

SLOVENIA: AFTER MORE THAN 30 YEARS, GOVERNMENT MUST DO WHAT IS RIGHT FOR THE ERASED

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SUMMARY

This submission was prepared for the fourth cycle of the Universal Periodic Review (UPR) of Slovenia.

Since the last review, Slovenia has made some progress towards implementing recommendations, including amending the legal definition of rape to make it more consistent with international human rights law, and adopting the Long-Term Care Act.

While welcoming these advances, Amnesty International remains concerned about the lack of progress on many of the issues identified in the previous cycle, including discrimination against Roma, refugees' and migrants rights, rape and sexual violence, right to a healthy environment and the status of the 'Erased,' as well as considerable deterioration in people's access to health care.

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THE HUMAN RIGHTS SITUATION ON THE GROUND

Economic, social and cultural rights

1. In July 2023, the National Assembly adopted the long-awaited Long-Term Care Act. The act envisages introducing a standardised means of assessing individual needs and eligibility for long-term care, both at home and in institutions. While the act provides for long-term financing of the care system, which had been one of the key challenges in the past, the authorities will still need to adopt the necessary by-laws to ensure that the people requiring long-term care can effectively access adequate services.¹
2. Due to significant shortages of family doctors nationwide, approximately 140,000 people remained without effective access to primary healthcare in 2024.² The civil society initiative Voice of the People, of which Amnesty International Slovenia is also a part, warned that the lack of doctors led to significant delays in people receiving their first examination, diagnosis and therapy and may have caused preventable deaths.

Roma people

3. Discrimination against and social exclusion of a large proportion of the Roma continues, particularly in the south-east of the country.
4. Many Roma in south-eastern Slovenia still live in segregated settlements, without security of tenure and often without essential services such as drinking water, sanitation and electricity. The persistent challenges in accessing these services as well as the widespread poverty of many Roma families, constitute a serious obstacle to their greater social inclusion and the full realisation of their rights.³ Poor living conditions affecting the Roma community continues to negatively impact their rights to education, work, an adequate standard of living and health, perpetuating a cycle of poverty and marginalisation.
5. A 2018 study by the National Institute of Public Health found that Roma men have an average life expectancy of 48 years and women 63 years, nearly 20 years less than the general Slovenian population, which stands at 77. Premature mortality among Roma is 69%, compared to the Slovenian average of 19%. The study also found that the mortality rate for Roma children aged one to five is seven times higher than the national average. Roma women are 16 times more likely to be hospitalised for pregnancy and childbirth, and Roma have higher rates of hospitalisation for respiratory, infectious, circulatory and gastrointestinal diseases. The Institute attributed these health disparities to socio-economic factors such as poor living conditions, low health literacy, unemployment, poverty and social exclusion.⁴
6. According to 2022 research by the Institute for Ethnic Studies, only 21.3% of Roma pupils complete all nine grades of primary school. In the southeastern region, this average drops to 12.3%. There is no available comprehensive data on how many Roma children attend preschool or secondary education.
7. Despite a recommendation of the Commissioner for Human Rights of the Council of Europe to eliminate segregation in pre-schools, Roma children are still kept separate in some state-run kindergartens.⁵ A disproportionate number of Roma children continue to be assigned to classes of pupils with special needs.⁶ According to local NGOs, between 30 and 40% of pupils attending schools and classes for children with special needs are Roma children, even though Roma represent less than 1% of the total population.⁷
8. The difference in the legal definition between the so-called "autochthonous" or traditionally settled Roma population and the "non-autochthonous" Roma population, and their subsequent ability to exercise or access certain rights under the Slovenian Constitution, persists despite recommendations from the European Commission against Racism and Intolerance (ECRI) to address this.⁸ For example, the Act on Local Self-Government obliges the 20 municipalities in areas with "autochthonous" Roma populations to include at least one Roma representative on municipal councils. However, it does not include several urban municipalities with significant Roma populations, such as Ljubljana, Maribor, Škocjan and Ribnica, because Roma people

here are categorised as "non-autochthonous" Roma population, leaving these municipalities without Roma representation. 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.

9. The government still does not collect disaggregated data on any minorities in all areas of social life, and the resulting lack of reliable information limits their ability to develop and implement targeted policies to address and improve their respective situations.
10. In its 2021 report on Slovenia, the Group of Experts on Violence against Women and Domestic Violence (GREVIO) noted that the specific situation of Roma women and girls and their exposure to gender-based violence had not been sufficiently researched. GREVIO encouraged the Slovenian authorities to address this through research of all forms of violence against women, such as sexual violence, sexual harassment and forced marriage or other traditional practices harmful to women, as well as violence affecting vulnerable groups of women, such as Roma women and girls, women and girls with disabilities and migrant women. Such research has not yet been carried out.⁹

The 'Erased'

11. In February 1992, following Slovenia's declaration of independence, some 25,000 citizens of other former Yugoslav republics were unconstitutionally removed from the official register of permanent residents. With the loss of status, they also lost all their economic and social rights tied to permanent resident status, and their right to remain in Slovenia, rendering some people homeless.¹⁰ More than 30 years after this 'erasure', the authorities continue to ignore the demands of the Erased and the recommendations of civil society and international human rights bodies.¹¹
12. The state has not restored the permanent residency status of around half of the 'erased' or provided any of the affected persons with adequate compensation. Those whose status was restored had the possibility of receiving a meagre compensation; those whose was not received nothing. The 2010 amended Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia was supposed to restore the permanent resident status of the erased persons who were forced to leave the Republic of Slovenia within three years. This deadline expired on July 24, 2013, with the result that today there is not a single dedicated legal remedy left.
13. In October 2023, the President of the Republic of Slovenia supported a draft law prepared by numerous civil society groups, including the Civil Initiative of Erased Activists, the Association of Erased Residents of Slovenia, the Peace Institute and Amnesty International Slovenia that would restore permanent residence to the Erased. Amnesty International Slovenia believes that passing a law to restore permanent residence to those who need or want it would be the quickest and most effective way to address the situation and grievances of people who continue to be in legal limbo precisely because of actions by the state. However, in February 2024, the law proposal was rejected by the Government, who claim they are waiting for the constitutional court to rule on some of the issues covered by the proposal.

Legal gender recognition

14. People seeking to affirm their gender in official identity documents are still required to obtain a certificate from a health institution or a doctor, which in practice means obtaining a mental health disorder diagnosis.
15. The requirement for such a certificate violates several rights of persons seeking to affirm their gender identity, including the right to personal dignity, the right to bodily integrity, the right to equality and non-discrimination, the right to privacy, and the right to health.
16. This practice is also contrary to Council of Europe Resolution 2048 (2015),¹² which calls on Member States not to make legal gender recognition conditional on medical procedures and mental health diagnoses, and to

the European Commission's recommendations to promote the inclusion of transgender people in the EU,¹³ which call for procedures to be clear, transparent, respectful, swift and based on the self-determination of the person.

Refugees' and migrants' rights

17. In 2023, the Administrative Court ruled in the case of an asylum seeker from Afghanistan that the practice of detaining asylum seekers before they lodged asylum applications violated their constitutional right to personal liberty.¹⁴
18. Reception conditions for asylum-seekers were often inadequate due to persistent lack of space and significant overcrowding in reception centres. In September 2023, the Human Rights Ombudsman of the Republic of Slovenia said the overcrowding in the reception centre for asylum seekers in the capital, Ljubljana, violated people's right to personal dignity, privacy and security.¹⁵
19. In 2020, the authorities amended the Article 308 of the Criminal Code pertaining to the irregular crossing of the border or state territory, which also regulates smuggling of migrants with irregular status. The amendment increased the penalty for smuggling foreign nationals from "up to 5 years" to "3 to 10 years" of imprisonment and stated that monetary gain was not necessary to fulfil the elements for the criminal act of smuggling.
20. Such a definition is not in line with internationally agreed definition of "smuggling" as contained in the UN Protocol against the Smuggling of Migrants by Land, Sea and Air (UN Smuggling Protocol)¹⁶ and could expose civil society and human rights defenders who provide life-saving assistance to refugees and migrants on the borders to the risk of criminalization.¹⁷ The requirement in the UN Protocol that there must be a financial or other material benefit for the individual to be held criminally liable for smuggling was meant to shield family members or support groups such as non-governmental organizations from punishment.¹⁸

Rape and sexual violence

21. In June 2021, following efforts by NGOs, the Slovenian National Assembly adopted amendments to the Criminal Code's section on 'sexual integrity', introducing a consent-based definition for rape. The Criminal Code now stipulates that consent is valid only "if a person agrees to sexual intercourse or equivalent acts in an outwardly perceptible, unambiguous, and free manner, and is capable of making such a decision."
22. However, legal changes alone are insufficient. To prevent sexual violence and foster safe, respectful relationships, it is crucial to promote discussions about consent and normalize these conversations both in society and in personal lives.
23. In 2023, Amnesty International Slovenia conducted a survey on how young people in Slovenia perceive and understand sexual consent.¹⁹ The survey revealed a relatively high level of awareness about the concept of sexual consent but significant misconceptions among young people regarding behaviours that require consent and the nature of consent itself. For instance, 19% of young women and 53% of young men who participated in the survey believed that consent is not necessary "for someone to rub their private parts against you." Additionally, 38% of young women and 55% of young men surveyed think no consent is needed for "a French kiss".
24. The survey found that 55% of women and 16% of men have experienced sexual harassment, yet 40% of respondents had not taken any action when they were victims or witnesses of sexual harassment.

Right to a healthy environment

25. In June 2023, the government updated its draft Integrated National Energy and Climate Plan, setting new targets that include generating 30-35% of energy from renewable sources and reducing greenhouse gas

emissions by 37-40% by 2030. Local civil society groups criticized these targets, arguing that they fall short of the Paris Agreement goals and need to be more ambitious. Focus, Association for Sustainable Development, an independent non-governmental organization, assessed that the draft plan does not adequately address the severity of the climate crisis.²⁰ Specifically, they found the scenarios insufficiently ambitious in reducing greenhouse gas emissions, setting renewable energy targets, involving communities in the energy transition, and improving transport measures.

26. In March 2024 the Slovenian National Assembly voted in favour of an amendment to the Environmental Protection Act imposing stricter requirements on emissions from co-incineration plants that are harmful to the health and other rights of nearby communities and to the climate. Such plants had previously not been regulated as tightly as incinerators. This had been a longtime demand from rights holder NGOs (Eko Anhovo, Civil initiative Danes) who live near one such co-incinerator (Salonit Anhovo cement plant, since March 2024 renamed to Alpacem Cement). Amnesty International Slovenia was among wider group of NGOs who supported such calls; a bill to change the law was prepared by three NGOs and was adopted unanimously by the National Assembly.²¹
27. The issue of air pollution in Anhovo was raised by UN Special Rapporteur on human rights and the environment when visiting the area in October 2022.²² The Special Rapporteur called on the Slovenian government to 'prioritize actions to improve air quality and refuse to authorize any activities that would increase pollution.'

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Slovenia to:

Roma people

28. Urgently ensure that all Roma people have access to safe and adequate housing, and where necessary and in agreement with affected Roma, relocate families who are living in unsuitable housing to temporary, emergency shelters until permanent, adequate housing can be guaranteed;
29. To confer security of tenure on all people living in informal settlements who currently lack it. All persons must be provided with protection against forced evictions; settlements should be regularized where possible or adequate alternative resettlement options made available;
30. Review and monitor all spatial plans and housing programmes to ensure that they do not discriminate against Roma or further entrench segregation;
31. Ensure that all Roma people have access to safe and adequate water, electricity and sanitation, and can access adequate housing in accordance with human rights law and the Slovenian Constitution;
32. Ensure the effective inclusion of Roma children in the education system;
33. Implement the recommendations of ECRI and the Committee on the Elimination of Racial Discrimination by collecting data disaggregated by prohibited grounds, including "race and colour" for all minorities.

The 'Erased'

34. Adopt a law to restore permanent residency to the "erased" people who were unconstitutionally removed from the official register of permanent residents.

Refugees' and migrants' rights

35. Immediately end the practice of arbitrarily detaining asylum seekers before they formally lodge requests for international protection;
36. Provide asylum-seekers in reception centres with adequate and safe accommodation, as required by national and international law and to ensure people's dignity and security;
37. Amend the definition of smuggling in the Criminal Code to bring it in line with the UN Protocol against the Smuggling of Migrants by Land, Sea and Air, international human rights law and international refugee law. Specifically, consider introducing material benefit as a constitutive element of the offence of facilitation of entry, transit and stay of a foreign national in an irregular status.

Legal gender recognition

38. Amend the Rules on the implementation of the Register of Deaths, Births and Marriages and ensure that people who seek to affirm their gender in official documents do not need a medical certificate as a prerequisite.

Rape and sexual violence

39. Incorporate education on the need of sexual consent in the formal school curriculum, adapted to the evolving capacity of learners. Amnesty International Slovenia's findings highlight the need for continued education and dialogue to address misconceptions and improve understanding of sexual consent.

Access to health

40. Without delay adopt efficient emergency measures to ensure adequate access to primary healthcare to everyone and to adopt as soon as possible also other systemic changes needed to guarantee quality access to health.

¹ The Association of Social Welfare Institutions of Slovenia, "Problems are piling up in social welfare institutions, and government measures are too slow and inadequate," 16 April 2024, <https://www.ssz-slo.si/v-socialnovarstvenih-zavodih-se-kopicijo-tezave-vladni-ukrepi-pa-so-prepocasnini-pomanjkljivi/>

² Voice of People, "Let's stop destruction of public health," November 2023, <https://glas-ljudstva.si/kampanje/1/ustavimo-rusenje-javnega-zdravstva/>

³ National Programme of Measures for Roma of the Government of the Republic of Slovenia for the Period 2021–2030, 23 December 2021, <https://drustvoamnesty.sharepoint.com/:w/g/EcWGLTbp44VEg90HNkBX8lgBugY5EzOFA5FGriZioMvahg?rttime=9kZgwi6c3Eg>

⁴ National Institute for Public Health, "Public health approaches for the Roma ethnic community in Slovenia," <https://nijz.si/wp-content/uploads/2022/07/javnozdravstveni-pristopi-namenjeni-romski-etnicni-skupnosti-v-sloveniji--ang-net.pdf>

⁵ Office of the Government of the Republic of Slovenia for National Minorities, *Vlada je sprejela Nacionalni program ukrepov za Rome za obdobje 2021–2030*, <https://www.gov.si/novice/2021-12-28-vlada-je-sprejela-nacionalni-program-ukrepov-za-rome-za-obdobje-20212030/> National program of measures for 2021–2030 shows that six kindergartens had eight separated Roma departments (groups) in kindergartens.

⁶ "Poročilo o človekovih pravicah za leto 2021 za Slovenijo", 2019, https://si.usembassy.gov/wp-content/uploads/sites/259/SLOVENIA-2021-HUMAN-RIGHTS-REPORT1_SLO_preg.pdf

⁷ Minority Rights Group, "Equality and justice on the sidelines: Comparative report on discrimination against Roma and their access to justice in Slovakia and Slovenia," 10 November 2022, <https://minorityrights.org/resources/equality-and-justice-on-the-sidelines-comparative-report-on-discrimination-against-roma-and-their-access-to-justice-in-slovakia-and-slovenia/>

⁸ ECRI report on Slovenia (CRI(2019)21), 5 June 2019, Paragraph 77, <https://rm.coe.int/fifth-report-on-slovenia/168094cb00>

⁹ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Slovenia, Paragraphs 89 and 90, <https://rm.coe.int/first-baseline-report-on-slovenia/1680a4208b>

¹⁰ Amnesty International, "Slovenia: Amnesty International's position on resolving the issue of erased," February 15, 2013 Index Number: EUR 68/001/2013, <https://www.amnesty.org/en/documents/eur68/001/2013/en/>

¹¹ Amnesty International Press conference, "32 let po izbrisu: država naj končno naredi, kar je prav!" 16 May 2024, <https://www.amnesty.si/novinarska-konferenca-32-let-po-izbrisu-drzava-naj-koncno-naredi-kar-je-prav>

¹² <https://pace.coe.int/en/files/21736>

¹³ European Commission, *Legal Gender Recognition in the EU: Transgender people's path to full equality*, 2020, <https://op.europa.eu/en/publication-detail/-/publication/7341d588-ddd8-11ea-adf7-01aa75ed71a1/language-en>

¹⁴ Administrative court decision, III 62/2022, 19, May 2023.

¹⁵ Legal Center for the Protection of Human Rights and the Environment, "*The Asylum Information Database, Slovenia Country Report for 2023*," page.15, [AIDA-SI_2023-Update-final.pdf \(asylumineurope.org\)](https://www.asylumineurope.org). See also <https://www.varuh-rs.si/sl/sporocila-za-javnost/novica/sporocilo-javnosti-o-ugotovitvah-varuha-glede-razmer-v-azilnem-domu-v-ljubljani/>

¹⁶ The Protocol defines "Smuggling of migrants" as "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident" (Article 3). According to the UN Smuggling Protocol, for a conduct to be regarded as smuggling and to be subjected to criminalization, there must be the intention "to obtain, directly or indirectly, a financial or other material benefit" (Article 6).

¹⁷ Amnesty International, "*Europe: Punishing compassion: Solidarity on trial in Fortress Europe*," 3 March 2020, <https://www.amnesty.org/en/documents/eur01/1828/2020/en/>

¹⁹ The survey among 320 young people (age 16-24, representative sample) was conducted between June 16 and 26 2023. See <https://www.amnesty.si/pogovor-o-soglasju-moramo-normalizirati-tako-v-druzbi-kot-v-intimnem-zivljenju>

²⁰ Association for Sustainable Development, "*Prenova NEPN: še veliko prostora za boljši odgovor na urgenco*," 18 July 2023, <https://focus.si/prenova-nepn-se-veliko-prostora-za-boljsi-odgovor-na-urgenco-ki-jo-predstavlja-podnebna-kriza/>,

²¹ RTV SLO, "*Poslanci soglasno podprli novelo o varstvu okolja*," 7 March 2024, [Poslanci soglasno podprli novelo o varstvu okolja - RTV SLO](https://www.rtvslo.si/novosti/poslanci-soglasno-podprli-novelo-o-varstvu-okolja)

²² UN Office for the High Commissioner for Human Rights, "*Slovenia: More ambitious environmental action key to protect human rights, says UN expert*," <https://www.ohchr.org/en/press-releases/2022/10/slovenia-more-ambitious-environmental-action-key-protect-human-rights-says>