already mentioned strict interpretation of legislation related to hate speech by the Prosecutor General's office, but also by a very broad interpretation of freedom of speech and the widespread aversion to the legacy of the so-called "verbal offence" at the time of Yugoslavia.³³
34. Under the PADA, hate speech is now defined in greater detail, namely as incitement to discrimination, which means any incitement of other persons to commit acts of discrimination.³⁴ However, this is a declaratory provision, which does not entail sanctions according to the Act. The Advocate's mandate related to the violation of Article 10 of the PADA - inciting to discrimination – would be an effective remedy against hate speech. However, this remedy would require that the list of punishable acts prescribed by Article 45 of the PADA also include inciting to discrimination. The Advocate himself presented a proposal in that sense concerning: its enhanced power of conducting minor offences proceedings and imposing sanctions; the clarification of the relationship between different procedures for determining discrimination; and a more precise definition of administrative and inspection procedures.³⁵
35. The Ombudsman has frequently stressed the importance of self-regulation for responding to hate speech. As already recommended by ECRI in its fourth report (paragraph 80) the Ombudsman proposed in its 2016 report (p. 37) that members of parliament and other politicians adopt a code of ethics. Unfortunately, this proposal has not been followed up so far.
36. A joint civil society and academic project "Responding to Hate Speech – Activation of an Independent Conjunctive Body (ACT)" established an Anti-Hate Speech Council (Council) in 2015 to respond to cases of hate speech with public statements at the request of a legal entity or a natural person or at the proposal of a member of the Council. Even if this project has now ended, it contributed to setting up public discourse standards and initiated discussions on this issue.³⁶ The already mentioned Spletno-oko.si. (Web Eye) is part of the Safer Internet Centre, coordinated by the University of Ljubljana, in cooperation with other

³¹ Some of these pages are: Radical Ljubljana (Radikalna Ljubljana); Stop islamizaciji Slovenije (Stop Islamisation of Slovenia); Generation Identity Slovenia (Generacija identitete Slovenija); Slovenia Secure Borders (Slovenija Zavaruj Meje); Slovenian Militia (Slovenska milica); and We do not want refugees and migrants in Slovenia, We do not want a mosque in Ljubljana (Nočemo beguncev in migrantov v Sloveniji Nočemo džamije v Ljubljani).

³² Zalta, A. 2016: 541.

³³ Article 133 of the Penal Code of the SFRY.

³⁴ Article 10 of the PADA.

³⁵ However, the effectiveness of the advocate's new mandate may be hampered by the fact that, when not complied with, this body's decisions will remain mainly declaratory because of its lack of power to oblige the inspectorates to continue the investigation.

³⁶ Human Rights Ombudsman 2016: 30.

partners³⁷ and funded by the European Commission (INEA agency) and the Ministry of Public Administration.

37. Concerning mass media and audio-visual media services, the legislation prohibits incitement to discrimination and intolerance and regulates the role of the media to counteract hostile narratives. Incitement to hate by mass media and audio-visual media services is monitored by the Ministry of Culture and the Agency for Communication Networks and Services (AKOS), which is an independent body. AKOS has inspection powers and can suspend or revoke the permit of the broadcaster and report complaints of a criminal nature to the competent authorities, but it cannot impose fines.³⁸ However, in practice those institutions have never dealt with hate speech cases.
38. Printed media is monitored by the Press Court and Ethics Commission. This is a self-regulatory body, composed of journalists, editors and two representatives of the public. Complaints can be made on breaches of the Code of Journalists of Slovenia, of which Articles 20 and 21 require avoiding stereotyping and prohibit discrimination, insult and incitement of conflicts.³⁹ Both mass media legislation and the Code of Ethics also provide for the responsibility of publishers to monitor the comment section of the social media connected to press outlets and promptly remove inappropriate content. In the wake of the arrival of a considerable number of asylum seekers, several mainstream broadcasters and media opted for limiting or closing down the comment sections altogether.⁴⁰ Therefore, an Act Amending the Media Act (ZMed-C) was passed in March 2016⁴¹ providing rules for publishing on line comments and their removal in case of hateful messages. However, there are no fines provided for in case of non-compliance.
39. ECRI welcomes this set of regulatory and self-regulatory mechanisms to counter the use of hate speech in the media and on internet. ECRI recalls that their effectiveness also requires some arrangements to ensure that these provisions are respected, such as adequate monitoring and sanctions in case of their breach.
40. ECRI recommends that the authorities amend the Protection against Discrimination Act and reinforce non-criminal responses against hate speech, in particular counter-speech. In addition, they should support elected bodies' code of conducts and strengthen media's self-regulation initiatives. Furthermore, ECRI recommends that an evaluation of past initiatives to prevent hate speech is carried out with a view of building on existing efforts and expanding good practices, especially in the media and education sectors.

3. Racist and homo/transphobic violence

- Data/extent of the problem

41. OSCE-ODIHR observed that Slovenia does not periodically report reliable information and statistics on hate crimes.⁴² Police use a generic crime reporting form which enables the recording of legal prequalification of the crime, for example Article 297 or 131 of the Criminal Code. However, the computer system does not

³⁷ Faculty of Social Sciences at the University of Ljubljana, Academic and Research Network of Slovenia (Arnes), Slovenian Association of Friends of Youth (ZPMS) and Youth Information and Counselling Center of Slovenia (MISSS), Safer Internet Centre, <https://safe.si/english/safer-internet-centre>.

³⁸ ACFC 2018: 24.

³⁹ Between 2011 and 2017, there were 18 complaints for articles which prohibit stereotyping (Article 20) and incitement to violence and intolerance (Article 21) and, respectively, 11 and five breaches found, see ACFC 2018: 24.

⁴⁰ ACFC 2018:18.

⁴¹ The Amending Act added a new (third) paragraph following paragraph 2 of Article 9 of the Media Act (ZMed).

⁴² « Hate crimes are criminal offences committed with a bias motivation », OSCE Ministerial Council Decision No. 9/09, on combating hate crimes.

have specific crime codes for flagging hate crimes and there is no hate crime recording instruction available to officers. The Registry of the Supreme Court anonymises court judgments and publishes them daily on its website <http://www.sodnapraksa.si/>. Before publication, every judgment is processed so that it indicates the area to which it is related. However, data on case law do not list first instance judgments. This means that judgments which were not appealed are not easily available to the public. Thus information gathering on remedies and their outcomes remains a challenge. Similarly, information on case law related to racist or homo/transphobic violence is not easy to find, as courts are not systematically collecting information on this field.⁴³ Despite this, data on violations of Article 20 of the Protection of Public Order Act (violation of public order with the intention of public incitement to intolerance) were made available to ECRI for the period 2013-2017.⁴⁴

42. 4% of respondents participating in the EU-MIDIS II survey across all target groups and countries indicated that in the five years before the survey they had experienced hate-motivated violence.⁴⁵ In the same period, 2% of recent immigrants living in Slovenia experienced hate-motivated violence – that is, one or more physical attacks – due to their ethnic or immigrant background.
43. Despite a number of legal impediments related to sensitive data, the authorities have stated to ECRI that it would be possible to record the specific motive of a crime without leading to the identification of the victim. Even if ensuring the anonymity of such data would require additional work, ECRI considers that this will be needed to facilitate proper monitoring of the effectiveness of the police and the judiciary in this area. There is a robust framework of standards and good practices which can help the authorities to do this, including relevant ECRI General Policy Recommendations⁴⁶ and EU Legislation⁴⁷, as well as practical guidance.⁴⁸
44. ECRI recommends that the authorities ensure that the specific motive is recorded in relation to criminal offences involving racist and homo/transphobic violence. This should be done by putting in place a system to collect data and produce public statistics offering an integrated and consistent view of the cases of racist and homo/transphobic violence brought to the attention of the police and the follow-up given to them by the justice system.

- **Racist violence**

45. The latest data (2016) reported by civil society organisations and UNHCR to OSCE-ODIHR 11 incidents including eight attacks against property and three violent attacks against people, mainly involving as victims asylum seekers or staff and/or properties of institutions assisting them.⁴⁹
46. It was also reported that the construction site of the country's first Islamic cultural centre and mosque was vandalized several times in Ljubljana. The government, NGOs and religious communities issued statements condemning the desecration and calling for greater tolerance and respect for diversity. Unknown individuals also vandalized the St. Nicholas Catholic Cathedral in Ljubljana.⁵⁰

⁴³ OSCE Ministerial Council Decision No. 9/09.

⁴⁴ 55 in 2013, 44 in 2014, 43 in 2015, 43 in 2016 and 41 in 2017, in additional information by the Republic of Slovenia as requested by ECRI in the context of the preparation of the contact visit.

⁴⁵ EU FRA 2016.

⁴⁶ See ECRI GPRs No. 4, No. 9 and No.11.

⁴⁷ See Directive 2012/29/EU and Council Conclusions 2013/JHA of 6 December 2013.

⁴⁸ OSCE-ODIHR 2014; EU FRA 2018.

⁴⁹ OSCE-ODIHR 2016, <http://hatecrime.osce.org/slovenia?year=2016>.

⁵⁰ US Department of State 2016b: 1.

- **Homo-/transphobic violence**

47. According to an NGO focusing on LGBTI rights, 49% of LGBTI individuals had at least once experienced violence or discrimination based on their sexual orientation; approximately 44% of these experienced violence or bullying in schools.⁵¹ Official statistics, as well as data collected by NGOs do not indicate the exact number of cases of homo-/transphobic violence. According to LGBTI NGOs, the vast majority of victims do not report such cases.

- **The authorities' response**

48. The police are actively involved in preventing racial discrimination and racist violence in Slovenia. Since 2009, the Police Academy has been running the programme "Awareness of stereotypes, prejudice management and prevention of discrimination in a multi-cultural society", aimed at the identification and understanding of various forms of discrimination by the police. As of 2013 this training, which is addressed also to relevant public employees, is an integral part of the Annual Plan of the Police and is now included in the National Plan of Action for the Roma 2017-2021.⁵² In addition, there is wide use of community policing activities aimed among others at preventing and monitoring racist violence, through greater presence and visibility of police officers in the local community.⁵³

49. In Slovenia the use of legal remedies that are available to the alleged victims is rare. As mentioned in the preceding paragraphs, this is partly due to the very limited implementation of the law against racist violence, a fact which causes great frustration among victims. On this ECRI refers to its recommendation contained in paragraph 44, as accurate recording of and collection of detailed data on incidents at all stages of the criminal justice process is necessary to give effect to laws punishing racist violence and to inform policies to tackle gaps in its implementation.

4. Integration policies

- **Data**

50. Slovenia's population numbers around two million.⁵⁴ In 2016, the practice of collecting ethnicity data upon registration of residence, which was optional, was definitively abolished.⁵⁵ The latest information of this kind is based on the 2002 census according to which the two national minorities recognised by the Constitution, autochthonous Hungarians and Italians, made up respectively around 0.3% and 0.1% of the total population.⁵⁶ Roma, who are granted special status by the Constitution,⁵⁷ made up around 0.2% of the population.⁵⁸ The largest three ethnic minorities according to the same census were Serbs (2%), Croats (1.8%),

⁵¹ US Department of State: 2016a: 17.

⁵² 3.3.7.1.3.1 Sub-goal: raising awareness of police officers and other police workers for work in the Roma community, National Plan of Action for the Roma 2017-2021: 59.

⁵³ General Police Directorate – Strategy of Community Policing from 2013 and the Resolution on Long-Term Development of the Police until 2025. In 2016, the Police Academy organised the consultation "Managing prejudice and cultural diversity when working with migrants". The purpose of the consultation was to bring together knowledge and experience related to tolerant conduct and respect for specific circumstances arising from differences in migrants' nationality, religion, culture and language.

⁵⁴ Statistical Office of the Republic of Slovenia, Demographical data: <http://pxweb.stat.si/pxweb/Database/Demographics/Demographics.asp#05>.

⁵⁵ Statistical Office of the Republic of Slovenia, Population and Census, households and housing , 2002: http://pxweb.stat.si/pxweb/Database/Census2002/04_Slovenia/03_Population/02_05W16_Demographic_characteristics/02_05W16_Demographic_characteristics.asp.

⁵⁶; Rtv slo.si, 2010, December 18: http://www.stat.si/popis2002/en/rezultati/rezultati_red.asp?ter=SLO&st=7.

⁵⁷ Article 65.

⁵⁸ Constitution of Slovenia 2013; Slovenian Office for National Minorities, Minorities & Statistical and Basic Data on Roma Community: <http://www.un.gov.si/en/minorities/>; http://www.un.gov.si/en/minorities/roma_community/statistical_and_basic_data/.

and Bosniacs (1.1%). 57.8% of the total population declared themselves Roman Catholic, 10.1%, atheist, 2.4%, Muslim, 2.3% Orthodox Christian, 0.9% Protestant, while 26.5%⁵⁹ did not declare themselves as belonging to any religion or belief system.

51. The number of people migrating to Slovenia has been steadily rising from 1995 onwards and has been increasing even more rapidly since Slovenia joined the EU in 2004. The total number of foreign citizens within the population increased from 91 400 at the end of 2015 to 107 800 by December 2016, accounting for about 5% of the total population,⁶⁰ mainly from ex-Yugoslavian countries.⁶¹ Between September 2015 and March 2016, almost 500 000 irregular migrants crossed the country, but only a very small number of them requested and obtained international protection in Slovenia.⁶² As of October 2018, there were 2 555 asylum seekers, of whom 99 have been granted in the meantime international protection.⁶³ The main nationalities among those who obtained refugee status or subsidiary protection over the past three years in Slovenia were Syrian, Iraqi, Iranian, Afghan, Eritrean and Somali.⁶⁴
52. ECRI recommended in its fourth report (§ 184) that the authorities gather disaggregated equality data for the purpose of combating racial discrimination. However as already mentioned, there is a strong hesitation by the authorities to collect such disaggregated data due to the law protecting personal data. Despite this, some research projects by NGOs and academia, benefiting from public funding, were able to collect some detailed data, even if anonymised, on vulnerable groups. This shows that protecting personal data while still collecting disaggregated data is possible just as data on gender, age and other characteristics are obtained by the authorities in their censuses or through other means. This practice is also provided for in Article 16 of the PADA which foresees the collection of “anonymised” data on the number of discrimination cases according to individual personal circumstances and forms of discrimination. ECRI, as well as other international organisations,⁶⁵ considers that lack of reliable and updated equality data hinders combating discrimination, efficient policy making and the implementation of positive measures to integrate vulnerable groups into society.⁶⁶
53. ECRI reiterates its recommendation that the authorities gather disaggregated equality data for the purpose of combating racial discrimination. If necessary, the authorities should propose legislative clarification to ensure that data is collected in all cases with due respect for standards on data protection, including principles of confidentiality, informed consent and voluntary self-identification.

- **Integration structures and measures**

54. The Council for Integration and the Government Office for Care and Integration of Migrants are the two governmental bodies active in the field of integration. The Council for Integration is a consultative body which meets twice a year and advises

⁵⁹ Statistical Office of the Republic of Slovenia, Census of population, households and housing 2002.

⁶⁰ Vsak osmi prebivalec Slovenije priseljenec: <http://www.rtvsllo.si/slovenija/vsak-osmi-prebivalec-slovenije-priseljenec/246585>; Statistical Office of the Republic of Slovenia, Migration change of population: http://pxweb.stat.si/pxweb/Dialog/varval.asp?ma=05I2006E&ti=&path=../Database/Demographics/05_population/25_Migration_Change/10_05I20_Migration_Change/&lang=1.

⁶¹ Statistical Office of the Republic of Slovenia, Demographical data: <http://pxweb.stat.si/pxweb/Database/Demographics/Demographics.asp#05>.

⁶² OECD 2017: 230-231.

⁶³ Ministry of Interior of Slovenia, http://www.mnz.gov.si/mnz_za_vas/tujci_v_sloveniji/statistika/

⁶⁴ Council of Europe (CoE), Commissioner for Human Rights 2017: 9.

⁶⁵ U.N. Special Rapporteur on minority issues 2018.

⁶⁶ See also ACFC 2018: 10.

on integration programmes for migrants and monitors their implementation.⁶⁷ The Government Office for Care and Integration of Migrants is a new government office which in March 2017 took over some of the responsibilities for the care and integration of migrants from the Ministry of Interior. Its mandate includes the management of accommodation and care facilities and other aspects of migrants' integration into Slovenian society.⁶⁸ Since 2013, the NGO Odnos implements integration activities for beneficiaries of international protection. A similar programme for refugees relocated from Italy and Greece is implemented by the NGO Slovene Philanthropy⁶⁹. Other migrants ("third-country nationals") participate in the programme "Initial Integration of Immigrants" (ZIP), which includes learning basic Slovenian and Slovenian culture, history and the constitution. In 2016 and 2017, a project called *Urbano onkraj meja* (Urban Beyond Borders) supporting the visibility of migrant, asylum seeker and refugee culture⁷⁰ was implemented by Institut ČKZ at the Rog Social Centre in Ljubljana. The Ministry of Interior financed some other integration programmes, enhancing among others intercultural dialogue.

- **Refugees and Asylum Seekers**

55. The International Protection Act, adopted in April 2016, sets out the conditions for granting international protection in Slovenia in accordance with EU standards. Under Article 90 of the Act, persons who have been granted international protection enjoy the same rights as Slovenian citizens, concerning the right to financial compensation for private accommodation, healthcare, social assistance, education and employment.
56. The authorities reported that the fairly low number of refugees in the country allows for a three year integration plan for each person who obtains international protection.⁷¹ In 2016, 242 persons who were beneficiaries of international protection participated in the three year integration programme.⁷² As regards housing, persons granted international protection are entitled to accommodation in an integration house (located in Maribor, Ljubljana and Velenje) or other accommodation facilities for a period of up to one year which can be extended for another six months for special reasons. Unaccompanied minors granted international protection stay with foster families or are housed in emergency centres for young people or in student residence halls in Postojna and Nova Gorica.⁷³ Persons who are granted international protection are entitled to 300 hours of free Slovenian language classes⁷⁴ including a cost free first attempt at the Slovenian language examination.⁷⁵

⁶⁷ The Council set up in 2012 includes representatives from several ministries involved in integration matters, the Slovenian Institute for Adult Education, NGOs, municipalities and representatives of migrants from various regions.

⁶⁸ [The Government Office of the Republic of Slovenia for Support and Integration of Migrants](#) is the competent authority for ensuring the rights and implementing integration measures for persons granted international protection http://dx.doi.org/10.1787/migr_outlook-2017-38-en.

⁶⁹ [The Government Office of the Republic of Slovenia for Support and Integration of Migrants](#).

⁷⁰ <https://urbanoonkrajmeja.wordpress.com/2016/09/09/operacija-urbano-onkraj-meja/>

⁷¹ <http://infotujci.si/en/persons-under-international-protection>; CoE, Commissioner for Human Rights 2017: 9; OECD 2017: 230-231; Ministry of the Interior of the Republic of Slovenia 2017: 47-54.

⁷² Ministry of the Interior of the Republic of Slovenia 2017: 47-54; Ministry of the Interior of the Republic of Slovenia 2016: 49-54.

⁷³ Ministry of the Interior of the Republic of Slovenia 2017: 47-54; Ministry of the Interior of the Republic of Slovenia 2016: 49-54.

⁷⁴ CoE, Commissioner for Human Rights 2017: 10.

⁷⁵ Ministry of the Interior of the Republic of Slovenia 2017: 47-54; Ministry of the Interior of the Republic of Slovenia 2016: 49-54.

57. The integration of children of asylum seekers and refugees into the education system is a separate programme and despite initial criticism appears to be proceeding smoothly. These children receive a basic introduction to the Slovenian language, followed by their enrolment in regular classes with additional support. Teachers are provided training on the integration of migrant children.⁷⁶

- **Remaining gaps and challenges to integration**

58. Despite the above-mentioned measures some concerns remain. According to the Migrant Integration Policy Index (MIPEX) 2015, Slovenia has a “halfway favourable” score with regard to the integration of migrants with an overall score of 44%.⁷⁷ The country had to cope with new challenges relating to the integration of persons arriving more recently, notably with regard to language and cultural differences. This has generated a hostile attitude in some parts of the population, in particular against refugees and persons with subsidiary protection. According to MIPEX, public opinion on immigrants in Slovenia has improved lately. However, only 61% of the general public thinks that Slovenia is a welcoming host country.⁷⁸ There were displays of social resistance to integration measures in particular against the presence of refugee children in school.⁷⁹

59. NGOs and international organisations reported that Slovenian language classes offered to persons who obtain international protection were not always sufficient and recommended a more individualised approach.⁸⁰ They also criticised the recent introduction of administrative fees for third country nationals who wish to obtain a language certificate at the end of the language courses.⁸¹

60. Asylum seekers are not allowed to work in the first nine months after filing their asylum applications. For their personal needs, they receive a monthly allowance of €18. Many of them feel isolated from the local population. ECRI encourages strengthening programmes for the local authorities on the delivery of integration policies as their role is crucial for effective integration measures.

61. As for persons granted international protection, a one-off financial assistance of €288 that used to be paid when asylum seekers obtained refugee status was abolished in 2016. Some delays are now experienced before the administration starts paying them the normal social assistance. This gap risks leaving many recognised refugees in destitution at the very time when they need social assistance the most.⁸² In addition, the Ombudsman received claims about banks’ refusal to open current accounts for persons with granted international protection status coming from Afghanistan, Iraq or Syria. Apparently, this situation has improved following the Ombudsman’s intervention.

62. Refugees reported also discrimination in access to housing making it very difficult for them to find private accommodation. Therefore, a large part of the integration activities run by the implementing NGOs consists in looking for appropriate accommodation for refugees in various parts of the country. In its fourth report (§ 162), ECRI recommended that all persons residing lawfully in Slovenia, regardless of their citizenship and including persons granted international protection, have access to social housing. This recommendation unfortunately does not seem to have been followed up. However, there were manifestations of

⁷⁶ CoE, Commissioner for Human Rights 2017: 10.

⁷⁷ MIPEX 2015 – Slovenia.

⁷⁸ MIPEX 2015 – Slovenia.

⁷⁹ CoE, Commissioner for Human Rights 2017: 10-11; Ministry of the Interior of the Republic of Slovenia 2017: 48-49.

⁸⁰ CoE, Commissioner for Human Rights 2017: 10.

⁸¹ The fee for participating in the initial integration programme amounts to EUR 4.50 and the fee for a certificate of course completion amounts to EUR 18.10. OECD 2017: 230-231.

⁸² CoE, Commissioner for Human Rights 2017: 10-11.

good will by the local authorities towards the housing of asylum seekers and refugees, despite the hostility of the population.⁸³

63. ECRI recommends strengthening programmes for local authorities on the implementation of integration measures to beneficiaries for international protection, as the role of these authorities is crucial for the effectiveness of these measures.

64. Difficulties also exist for asylum seekers and beneficiaries of international protection entering the job market in Slovenia, as unfamiliarity with their status, distrust and stereotyping represent hindering factors in their hiring.⁸⁴ Cooperation with employers should be strengthened to increase employment opportunities for this group and more generally for migrants. At the same time, migrants and refugees are not familiar with labour legislation, including workers' rights and where to seek help in case of discrimination. Some initiatives were taken in the form of public events gathering together the private sector and refugees, and the distribution of a handbook to better inform employers of the free access to the labour market to which refugees are entitled by law.

65. ECRI recommends that authorities strengthen cooperation with employers in order to increase employment opportunities for beneficiaries of international protection and migrants. ECRI refers to its General Policy Recommendation No. 14 on combating racism and racial discrimination in employment for useful examples of positive measures and incentives to facilitate access of migrants to the labour market.

- **Roma**⁸⁵

- Statistics and facts

66. Despite their limited number, estimated between 7 000 and 12 000⁸⁶, Roma are the main beneficiaries of integration policies in Slovenia. The situation of Roma varies greatly, with Roma living in the Prekmurje region and in the main cities better integrated into society than the rest of this population living in the south-eastern regions of Dolenjska, Bela Krajina and Posavje.⁸⁷

67. In its previous reports, ECRI expressed concern about the distinction between the autochthonous and non-autochthonous Roma. This distinction is not found in the law, which only uses the term "autochthonous" without defining it.⁸⁸ Autochthonous Roma are considered those who have traditionally lived in Slovenia for centuries and have in general Slovenian citizenship. The non-autochthonous Roma are considered Roma who arrived more recently from the Western Balkan region. However, many "non-autochthonous" Roma, who represent around half of all Roma in the country, are said to have lived in Slovenia for several decades.

68. According to the authorities, the distinction between the two Roma communities does not affect the enjoyment of the special rights granted by the Roma Community

⁸³ It was reported that the municipality of Koper accepted a plan to host 50 refugees, <https://english.sta.si/2367690/koper-city-council-agrees-to-accept-refugees>.

⁸⁴ IOM 2016, <http://www.slovenia.iom.int/sites/default/files/documents/IOM-integracija-trg%20dela-EN.pdf>

⁸⁵ According to ECRI's GPR No. 13 on combating anti-Gypsyism and discrimination against Roma, the term "Roma" includes not only Roma but also Sinti, Kali, Ashkali, "Egyptians", Manouche and kindred population groups in Europe, together with Travellers, so as to embrace the great diversity of the groups concerned.

⁸⁶ According to the legislation in force on the protection of personal data of 2005, government bodies may not keep records of persons based on national or ethnic affiliation. ECRI notes that the EU General Data Protection Regulation does not prohibit processing of data which do not allow the identification of data subjects.

⁸⁷ Slovenian Office for National Minorities, Statistical and Basic Data on Roma Community: http://www.un.gov.si/en/minorities/roma_community/statistical_and_basic_data/.

⁸⁸ The Slovenian Constitutional Court's Decision in case no. U-I-416/98, 22 March 2001 accepted that, in those cases where Romani settlements were present on a certain territory "for centuries", their inhabitants should be considered "autochthonous Roma" (AI 2006: 59; AI 2011b: 7).

Act. On the contrary, according to numerous ECRI interlocutors, this distinction continues to have an impact, in particular on political participation at local level, as Roma who are considered “non-autochthonous” do not have a guaranteed seat in municipal councils of the municipalities where they reside.⁸⁹

- Recent developments
69. ECRI will limit its account of recent developments, as reports of other Council of Europe monitoring bodies or international organisations⁹⁰ already contain exhaustive information. The question of access to a safe water supply is dealt with separately under the section Interim follow-up recommendations of the fourth cycle.
 70. In May 2017, the government adopted the new National Programme of Measures for Roma for the Period 2017-2021 (National Programme).⁹¹ The implementation of the National Programme is monitored by the Government Commission for the Protection of the Roma Community.⁹² An inter-ministerial working group was established at the same time to resolve the housing problem in Roma settlements. Following a questionnaire sent to municipalities, the inter-ministerial working group assessed that in order to achieve decent housing standards, various provisional measures were needed (sanitation, public utility buildings and other solutions), as the gap between the current situation and the targeted standard was too wide. In this context, ECRI notes the active participation of the Ministry of Environment and Spatial Planning.
 71. In May 2018, the adoption of amendments to the 2007 Roma Community Act was suspended due to the forthcoming political elections which led to the formation of a new government. The draft amendments were considered by a number of actors, including the Ombudsman,⁹³ not to be conducive to a real solution, in particular of the contentious distinction between autochthonous and non-autochthonous Roma, as it is a matter which relates to the competences of the local authorities. However, according to the government the proposed amendments provided additional tools for the central authorities to take substitute measures if and when local communities fail to act in the area of spatial planning, which is instrumental to securing stable legal accommodation and therefore access to safe water and electricity.⁹⁴
 72. In June 2018, the new Construction Act enabling the legalisation of illegal buildings within the scope of new construction legislation entered into force. In this context, it should be mentioned also that an administrative court ruled that Roma enjoy special protection of their housing even when living in illegally constructed

⁸⁹ Article 39 of the Act on Local Self-Government, adopted in 1993, states that, "In the regions where autochthonous Roma live, Roma will have at least one representative in the municipal council." 20 municipalities are listed in the law. The list in the law does not include the cities of Ljubljana and Maribor, where large numbers of non-autochthonous Roma live. Municipalities which are not explicitly mentioned in the law may decide to establish a commission dealing with Roma matters (on the basis of the Local Self-Government Act and the Roma Community Act (Article 7)). One such municipality, Ribnica, has established a commission (for the period 2014-2018).

⁹⁰ CoE, Commissioner for Human Rights 2017 and the ACFC 2018. The UN special rapporteur on Minority issues is due to present his report on Slovenia to the UN Human Rights Council in March 2019

⁹¹ Written information received from the government on 26 January 2018: 13; ACFC 2018: 14.

⁹² Written information received from the government on 26 January 2018: 13; ACFC 2018: 14.

⁹³ Human Rights Ombudsman of the Republic of Slovenia 2018: 101-103.

⁹⁴ ECRI received information in January 2018 that the then proposed amendments to the Roma Community Act were a step back for the government, as it tried to “relieve itself from its duty to take substitute measures”. The proposed amendments were published at:

http://www.un.gov.si/si/zakonodaja_in_dokumenti/predpisi_v_pripravi/zakon_o_romski_skupnosti_v_republiki_sloveniji/. ECRI understands from the authorities that this remark was taken into consideration.

buildings, as enshrined in Article 8 of the ECHR. This judgment was also confirmed by the Constitutional Court.⁹⁵

- Remaining gaps
73. These and other recent initiatives (e.g. the widespread use of Roma assistants in Roma settlements and schools attended by Roma pupils) are commendable attempts by the authorities to find solutions to the many forms of discrimination and consequent lack of integration of part of the Roma population. However, the impact of the proposed measures heavily relies on cooperation with and the political willingness of the local authorities. Moreover, ECRI is concerned about reports denouncing the high drop-out rate of Roma pupils from school and a disproportionately high share of Roma children in special schools.⁹⁶
 74. ECRI was also able to witness *in situ* the poor, in some cases deplorable, housing conditions of Roma in two irregular but “tolerated” settlements in the Municipality of Grosuplje. The ECRI delegation also met there with the local authorities and, unfortunately separately, with the local Roma Councillor⁹⁷ to discuss issues concerning the regularisation of these and other Roma dwellings. According to the local authorities there are considerable obstacles to solving the legal and urban planning disorder of Roma settlements. Moreover, frictions between Roma families and other local residents or enterprises in the vicinity are not conducive to an easy solution of the problem for the local authorities, who are afraid to lose consensus among their local constituency.⁹⁸ In view of all of this, it would be unrealistic to expect a straightforward solution from the side of the local authorities, in particular the regularisation of Roma settlements and/or the identification of alternative locations in a country where the irregularity of Roma settlements is a widespread phenomenon.
 75. After the field visit and meetings with numerous counterparts, ECRI cannot but agree with the Ombudsman, who stated in her Report for 2017 that “it looks as if the authorities still consider the status quo as a more or less necessary evil, i.e. as something that is everlasting and simply inevitable”.⁹⁹ This attitude favours at best temporary solutions, such as the connection to the electricity grid of irregular Roma facilities or ad hoc supply of water by trucks. At the same time, this mentality is not conducive to lasting solutions for these communities, such as equal access to housing, and to the adoption of positive measures to pave the way to better inclusion of Roma in Slovenian society.
 76. A balanced picture of the situation of Roma in Slovenia cannot avoid reporting also the problems affecting the Roma Community Council. In particular, its present composition does not sufficiently reflect the diversity of the Roma Communities and it lacks the capacity to put forward concrete proposals for solutions to problems affecting its own community.¹⁰⁰ On this specific issue ECRI refers to paragraphs 90-97 of the Fourth Opinion on Slovenia of the Advisory Committee of the Framework Convention for the Protection of National Minorities.
 77. ECRI reiterates its recommendations that the authorities refrain from using the unhelpful distinction between autochthonous and non-autochthonous Roma and ensure that the Roma Community Council becomes more representative and

⁹⁵ Slovenia, Constitutional Court (*Ustavno Sodišče*) (2017) Decision of the Constitutional Court No. UI-64 of October 2017 (*Odločba Ustavnega sodišča št. U-I-64/14 z dne 12.10.2017*).

⁹⁶ See Amnesty International Report, 2018 <http://www.amnesty.si/podatki-o-solskem-uspehu-romskih-otrok-kazejo-da-se-jih-pusca-na-cedilu.html> .

⁹⁷ See ACFC 2018: § 89, on the issue of election of a Roma Councillor in the municipality of Grosuplje.

⁹⁸ A wall four meters high with surveillance cameras was built by the owner of a neighboring factory plant and surrounds part of one of the Roma settlement.

⁹⁹ Human Rights Ombudsman: 91.

¹⁰⁰ On this specific issue ECRI refers to ACFC 2018: §§ 90-97.

effective by adopting the necessary changes in the legislation and regulations, in consultation with the representatives of the different Roma communities.

78. ECRI recommends that the process of amending the Roma Community Act is finalised as soon as possible, clearly providing for the power of the central authorities to take substitute measures if and when local authorities fail to act in the implementation of the law. The authorities should also ensure the speedy implementation, in the context of the National Programme of Measures for Roma for the Period 2017-2021, of specific measures in the field of education and affirmative action in employment, as well as of measures aimed at improving the current housing situation.

- **Muslim Communities**

79. Despite the absence of recent official data,¹⁰¹ it is estimated that the number of Muslims in Slovenia amounts to 50 000 persons. Two distinct Muslim communities exist and are represented by the Islamic Community in Slovenia and the Slovenian Muslim Community.¹⁰²

80. In its previous reports, ECRI has repeatedly recommended that the Slovenian Authorities ensure that the Muslim communities enjoy the use of a proper mosque to practice their religion. Therefore, it is a positive development that the construction of the country's first mosque and Islamic cultural centre is underway¹⁰³ in Ljubljana. While its construction has become a central symbol of the Muslim communities' efforts for recognition in Slovenian, it has also provoked among part of the Slovene population negative reactions which deepened during the refugee crisis and were fuelled by certain politicians and media (see sections on Hate Speech and Violence above, as well as the relevant recommendations).

81. One issue of contention is related to the legislation enacted in 2013 on animal protection forbidding slaughter without prior stunning.¹⁰⁴ On this issue the Constitutional Court in a recent decision¹⁰⁵ acknowledged that freedom to practice one's religion is a constitutional right. At the same time, in view of the fact that "Halal" meat can be easily procured¹⁰⁶ from abroad, the Court found the consequences of the Animal Protection Act on freedom of religion quite limited. Therefore, it rejected the claim that the law on animal protection was unconstitutional.

82. In its fourth report (paragraphs 141-142), ECRI invited the authorities to adopt a religiously sensitive approach to the question of ritual slaughter of animals and to find solutions which take into account religious freedom. ECRI urges the authorities to ensure that any restrictions with regard to the practice of Islam, or any other religion, are in line with the European Convention on Human Rights and its relevant case law.¹⁰⁷

II. **Topics specific to Slovenia**

¹⁰¹ According to the population data of the 2002 census, there were 47 488 members of the Islamic religious community living in Slovenia (2.4% of the entire population).

¹⁰² For more information see ECRI's fourth report on Slovenia 2014: § 138.

¹⁰³ According to the latest information available to ECRI, the construction was put on hold due to financial constraints. A fund raising campaign was then organised to top up the limited budget available.

¹⁰⁴ Animal Protection Act, Article 25.

¹⁰⁵ Decision No. U-I-140/14, dated 25 April 2018.

¹⁰⁶ ECRI 2017.

¹⁰⁷ See in particular the European Court of Human Rights' judgment in the case of *Cha'are Shalom Ve Tsedek v. France* of 27 June 2000.

1 Interim follow-up recommendations of the fourth cycle

83. In its first priority recommendation of its fourth report (paragraph 36), ECRI urged the Slovenian Authorities to find a suitable solution with all parties involved in order for a fully independent national specialised body to combat discrimination, in particular racial discrimination, to start operating as soon as possible. In its 2017 Conclusions, ECRI considered that this recommendation had been implemented by the establishment of the Advocate of the Principle of Equality as foreseen by the PADA, which entered into force in May 2016. However, concerning the effectiveness of the Advocate and inconsistencies in the law, see paragraphs 18 and 34.
84. In its second priority recommendation of its fourth report (paragraph 130), ECRI recommended that the Slovenian Authorities find a suitable and fair solution to compensating the “erased”,¹⁰⁸ as required by the European Court of Human Rights, as well as resolving the legal status of any “erased” who wish to obtain Slovenian citizenship or permanent residence in Slovenia. In its 2017 conclusions, ECRI already considered that this recommendation had been implemented. ECRI noted the efforts made by the Slovenian authorities to facilitate regularisation of legal status and to establish a compensation scheme. In March 2018, the Constitutional Court abolished the upper limit of compensation awarded to erased people by courts.¹⁰⁹ In December 2018, the Act regulating the financial compensation awarded in court proceedings was amended in accordance with the Constitutional Court’s ruling.
85. In its third priority recommendation of its fourth report (paragraph 112), ECRI urged the Slovenian Authorities to take immediate action to ensure that all Roma have practical access to a safe water supply in or in the immediate vicinity of their settlements where this is still a problem. In its June 2017 Conclusions, ECRI considered that this recommendation had not been implemented. ECRI noted that, despite some efforts made by the Slovenian authorities, the lack of practical access to a safe water supply continued to be a problem for many Roma.
86. Following the June 2017 ECRI Conclusions, the authorities informed ECRI of a series of new specific measures they had put in place in order to remedy such a situation. Moreover, the right to drinking water was entered into the Constitution in November 2016.¹¹⁰ On the basis of this new constitutional provision the acts governing the right to drinking water have to be harmonised and an inter-ministerial working group for this harmonisation was established. However, until the adoption of the new legislation, the regulation applicable before the adoption of the Constitutional Act will remain in force.¹¹¹
87. As of now, two cases against Slovenia on the access of Roma to basic infrastructure, including water, are still pending before the European Court of Human Rights.¹¹² It is clear that the decision of the Court will have a significant impact on the solution not only of these two specific cases but also of the above-mentioned problems. It appears that until the delivery of these judgments, none of the parties involved is interested in changing the status quo. However, even if the Court holds that there has been a violation of the ECHR, it is uncertain whether the judgment will contain a set of measures sufficiently detailed to be able to remedy the situation alone.

¹⁰⁸ On 26 February 1992, 25 671 persons were “erased” from the registers of permanent residents of Slovenia. They became aliens with no legal status in Slovenia and many remained so for more than 20 years.

¹⁰⁹ Ruling No. U-I-80/16, U-I 166/16, U-I-173/16.

¹¹⁰ Cf. Article 70a of the Constitution of Slovenia (2013, as amended in 2016): <http://www.us-rs.si/media/constitution.-2016.-.precisceni.dokument.dodan.70a.clen.pdf>.

¹¹¹ Information received from the Government by e-mail on 26 January 2018, p. 14.

¹¹² Hudorovič v. Slovenia, application No. 24816/14 and Novak v. Slovenia, application No. 25140/14.

88. ECRI sees the lack of access to a safe water supply in or near settlements as one of the most serious consequences of the poor Roma housing in Slovenia. The authorities implicitly confirmed this view, as they affirmed that currently the problem stems from the fact that a public water supply cannot be installed in an irregular settlement, according to the current legislation. In addition, supplying water (as well as other issues relating to spatial planning) is within the competence of the municipalities. As already seen above, the central authorities claim that they cannot easily interfere with this competence. Once again, ECRI points to the problem of lack of substitute powers of the central authorities in case of inaction of local authorities when basic human rights are at stake. ECRI concurs with the Ombudsman's view that the national authorities should have the power to intervene on the basis of Article 5 of the Constitution providing that "The state shall protect human rights and fundamental freedoms."¹¹³
89. ECRI reiterates its recommendation that the Slovenian Authorities take immediate action to ensure that all Roma have practical access to a safe water supply in or in the immediate vicinity of their settlements where this is still a problem.

2. Policies to combat discrimination and intolerance against LGBT persons

- Data

90. There is no official data on the size of the LGBT population in Slovenia.¹¹⁴ According to Article 6 paragraph 19, and Article 13 of the Personal Data Protection Act, data concerning inter alia health status and sexual life are considered as "sensitive personal data" which cannot be collected and subsequently processed without the person's explicit consent in writing.¹¹⁵
91. The government reported that there are no measures in place to collect and analyse data on discrimination on grounds of sexual orientation and gender identity.¹¹⁶ There is little official data regarding the living conditions of LGBT persons or regarding homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity.¹¹⁷ However, in the period starting with the entry into force of the law on registered same-sex partnerships in 2006 up to 2016, a total number of 164 same-sex partnerships were registered. According to official demographical data from 2015, there were 64 same-sex families without children and 17 same-sex families with children.¹¹⁸
92. 636 respondents from Slovenia took part in the first EU-wide survey on LGBT people's experiences of discrimination organised by the EU Agency for Fundamental Rights (FRA) published in 2013, out of which 54% of them identified themselves as gay men, 25% as lesbian women, 16% as bisexual persons and 5% as transgender persons.¹¹⁹ On the Rainbow Europe Map 2017, reflecting the European countries' legislation and policies guaranteeing LGBT human rights, Slovenia ranks 20th over 49 countries scored, with an overall score of 44%.¹²⁰ According to Eurobarometer 2015, 54% of the participants in Slovenia believe that LGBT persons should have the same rights as heterosexual persons. A public opinion poll conducted in February 2015 showed that 59% of Slovenians surveyed

¹¹³ Human Rights Ombudsman of the Republic of Slovenia 2017: 94.

¹¹⁴ Mavcic, A.M. & Avbelj, M. 2010: 14, 27.

¹¹⁵ Personal Data Protection Act 2004: http://ec.europa.eu/justice/data-protection/law/files/implementation/personal_data_protection_act_rs_2004.pdf. See however footnote 86.

¹¹⁶ CDDH 2013 : 566-567.

¹¹⁷ COWI 2009: 3.

¹¹⁸ Statistical Office of the Republic of Slovenia, Demographical data: <http://pxweb.stat.si/pxweb/Database/Demographics/Demographics.asp>.

¹¹⁹ EU, FRA 2013 : 25.

¹²⁰ Rainbow Europe 2017: <https://rainbow-europe.org/country-ranking> last accessed 8 February 2018.

supported same-sex marriage, while 38% of them supported adoption rights for same-sex couples.¹²¹

93. Recommendation CM/Rec(2010)5 of the Council of Europe's Committee of Ministers on measures to combat discrimination on grounds of sexual orientation or gender identity indicates that personal data referring to a person's sexual orientation or gender identity can be collected when this is necessary for the performance of a specific, lawful and legitimate purpose. It is clear that without such information there can be no solid basis for developing and implementing policies to address intolerance and discrimination of LGBT persons.
94. ECRI reiterates to the authorities as above (paragraph 53) the importance of gathering disaggregated equality data for the purpose of combating discrimination.

- **Legislative issues**

95. The principle of equality is enshrined in Article 14 of the Constitution which establishes equal rights and freedoms for all persons in the country on the grounds of, inter alia, "social status or any other personal circumstance".¹²² In July 2009, the Constitutional Court held that the anti-discrimination protection under Article 14 of the Constitution covers also discrimination based on sexual orientation.¹²³ The new PADA of 2016 covers an extended list of prohibited grounds of discrimination including, inter alia, sexual orientation, gender identity, gender expression, social standing and health.¹²⁴
96. As regards family matters, since 2006 registered partnership for same-sex couples is possible. Since February 2017, Article 2, paragraph 2 of the new Civil Unions Act makes it comparable to marriage in almost all aspects. The only exceptions established by Article 2, paragraph 3 of the Act are joint adoption and assisted reproduction services, which remain reserved for heterosexual couples only.¹²⁵ Although same-sex couples are not entitled to joint adoption, LGBT persons can adopt as individuals, since Articles 135 et seq. of the Law on Marriage and Family Relations do not state any explicit prohibitions for adoption by single LGBT persons.¹²⁶ Stepchild adoption (to adopt one's partner's biological children) is allowed for same-sex couples.¹²⁷ As regards marriage, a law to legalise same-sex marriage was passed by the Assembly in March 2015, but then abolished by a referendum in December 2015 with over 60% of the votes.¹²⁸

- **Transgender persons**

97. There is no specific legislation explicitly regulating the change of name and gender for transgender persons in Slovenia. According to Article 11 of the Personal Name Act, a name can be changed on the basis of changed family status or upon the

¹²¹ RTVSLO 2015, The majority supports same-sex marriage, if adoption rights are withheld: <http://www.rtvslo.si/slovenija/vecina-podpira-istospolne-poroke-do-posvojitve-je-zadrzana/358447>.

¹²² The Constitution of Slovenia (1991, as amended in 2013).

¹²³ Equal Rights Trust 2009.

¹²⁴ European network of legal experts in gender equality and non-discrimination 2016: <http://www.equalitylaw.eu/downloads/3836-slovenia-new-protection-from-discrimination-act-adopted-pdf-66-kb>.

¹²⁵ The new Civil Unions Act, which entered into force on 24 May 2016, replaced the previous Registration of Same-Sex Partnership Act of 22 June 2005. The provisions of the new Act are applicable as from 24 February 2017.

¹²⁶ Law on Marriage and Family Relations (1977, as amended in 2015): http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti_pdf/zakonodaja/law_on_marriage_and_family_relations.pdf. This law will be replaced by the new family code of 15 April 2017 and to be implemented on 15 April 2019.

¹²⁷ Rainbow-Europe, Slovenia; Ministry of Labour, Family and Social Affairs 2011, July 19, http://www.mddsz.gov.si/nc/si/medijsko_sredisce/novica/article/1966/6725/.

¹²⁸ Le Libre Penseur 2015, <http://www.lelibrepenseur.org/lobby-lgbt-la-slovenie-dit-non-au-mariage-homosexuel/>.

request of an individual. Officially registering the change of name and gender is legally possible for transgender persons in accordance with the Ordinance on the enforcement of the law on the registry of births. According to Article 37 of the Ordinance, the change of sex shall be recorded on the basis of “a decision by a competent authority on the change of sex”. This basis should be confirmed by a certificate issued by a competent medical institution or doctor, which shows that the person has changed sex. According to Article 30 of the Ordinance, change of personal name shall be entered in the register on the basis of a decision to change the personal name.¹²⁹

98. There are significant loopholes in the legislation concerning transgender persons. The medical aspect of the gender reassignment procedure is completely unregulated and left to the medical system, which operates on a case-by-case basis. Since the procedure is not regulated, there are no legal conditions that have to be met for legal gender reassignment. There is no legal requirement of sterility, gender reassignment surgery or age requirement. According to NGO reports, anecdotal evidence provided by persons who underwent gender reassignment procedures in Slovenia show that practices differ. In some cases the civil registry requires a certified statement from a psychiatrist, while in others a statement from the surgeon who has performed gender reassignment surgery is required.¹³⁰

99. ECRI recommends that the Slovenian authorities adopt, as soon as possible, legislation explicitly regulating the change of name and gender for transgender persons. Authorities should also establish clear guidelines for gender reassignment procedures and their official recognition drawing inspiration from international standards and especially from Resolution 2048 (2015) of the Council of Europe Parliamentary Assembly.

- **Independent Authorities**

100. The Ombudsman can deal with complaints made on the grounds of sexual orientation. The Ombudsman received seven complaints on the grounds of sexual orientation in 2017. The new PADA covers among others grounds of discrimination based on sexual orientation, gender identity and gender expression. The Advocate who monitors the application of the PADA is also competent to deal with this kind of discrimination.¹³¹

- **Access to goods and services, employment and health**

101. According to the 2013 EU FRA LGBT survey, only 10% of the participants in Slovenia felt discriminated against because of their LGBT identity when searching for a job, and 14% of them at work. Concerning housing, 13% felt discriminated and concerning discrimination by healthcare personnel only 8%.¹³²

- **Education and awareness-raising**

102. A number of awareness-raising training sessions and best practices concerning LGBT rights are in place in the country. Social partners in the country (ZSSS, SVIZ and ZDS), research institutes and NGOs have been participating in the introduction of policies for non-discrimination and managing diversity at the workplace, starting with LGBT and then covering other vulnerable groups. They have developed

¹²⁹ Mavcic, A.M. & Avbelj, M. 2010: 14, 27; Rainbow-Europe, Slovenia: <https://rainbow-europe.org/#8660/0/0>; Ordinance on the enforcement of the law on the registry of births (2005, as amended in 2016): <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV5572>.

¹³⁰ Šalamon, K. 2014: 4-5: http://www.mirovni-institut.si/wp-content/uploads/2013/01/Grid-for-survey_Slovenia_WEB-PUBLICATION.pdf; in 2017, the European Court of Human Rights ruled that requiring sterilisation for legal gender recognition violates human rights: A.P., Garçon and Nicot v. France, nos. 79885/12, 52471/13 and 52596/13), 6 April 2017.

¹³¹ European network of legal experts in gender equality and non-discrimination, 24 January 2017.

¹³² EU FRA 2012, <http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-lgbt-survey-2012>.

special manuals and collections of best practices. In 2015, the Municipality of Ljubljana introduced training sessions to raise awareness of the difficulties and discrimination faced by LGBT persons that often go unnoticed by heterosexuals. Participants of the training (municipal administration, enterprises, institutions and organisations situated in Ljubljana) receive a certificate of excellence on completion.¹³³

103. The government reported that anti-discrimination and human rights education is incorporated in all school curricula and that students get additional information on sexual orientation and gender identity particularly as a part of the compulsory subject citizenship education in elementary school and the subjects sociology and psychology in secondary school.¹³⁴

¹³³ Fric, K. 2016: 14-15.

¹³⁴ CDDH 2013: 577.

INTERIM FOLLOW-UP RECOMMENDATIONS

The two specific recommendations for which ECRI requests priority implementation from the authorities of Slovenia are the following:

- In keeping with ECRI General Policy Recommendations No. 7 on national legislation to combat racism and racial discrimination and No. 15 on combating hate speech, ECRI recommends that the Slovenian authorities remedy the gaps identified in paragraphs 4-6 of this report. In particular the prosecution authorities should refrain from introducing requirements for the imposition of criminal responsibility of conduct inciting to hatred and violence, which are not provided by the law.
- ECRI reiterates its recommendation that the authorities gather disaggregated equality data for the purpose of combating racial discrimination. If necessary, the authorities should propose legislative clarification to ensure that data is collected in all cases with due respect for standards on data protection, including principles of confidentiality, informed consent and voluntary self-identification.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§ 7) In keeping with ECRI General Policy Recommendations No. 7 on national legislation to combat racism and racial discrimination and No. 15 on combating hate speech, ECRI recommends that the Slovenian authorities remedy the gaps identified in paragraphs 4-6 of this report. In particular the prosecution authorities should refrain from introducing requirements for the imposition of criminal responsibility of conduct inciting to hatred and violence, which are not provided by the law.
2. (§ 13) In keeping with its General Policy Recommendations No. 7 on national legislation to combat racism and racial discrimination, ECRI reiterates its recommendation that the Slovenian authorities introduce a criminal law provision expressly considering racist motivation as an aggravating circumstance for any criminal offences. ECRI recommends also strengthening sanctions against racism and racial discrimination by introducing a provision specifically prohibiting the creation or the leadership of a group which promotes racism, as well as a separate provision criminalising insult and defamation when committed intentionally against individuals or a group of persons on grounds of their race, colour, language, religion, citizenship, or national or ethnic origin.
3. (§ 16) ECRI recommends that authorities provide by law for an obligation to suppress public financing of organisations which promote racism, including political parties, and, in the most serious circumstances, the possibility of dissolution of such organisations.
4. (§ 22) ECRI recommends that the authorities ensure all the necessary conditions for the effective functioning of the Advocate of the Principle of Equality and adequate awareness of its functions among the public, in line with ERI General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level. Without affecting their distinct mandates and powers, strict co-ordination should be ensured between the Advocate and the Human Rights Ombudsman to address overlaps, enable joint actions and optimize the effective use of resources. In particular, they should develop a common interpretation of the anti-discrimination legislation and make co-ordinated use of their competences and powers in this area.
5. (§ 28) ECRI recommends to the authorities to ensure that specific and reliable data on hate speech offences and the follow-up given to them by the justice system is available and made public. In addition, the authorities should arrange for the gathering of disaggregated data as provided by Article 16 of the Protection against Discrimination Act for the purpose of combating hate speech and racial discrimination, while ensuring that this is done in all cases with due respect for the principles of confidentiality.
6. (§ 40) ECRI recommends that the authorities amend the Protection against Discrimination Act and reinforce non-criminal responses against hate speech, in particular counter-speech. In addition, they should support elected bodies' code of conducts and strengthen media's self-regulation initiatives. Furthermore, ECRI recommends that an evaluation of past initiatives to prevent hate speech is carried out with a view of building on existing efforts and expanding good practices, especially in the media and education sectors.
7. (§ 44) ECRI recommends that the authorities ensure that the specific motive is recorded in relation to criminal offences involving racist and homo/transphobic violence. This should be done by putting in place a system to collect data and produce public statistics offering an integrated and consistent view of the cases

of racist and homo/transphobic violence brought to the attention of the police and the follow-up given to them by the justice system.

8. (§ 53) ECRI reiterates its recommendation that the authorities gather disaggregated equality data for the purpose of combating racial discrimination. If necessary, the authorities should propose legislative clarification to ensure that data is collected in all cases with due respect for standards on data protection, including principles of confidentiality, informed consent and voluntary self-identification.
9. (§ 63) ECRI recommends strengthening programmes for local authorities on the implementation of integration measures for beneficiaries of international protection, as the role of these authorities is crucial for the effectiveness of these measures.
10. (§ 65) ECRI recommends that authorities strengthen cooperation with employers in order to increase employment opportunities for beneficiaries of international protection and migrants. ECRI refers to its General Policy Recommendation No. 14 on combating racism and racial discrimination in employment for useful examples of positive measures and incentives to facilitate access of migrants to the labour market.
11. (§ 77) ECRI reiterates its recommendations that the authorities refrain from using the unhelpful distinction between autochthonous and non-autochthonous Roma and ensure that the Roma Community Council becomes more representative and effective by adopting the necessary changes in the legislation and regulations, in consultation with the representatives of the different Roma communities.
12. (§ 78) ECRI recommends that the process of amending the Roma Community Act is finalised as soon as possible, clearly providing for the power of the central authorities to take substitute measures if and when local authorities fail to act in the implementation of the law. The authorities should also ensure the speedy implementation, in the context of the National Programme of Measures for Roma for the Period 2017-2021, of specific measures in the field of education and affirmative action in employment, as well as of measures aimed at improving the current housing situation.
13. (§ 89) ECRI reiterates its recommendation that the Slovenian Authorities take immediate action to ensure that all Roma have practical access to a safe water supply in or in the immediate vicinity of their settlements where this is still a problem.
14. (§ 99) ECRI recommends that the Slovenian authorities adopt, as soon as possible, legislation explicitly regulating the change of name and gender for transgender persons. Authorities should also establish clear guidelines for gender reassignment procedures and their official recognition drawing inspiration from international standards and especially from Resolution 2048 (2015) of the Council of Europe Parliamentary Assembly.

BIBLIOGRAPHY

This bibliography lists the main published sources used during the examination of the situation in Slovenia. It should not be considered as an exhaustive list of all sources of information available to ECRI during the preparation of the report.

European Commission against Racism and Intolerance (ECRI)

1. ECRI (2017), Conclusions on the implementation of the recommendations in respect of Slovenia subject to interim follow-up (CRI(2017)39).
2. ECRI (2014), Fourth report on Slovenia, CRI(2014)38.
3. ECRI (2007a), Third report on Slovenia, CRI(2007)5.
4. ECRI (2003a), Second report on Slovenia, CRI(2003)39.
5. ECRI (1998a), Report on Slovenia, CRI(98)26.
6. ECRI (1996), General Policy Recommendation No. 1: Combating racism, xenophobia, antisemitism and intolerance, CRI(96)43.
7. ECRI (1997), General Policy Recommendation No. 2: Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, CRI(97)36.
8. ECRI (1998b), General Policy Recommendation No. 3: Combating racism and intolerance against Roma/Gypsies, CRI(98)29.
9. ECRI (1998c), General Policy Recommendation No. 4: National surveys on the experience and perception of discrimination and racism from the point of view of potential victims, CRI(98)30.
10. ECRI (2000), General Policy Recommendation No. 5: Combating intolerance and discrimination against Muslims, CRI(2000)21.
11. ECRI (2001), General Policy Recommendation No. 6: Combating the dissemination of racist, xenophobic and antisemitic material via the Internet, CRI(2001)1.
12. ECRI (2003b), General Policy Recommendation No. 7: National legislation to combat racism and racial discrimination, CRI(2003)8.
13. ECRI (2004a), General Policy Recommendation No.8: Combating racism while fighting terrorism, CRI(2004)26.
14. ECRI (2004b), General Policy Recommendation No.9: The fight against antisemitism, CRI(2004)37.
15. ECRI (2007b), General Policy Recommendation No.10: Combating racism and racial discrimination in and through school education, CRI(2007)6.
16. ECRI (2007c), General Policy Recommendation No.11: Combating racism and racial discrimination in policing, CRI(2007)39.
17. ECRI (2009), General Policy Recommendation No. 12: Combating racism and racial discrimination in the field of sport, CRI(2009)5.
18. ECRI (2011), General Policy Recommendation No.13: Combating anti-Gypsyism and discrimination against Roma, CRI(2011)37.
19. ECRI (2012), General Policy Recommendation No.14: Combating racism and racial discrimination in employment, 2012, CRI(2012)48.
20. ECRI (2016a), General Policy Recommendation No. 15: Combating Hate Speech, CRI(2016)15.
21. ECRI (2016b), General Policy Recommendation No. 16: Safeguarding irregularly present migrants from discrimination, CRI(2016)16.

Other sources

22. Advocate of the Principle of Equality (2018), Annual Report 2017, <http://www.zagovornik.si/wp-content/uploads/2018/06/Report-of-the-Advocate-of-the-principle-of-equality-for-2017-final.pdf>.
23. Amnesty International (2018), Amnesty International Report 2017/2018, Slovenia 2017/2018, <https://www.amnesty.org/en/countries/europe-and-central-asia/slovenia/report-slovenia/>.

24. Bajt, V. (2016), Anti-Immigration Hate Speech in Slovenia in Razor-Wired, Reflections on Migration Movements through Slovenia in 2015, pp. 50-61.
25. Chopin, I., Germaine, C. and Tanczos, J. (2017), Roma and the enforcement of anti-discrimination law, European network of legal experts in gender equality and non-discrimination, European Commission.
26. Constitutional Court (Ustavno Sodišče) (2017) Decision of the Constitutional Court No. UI-64 of October 2017 (Odločba Ustavnega sodišča št. U-I-64/14 z dne 12.10.2017).
27. Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) (2017), Fourth Report submitted by Slovenia pursuant to Article 25, paragraph 2 of the Framework Convention for the Protection of National Minorities (Received on 6 January 2017), ACFC/SR/IV(2017)001.
28. Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) (2018), Fourth Opinion on Slovenia, ACFC/OP/IV(2017)003.
29. Council of Europe, Commissioner for Human Rights (2011), Discrimination on grounds of sexual orientation and gender identity in Europe, 2nd edition.
30. Council of Europe, Commissioner for Human Rights (2017), Report on his visit to Slovenia from 20 to 23 March 2017, CommDH(2017)21, <https://rm.coe.int/report-on-the-visit-to-slovenia-from-20-to-23-march-2017-by-nils-muizn/1680730405>.
31. Council of Europe, Commissioner for Human Rights (2017, January 12), Letter to Dr Milan Brglez, President of the National Assembly of the Republic of Slovenia.
32. Council of Europe, Commissioner for Human Rights (2017, January 17), Reply from Dr Milan Brglez, President of the National Assembly of the Republic of Slovenia.
33. Council of Europe, Steering Committee for Human Rights (CDDH) (2013), Follow-up to Committee of Ministers' Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation and gender identity - Member States replies, CDDH(2013)004FIN, [https://www.coe.int/t/dghl/standardsetting/cddh/CDDH-DOCUMENTS/CDDH\(2013\)004_FIN.pdf](https://www.coe.int/t/dghl/standardsetting/cddh/CDDH-DOCUMENTS/CDDH(2013)004_FIN.pdf).
34. COWI (2009), The social situation concerning homophobia and discrimination: Slovenia, <https://www.coe.int/en/web/commissioner/thematic-work/lgbt-country-studies>.
35. Dolenc, D. (2016), Dad, Mom, Grandpa, Grandma ... Households and Families in Slovenia, Republic of Slovenia, Statistical Office.
36. Equal Rights Trust (2009, July 20), Constitutional Court of Slovenia Upholds Equal Rights for Same Sex Partners: <http://www.equalrightstrust.org/news/constitutional-court-slovenia-upholds-equal-rights-same-sex-partners>.
37. European Commission (2015), Eurobarometer 83.4, Discrimination in the EU in 2015, results for Slovenia.
38. European Court of Human Rights (2000), Cha'are Shalom Ve Tsedek v. France, application no. 27417/95, Judgment.
39. European Court of Human Rights (2015), Hudorovič and Hudorovič v. Slovenia, application no. 24816/14 and Novak and others v. Slovenia, application No. 25140/14, statement of facts.
40. European Court of Human Rights (2017), A.P., Garçon and Nicot v. France, Applications nos. 79885/12, 52471/13 and 52596/13, Judgment, <http://hudoc.echr.coe.int/eng?i=001-172556>.
41. European network of legal experts in gender equality and non-discrimination, 2016, May 27, News Report, Slovenia, New protection from Discrimination Act adopted, <http://www.equalitylaw.eu/downloads/3836-slovenia-new-protection-from-discrimination-act-adopted-pdf-66-kb>.
42. European network of legal experts in gender equality and non-discrimination (2017, January 24), News Report, Slovenia, New Equality Body Established and New Advocate Nominated, <http://www.equalitylaw.eu/downloads/4019-slovenia-new-equality-body-established-and-new-advocate-nominated-pdf-151-kb>.
43. European Union Agency for Fundamental Rights (EU, FRA) (2012), EU LGBT Survey Data Explorer: <http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-lgbt-survey-2012>.

44. EU General Data Protection Regulation (EU) 2016/679
<http://data.europa.eu/eli/reg/2016/679/oj>
45. EU, FRA (2013), EU LGBT survey, Technical report,
https://fra.europa.eu/sites/default/files/eu-lgbt-survey-technical-report_en.pdf.
46. EU, FRA (2016), European Union Minorities and Discrimination Survey (EU-MIDIS II).
47. EU, FRA (2018) Hate crime recording and data collection practice across the EU,
<http://fra.europa.eu/en/publication/2018/hate-crime-recording> .
48. Faculty of Social Sciences at the University of Ljubljana, Academic and Research Network of Slovenia (Arnes), Slovenian Association of Friends of Youth (ZPMS) and Youth Information and Counselling Center of Slovenia (MISSS), Safer Internet Centre,
<https://safe.si/english/safer-internet-centre>.
49. Fric, K. (2016, May 13), Working life experiences of LGBT people and initiatives to tackle discrimination, Eurofound,
<http://www.eurofound.europa.eu/observatories/eurwork/articles/working-conditions-law-andregulation/working-life-experiences-of-lgbt-people-and-initiatives-to-tackle-discrimination>.
50. Government Office of the Republic of Slovenia for Support and Integration of Migrants, Persons under international protection, <http://infotujci.si/en/persons-under-international-protection>.
51. Huddleston, T. et al (2015), Migrant Integration Policy Index (MIPEX) 2015 – Slovenia:
<http://www.mipex.eu/slovenia>.
52. Human Rights Ombudsman of the Republic of Slovenia (2018), Annual Report for 2017.
53. Human Rights Ombudsman of the Republic of Slovenia (2017), Annual Report for 2016.
54. Human Rights Ombudsman of the Republic of Slovenia (2016), Annual Report for 2015.
55. International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA)-Europe, Rainbow-Europe, <https://rainbow-europe.org/>, Slovenia, <https://rainbow-europe.org/#8660/0/0>.
56. ILGA-Europe (2017), Rainbow Europe 2017, <https://rainbow-europe.org/country-ranking> last accessed 8 February 2018.
57. International Organization for Migration (IOM) (2017), Labour integration of beneficiaries of international protection in Slovenia,
<http://www.slovenia.iom.int/sites/default/files/documents/IOM-integracija-trg%20dela-EN.pdf>.
58. Kogovšek Šalamon, N. (2014), Slovenia: Full Recognition as a Continuous Challenge,
http://www.mirovni-institut.si/wp-content/uploads/2013/01/Grid-for-survey_Slovenia_WEB-PUBLICATION.pdf.
59. Kogovšek Šalamon, N. (2017), Country report non-discrimination Slovenia 2017, European network of legal experts in gender equality and non-discrimination, European Commission.
60. Le Libre Penseur, 24 December 2015, Lobby LGBT : la Slovénie dit non au mariage homosexuel: <http://www.lelibrepenseur.org/lobby-lgbt-la-slovenie-dit-non-au-mariage-homosexuel/>.
61. Mavcic, A.M. and Avbelj, M. (2010), Legal Study on Homophobia and Discrimination: Slovenia, <https://www.coe.int/en/web/commissioner/thematic-work/lgbti-country-studies>.
62. Office of the State Prosecutor General of the Republic of Slovenia (2013), Legal Opinion of the Criminal Department, www.spletno-oko.si/sites/default/files/sovrazni_govor_pravno_stalisce_-_vrhovno_tozilstvo_0.doc
63. Organisation for Economic Co-operation and Development (OECD) (2017), "Slovenia" in International Migration Outlook 2017, pp. 230-231,
http://dx.doi.org/10.1787/migr_outlook-2017-38-en.
64. Organisation for Security and Co-operation in Europe (OSCE), Office for Democratic Institutions and Human Rights (ODIHR) (2014), Hate Crime Data-Collection and Monitoring Mechanisms - A Practical Guide.

65. OSCE-ODIHR (2017), Hate Crime Reporting: Slovenia, <http://hatecrime.osce.org/slovenia?year=2016>.
66. OSCE-ODIHR (2018), Republic of Slovenia. Early Parliamentary Elections, 3 June 2018 ODIHR Election Assessment Mission Final Report, <https://www.osce.org/odihr/elections/slovenia/394106?download=true>.
67. Republic of Slovenia, Ministry of the Interior (2017), Report on the Working Field of Migration, International Protection and Integration for 2016.
68. Republic of Slovenia, Ministry of the Interior (2016), Report on the Working Field of Migration, International Protection and Integration for 2015.
69. Republic of Slovenia, Ministry of Interior, Statiska, Statistični podatki o tujcih v Sloveniji, Statistics, Statistical data on foreigners in Slovenia http://www.mnz.gov.si/mnz_za_vas/tujci_v_sloveniji/statistika/.
70. Republic of Slovenia, Ministry of Labour, Family and Social Affairs (2011, July 19), News, Ministry response regarding the decision to adopt a biological child of a same-sex partner: http://www.mddsz.gov.si/nc/si/medijsko_sredisce/novica/article/1966/6725/.
71. Republic of Slovenia, Office for National Minorities, Minorities & Statistical and Basic Data on Roma Community: <http://www.un.gov.si/en/minorities/>; http://www.un.gov.si/en/minorities/roma_community/statistical_and_basic_data/.
72. Republic of Slovenia, Office for National Minorities (2017), Zakon o Romski Skupnosti v Republiki Sloveniji, Case-law on the Roma community in the Republic of Slovenia, http://www.un.gov.si/si/zakonodaja_in_dokumenti/predpisi_v_pripravi/zakon_o_romski_skupnosti_v_republiki_sloveniji/.
73. Republic of Slovenia, Statistical Office, Migration change of population, http://pxweb.stat.si/pxweb/Dialog/varval.asp?ma=05I2006E&ti=&path=../Database/Demographics/05_population/25_Migration_Change/10_05I20_Migration_Change/&lang=1
74. Republic of Slovenia, Statistical Office, Population by ethnic affiliation, Slovenia, Census 1953, 1961, 1971, 1981, 1991 and 2002, https://www.stat.si/popis2002/en/rezultati/rezultati_red.asp?ter=SLO&st=7.
75. RTVSLO.SI (2010, December 18), Vsak osmi prebivalec Slovenije priseljenc, *Every eight person in Slovenia is an immigrant*, <http://www.rtvlo.si/slovenija/vsak-osmi-prebivalec-slovenije-priseljenec/246585>.
76. RTVSLO.SI (2015, February 16), Večina podpira istospolne poroke, do posvojitve je zadržana, *The majority supports same-sex marriage, if adoption rights are withheld*, <http://www.rtvlo.si/slovenija/vecina-podpira-istospolne-poroke-do-posvojitve-je-zadrzana/358447>.
77. United Nations (UN), Human Rights Committee (2016), Concluding observations on the third periodic report of Slovenia, CCPR/C/SVN/CO/3.
78. UN, Special Rapporteur on minority issues Fernand de Varennes (2018, April 13), Statement on the conclusion of his official visit to Slovenia, 5-13 April 2018, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22935&LangID=E>
79. United States Department of State (2017a), International Religious Freedom Report for 2016.
80. United States Department of State (2017b), Country Reports on Human Rights Practices for 2016.
81. Valfort, M. (2017), "LGBTI in OECD Countries: A Review", OECD Social, Employment and Migration Working Papers, No. 198, OECD Publishing, Paris, <http://dx.doi.org/10.1787/d5d49711-en>.
82. Zalta, A. (2017): Islamophobia in Slovenia: National Report 2016, in: Bayraklı, E. & Hafez, F., European Islamophobia Report 2016, Istanbul, SETA, 2017.

