

**Reply of the Republic of Slovenia on the list of issues to be taken up in connection
with the consideration of the
second periodic report of SLOVENIA (CCPR/C/SVN/2004/2)**

**Constitutional and legal framework within which the Covenant
is implemented; right to an effective remedy (art. 2)**

1. Please provide information on how the provisions of the Covenant are legally binding under domestic law. Have there been any cases in which the Covenant has been directly enforced by the courts? Please provide details of the relevant cases, if any.

Article 5, paragraph 1, sentence 1 of the Constitution of the Republic of Slovenia provides for a general obligation of the Republic of Slovenia to protect human rights and fundamental freedoms throughout its entire territory.

Article 8 of the Constitution of the Republic of Slovenia provides for direct enforceability of ratified and published international treaties in the Republic of Slovenia. Terms "ratified and published" mean that an international treaty has to be ratified by an appropriate body (usually the National Assembly of the Republic of Slovenia - the Parliament) and published in the Official Gazette of the Republic of Slovenia. That means that after their ratification and publication international treaties become a part of the (internal) Slovene legal order. Ratifications adopted prior to independence of the Republic of Slovenia are also a part of Slovene legal order, since the Republic of Slovenia is a successor state of the former SFR Yugoslavia. International Covenant on Civil and Political Rights was ratified by the former SFR Yugoslavia in 1971 and succeeded by the Republic of Slovenia as a successor state of the former SFR Yugoslavia in 1992. In the meantime (period of 1991-1992) this Covenant was a part of Slovene legal order by the virtue of the Constitutional Act on the Implementation of the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia of 1991.

From the viewpoint of the "hierarchy of norms" Article 8 of the Constitution of the Republic of Slovenia provides also that laws (statutes) and regulations (secondary legislation) must comply (be in accordance) with generally accepted principles of international law and with international treaties that are binding on the Republic of Slovenia. International Covenant on Civil and Political Rights represents a classic example of such an international treaty that is hierarchically higher than laws (statutes) and regulations (secondary legislation).

International Covenant on Civil and Political Rights has been applied directly by the courts (mostly the Supreme Court of the Republic of Slovenia) and the Constitutional Court of the Republic of Slovenia at least since 1992.

The Supreme Court of the Republic of Slovenia has applied or mentioned the Covenant in 18 cases (judgments and rulings). The Constitutional Court of the Republic of Slovenia has applied it or mentioned it in 52 cases (decisions and rulings). Before the aforementioned courts or by them most of Articles of the Covenant were invoked, but Articles 7 and 14 were most frequently invoked.

For example, in 1992 the Constitutional Court of the Republic of Slovenia decided that provisions of the Criminal Procedure Act of the former SFR Yugoslavia are not in accordance with Article 14, paragraph 7 of the Covenant. It is explicitly stated in this decision that: "The renewal of criminal proceedings to the prejudice of a person sentenced or found not guilty is

thus in conflict with Article 14, paragraph 7 of the International Covenant on Civil and Political Rights."

The Supreme Court of the Republic of Slovenia decided in 1998 that the Matrimonial and Family Relations Act is not in accordance with Articles 2, 14, 23 and 24 of the Covenant, since it does not guarantee an equal right to judicial protection and does not treat children equally, depending on the fact if their parents are in process of legal separation or not. The Supreme Court therefore decided that judgments of the courts of lower instances are invalid due to their incompatibility with the Covenant, reversed and remanded them and also decided to initiate an "abstract" review of the constitutionality (which includes also compatibility with the international law - in this case the Covenant) before the Constitutional Court of the Republic of Slovenia. The Constitutional Court annulled disputed provisions in 1999.

In 1995 the Constitutional Court applied Article 25, item c of the Covenant in the case of a prospective public notary - question of employment in public services of the state. It decided that legal conditions of integrity and fairness apply to everyone, but that in this case the presumption of innocence was partially violated.

In 2002 the Constitutional Court applied Article 18, paragraph 3 of the Covenant for the proper interpretation of the Population Census Act of 2001.

In 2002 the Supreme Court decided that the party to the social proceedings before the court of the first instance did not have the complete access to all the evidence and this was found as a breach of the Covenant.

2. Please provide further information on the competence and activities of the Ombudsman in implementing Covenant rights, and in particular regarding complaints that have been received, investigations that have been carried out and their results (paras. 153 and 253).

Concerning the question raised in relation to the competence and activities of the Human Rights Ombudsman, it can be stated that it has competence over all human rights and fundamental freedoms that are prescribed in the Constitution of the Republic of Slovenia, international treaties that are binding on the Republic of Slovenia and human rights and fundamental freedoms that are provided for by statutes (laws). Concerning the activities of the Human Rights Ombudsman in the area of court backlogs (para. 153 of the Second Periodic Report) it can be stated that the Republic of Slovenia is trying to resolve this problem systematically since 2001. The Supreme Court of the Republic of Slovenia is conducting a special "Hercules Project", by temporarily seconding (transferring) experienced judges to courts of lower instances that should help those courts to decrease court backlogs. Of course its final aim is the elimination of court backlogs. In order to achieve this end and to provide for a legal basis for the "Hercules Project", in 2001 and 2002 the Judicial Service Act was substantially amended. The Courts Act was as well partially amended in 2004, where a consolidation of provision on the supervisory appeal (Article 72) was performed. The supervisory appeal is the most frequently used remedy for enforcing the right to a trial within a reasonable time, by which the party to the proceedings requests directly from the President of the Court or indirectly from the Ministry of Justice¹ to accelerate the proceedings in her/his

¹ Ministry of Justice can only send a party's request to the President of the appropriate Court and due to judicial independence may not and does not order the acceleration of the trial. It does on the other hand receive the President's report on the resolution of party's supervisory appeal, which is in accordance with the constitutional principle of division of powers (principle of checks and balances).

case. Other legal remedies that would provide for more detailed duties and procedural rules in this respect are discussed with a view of amending legislation, but it is too early to state the exact contents of such provisions. In 2004 the Constitutional Court also adopted one ruling in which it has stated that the constitutional complaint against the passivity of the Supreme Court in solving one case (concerning the access of a candidate to the high public office) is accepted and issued an interim measure, but at a later date in another ruling rejected the party's constitutional complaint since the Supreme Court has already decided this case in the meantime.

Whether parties to the proceedings are unfairly treated by the judges that are conducting proceedings in their cases is a separate issue that is covered by quite detailed procedural rules in procedural legislation on the motions for excluding the judges or members of judicial panel. Abundant case law exists on this subject and parties to court proceedings make frequent use them.

Concerning para. 253 of the Report it can only be stated that the condition under paragraph 2 of Article 473 of the Criminal Procedure Act is fulfilled when it is shown (a criterion) that joint detention of a juvenile with an adult person (person that has attained the age of 18 years) shall be to the benefit of a juvenile. Such a decision should be solely based on fulfilling the test of the full benefit of a juvenile and no other test should be applied. However, in 2004 the Human Rights Ombudsman found out during one of his inspections of the detention centres that 3 juvenile detainees were found to be spending their detention together with an adult person and that decision was adopted **solely on the basis of the wish of those juveniles**. In one case, a juvenile was spending the detention with an adult narcotics user. However, this "allocation" of juvenile detainees with adult detained persons did from the viewpoint of the National Prison Administration in cases of two of these juveniles take into account the test of "the benefit of a juvenile", it was even ordered by the investigating judge. Namely, in all 3 cases of juveniles there was a possibility of serious danger of suicide by all 3 juveniles, since they were accused of a commission of a criminal offence of murder in an atrocious manner. Concerning the "allocation" of one juvenile to the room with an adult narcotics user, the administration of the detention facility was of the opinion that this was the only solution, since other available and more acceptable adult detained persons were horrified by the supposed criminal offence of those juveniles. Nevertheless, the National Prison Administration was of the opinion that the decision of the administration of the detention facility was still incorrect and immediately took care for the transfer of that juvenile to the room with other adult detained person, which was not a narcotics user.

Gender equality; protection of the child (arts. 3 and 24)

3. Please explain why domestic violence does not constitute a specific criminal offence.

It is correctly stated that domestic violence is not a separate criminal offence in the Criminal Code. The police define violent behaviour within the family as a misdemeanour or crime depending on the manner of perpetration, the consequences, duration or repetition of violent acts and other circumstances.

However, it is a part of Article 299 of the Criminal Code, as is already presented in the Report of the Republic of Slovenia (para. 22). Whether domestic violence shall constitute a separate (special) criminal offence in the future depends on one outgoing project. It is the Research Project performed at the Faculty of Law of the University of Ljubljana on the substantive

criminal law that shall be finalised in 2006 (guidelines for the reform of substantive criminal law). This Project was proposed and is now supervised by the Ministry of Justice.

The preparation of the Prevention of violence act is planned in the Governmental Programme for the period from 1 January 2005 to 31 December 2005 (note: these are dynamic documents or lists to be amended). The background documents for the Act were prepared by the Specialist Council on the Prevention of Violence against Women featuring as an advisory body to the Ministry of Labour, Family and Social Affairs. The Council was established in 2001 on the initiative of NGO's and has prepared, in collaboration with experts, the analysis of the current situation concerning violence against women in the family. The analysis will be a basis for the preparation of the new fundamental act, namely the Prevention of violence in the family act.

Please provide updated statistics on domestic violence and on the measures taken or foreseen to eliminate such practices and to provide adequate protection to victims.

In 2000 a total of 3,084 criminal offences were recorded that had elements of domestic violence, in 2001 there were 3,844 such offences, in 2002 there were 4,441, in 2003 the number grew to 5,224, and in 2004 a total of 5,066 criminal offences with elements of domestic violence were recorded.

The period from 2000 to 2004 also saw a growth in criminal offences with elements of violence, where the perpetrator and victim were married, unmarried partners or in an intimate relationship. In 2000 a total of 731 such offences were recorded, then there were 864 in 2001, 1,032 such offences in 2002, and from 1,236 in 2003 the number of such offences grew to 1,381 in 2004. The number of criminal offences where the perpetrator and victim are married or unmarried partners is growing most noticeably in those criminal offences for which prosecution depends on reporting or charges being pressed (actual bodily harm, threatening security, maltreatment, violent conduct).

Table 1: Number of criminal offences with elements of domestic violence from 2000 to 2004

CRIMINAL OFFENCES BY CHAPTER AND ARTICLE OF THE PENAL CODE	NUMBER OF CRIMINAL OFFENCES				
	2000	2001	2002	2003	2004
TOTAL	3,084	3,844	4,441	5,224	5,066
AGAINST LIFE AND LIMB	1,352	1,595	1,734	1,747	1,670
127 MURDER, ATTEMPTED MURDER	47	49	45	39	53
129 NEGLIGENT HOMICIDE	2	9	3	5	7
131 SOLICITATION TO AND ASSISTANCE IN SUICIDE	0	1	1	1	1
133 ACTUAL BODILY HARM	846	1,029	1,232	1,269	1,204
134 AGGRAVATED BODILY HARM	240	254	231	182	191
135 GRIEVOUS BODILY HARM	9	10	10	11	5
136 PARTICIPATION IN BRAWL	16	20	11	15	12
137 ENDANG. LIFE BY DANGEROUS INSTRUMENTS IN BRAWL/QUARREL	192	223	201	225	197
AGAINST HUMAN RIGHTS AND LIBERTIES	1,048	1,432	1,634	1,792	2,082
142 CRIMINAL COERCION	13	19	9	12	15
143 FALSE IMPRISONMENT	68	65	73	58	67
144 KIDNAPPING	6	12	3	6	0
145 THREATENING SECURITY	864	1,181	1,366	1,496	1,732
146 MALTREATMENT	97	155	183	220	268
AGAINST SEXUAL INTEGRITY	202	252	264	236	272
180 RAPE	51	45	39	49	46
181 SEXUAL VIOLENCE	39	37	42	43	38
182 SEXUAL ABUSE OF DEFENCELESS PERSON	6	6	11	7	9
183 SEX. ASSAULT ON CHILD	85	146	151	119	147
184 VIOLATION OF SEX. INTEGR. BY ABUSE OF POSITION	15	12	18	12	21
187 PRESENT. AND MANUFACT. PORNOGRAPHIC MATERIAL	6	6	3	6	11
AGAINST MARRIAGE, FAMILY AND YOUTH	227	251	350	705	445
200 ABDUCTION OF MINORS	21	33	34	63	30
201 NEGLECT AND MALTREATMENT OF MINORS	137	162	208	238	208
202 VIOLATION OF FAMILY OBLIGATIONS	0	4	4	8	10
203 PERSISTENT NON-SUPPORT	69	52	104	396	197
AGAINST PUBLIC ORDER	255	314	459	744	597
299 VIOLENT CONDUCT	240	300	441	728	588
313 SELF-WILLED EXERCISE OF RIGHTS	15	14	18	16	9

Table 2: Number of criminal offences with elements of violence where the perpetrator and victim were married, unmarried partners or in an intimate relationship – from 2000 to 2004

OFFENCES BY CHAPTER AND ARTICLE OF PENAL CODE	2000	2001	2002	2003	2004
TOTAL	731	864	1,032	1,236	1,381
AGAINST LIFE AND LIMB	248	232	251	246	250
127 MURDER, ATTEMPTED MURDER	18	12	13	9	15
133 ACTUAL BODILY HARM	149	147	173	187	169
134 AGGRAVATED BODILY HARM	33	33	25	15	27
135 GRIEVOUS BODILY HARM	2	4	2	1	0
137 ENDANG. LIFE BY DANGEROUS INSTRUMENTS IN BRAWL/QUARREL	45	36	36	34	38
AGAINST HUMAN RIGHTS AND LIBERTIES	316	448	482	527	750
142 CRIMINAL COERCION	3	1	2	3	4
143 FALSE IMPRISONMENT	16	23	34	22	31
145 THREATENING SECURITY	241	340	360	407	573
146 MALTREATMENT	43	65	66	85	121
AGAINST SEXUAL INTEGRITY	32	33	43	41	44
180 RAPE	20	19	20	28	23
181 SEXUAL VIOLENCE	11	5	19	9	12
182 SEXUAL ABUSE OF DEFENCELESS PERSON		1	1	2	0
AGAINST PUBLIC ORDER	135	151	256	422	337
299 VIOLENT CONDUCT	135	151	255	422	335

The number of criminal offences where the perpetrator and victim are married or unmarried partners has grown most noticeably in those crimes for which prosecution depends on reporting or charges being pressed (actual bodily harm, threatening security, maltreatment, violent conduct). From this we may conclude that the level of awareness of the problem in society is growing and that people are increasingly aware of the right to life without violence and the duty of the state and its institutions to ensure action and protection.

Under Article 299 of the Criminal Code there were in 2003 (latest Criminal Statistics) altogether 154 convictions, of those 150 punishments by imprisonment and of those 112 suspended punishments (sentences), then 1 pecuniary punishment, 1 institutional measure and 2 independent measure without a punishment by imprisonment. But it has to be stated that these statistics include all offences from Article 299, not just those committed within a family or domestic unit.

One of the main measures of the state in tackling the issue of domestic violence has come in the form of the amended Police Act, which provides the police force with the option of issuing restraining orders “prohibiting a person from approaching a particular person, location or area”.

The police started issuing restraining orders with the entry into force of the Rules on restraining orders on approaching a particular location or person (Official Gazette of the Republic of Slovenia, no. 95/2004) on 26 September 2004. The Rules define in detail the procedure for ordering and implementing this power, which was made law in the Act Amending and Supplementing the Police Act (Official Gazette of the Republic of Slovenia,

no. 79/2003). Exercising of the new police powers presented the police force with new challenges, especially in terms of training police officers and setting up an information system (effective oversight).

Police officers can issue restraining orders where there is a well-founded suspicion that the person has committed an offence with elements of violence or has been apprehended in such act. In either case an essential condition for issuing such an order is the grounds to suspect that the perpetrator will endanger the life, personal safety or freedom of a person with whom they are or have been in a close relationship.

If during intervention procedures police officers establish grounds to suspect that a person has committed a crime that is prosecuted ex officio or upon the victim pressing charges, a restraining order is not issued, and police officers follow the procedures pursuant to the Criminal Procedure Act. Police officers may determine for themselves the existence of circumstances for issuing such orders upon intervention, and they may also determine such circumstances by gathering reports or on the basis of information (reports) forwarded to them by social work centres or other subjects. The information collected must clearly indicate the circumstances of the actual threat, such as the manner, extent and duration. Moreover, police officers must justify the grounds for the issued order on the basis of collected reports, for instance earlier police measures owing to previous maltreatment and so forth.

From 26 September 2004 to 6 June 2005 police officers issued 52 restraining orders.

Defining tasks in the area of domestic violence in the medium-term plan of the Police from 2003 to 2007 certainly reflects the importance of this issue and demands the implementation of all the tasks and activities defined in laws and implementing regulations. Analysing measures, determining mistakes and deficiencies, education and training of police officers and active cooperation in the creation and implementation of new legal arrangements has contributed to an improved situation in this area. We may back up such an assertion with the fact that the police tackle the issue of domestic through a procedural approach. Intervention in connection with domestic violence is becoming simply one of those forms of work whereby police officers establish public order and enable the inclusion of other services that are competent and trained to implement legally prescribed measures which might lead to a resolving of the situation.

Intervention in private premises constitutes a difficult police procedure, including both a legal component (familiarity with the actual powers and legal basis) and operational/tactical measures (safety, speed, effectiveness). When intervening in private premises it is very important to distinguish between violations by parties involved that are not connected to the family (acquaintances, neighbours etc) and those involving partners (spouses, domestic partners) and children. In the great majority of detected cases of domestic violence it is the police themselves who first encounter the actual violence or its consequences. Reaction to individual events can vary greatly, and depends on the intensity of the violation determined, the involvement of children, the intensity of the reaction of those around and so on. Based on the findings in specific cases, police officers treat violations in private premises as criminal offences or misdemeanours.

Article 11 (1) (4) of the Offences against Public Order Act (Official Gazette of the Republic of Slovenia no. 16/74, amended and officially consolidated text Official Gazette of the Republic of Slovenia no. 110/2003) provides that a misdemeanour (on the subject of violence)

is committed by any person that in an unlawful way noticeably disturbs the peace or threatens the security of any person in private premises. This misdemeanour carries a fine of up to SIT 120,000.00 (ca. 500 EUR).

Table 3: Violations dealt with (Offences against Public Order Act; 11/4) relating to domestic violence:

Year	Number
2004	4,910
2003	5,456
2002	3,269
2001	2,753

Most violations were established in residences (private premises), but some also took place in the street, commercial premises and catering facilities.

The protection of children in the case of violence against them is implemented according to the Social Protection Act through social services. Social protection services aim at preventing social pressures, difficulties (social prevention) and at eliminating social pressures, difficulties of individuals, families and other groups of population. For eliminating social pressures and difficulties the Social Protection Act, includes for the following services:

- counselling, which include first social assistance to recognise and define social hardship and difficulties and assessment of possible solutions and personal assistance to preserve and improve individual's social capability;
- family assistance, which covers assistance to a family for home, assistance for family at home and social services (mobile services). Assistance to a family at home covers expert counselling and assistance in regulating relations among family members, taking care of children and training the family to perform its role in everyday life. Assistance to a family at home covers provision of beneficiaries in case of disability, old age and in other case sand social services (mobile services), which include assistance in housework or other work in case of childbirth, illness, disability, old age and accident;
- Institutional care, which includes all kind of services in institution;
- Guidance and custody which include organised integrated care with guiding, care, and employment under specific conditions and
- Assistance to workers in enterprises and institutions and to those employed by other employers, which include advice and assistance in addressing workers difficulties related to work.

Social services aimed at eliminating social pressures and difficulties or services aimed at children in the case of violence against them, as public services, are performed in the Republic of Slovenia by Social Work Centres, Youth Crisis Centres and other organisations and institutions.

In 62 Social Work Centres, teamwork has become a common way of dealing with this issue. Expert teams have been set up at the majority of social work centres, consisting of various experts capable of perceiving a threatened child at an early stage and of elaborating, based on

collected information, a strategy for the protection of the child. Social Work Centres provide intervention services (12 intervention services)_as well. Every intervention service covers a certain region, so it can offer assistance uninterruptedly in the cases of domestic violence, as well as to children in various stressful situations.

Social Work Centres has also an important role in offering assistance to the offender, mostly with services aimed at eliminating the causes of his actions and prevent them.

In 2004, Social Work Centres handled mostly (22 %) the cases related to social assistance or public authority services (according to the classification) and the least of them in relation to violence against children or suspicion of sexual abuse of children.

Table 4: Caseload-all Social Work Centres in 2004

	All cases in current year		Closed cases in social and public authority services area in current year	
	Number	Percentage	Number	Percentage
In compliance with the classification	21444	21,83	18299	23,59
Neglected or abandoned children	1055	1,07	501	0,65
Violence against children	430	0,44	258	0,33
Suspicion of sexual abuse	343	0,35	187	0,24
Growing up difficulties	7681	7,82	3966	5,11
Difficulties in family or partnership relations	11614	11,82	9095	11,73
Negligence of parental duties	1577	1,61	1015	1,31
Alcoholism	1245	1,27	958	1,24
Illicit drugs	1118	1,13	934	1,20
Physical disturbance	320	0,33	179	0,23
Mental health difficulties	3342	3,40	2302	2,97
Old-age vulnerability	6314	6,43	4407	5,68
Materially deprived persons	18989	19,33	18668	24,07
Convicts (suspects)	2267	2,31	1078	1,39
Housing problem	1315	1,34	1248	1,61
Disturbances in mental and physical development	5249	5,34	3115	4,02
Poor health	3913	3,98	2772	3,57
Other	10001	10,18	8586	11,07
Total	98207	100,00	77568	100,00

Data source: Annual report on the implementation of social and public authority services in Social Work Centres in Slovenia, year 2004

In comparison with 2002 and 2003, the caseload in Social Work Centres on maltreated children and suspicion of sexual abuse increased in 2004.

Table 5: Caseload-all Social Work Centres

Year	Complete caseload in 2002	Closed cases in social and public authority services area in 2002	Complete caseload in 2003	Closed cases in social and public authority services area in 2003	Complete caseload in 2004	Closed cases in social and public authority services area in 2003
Maltreated children	413	254	372	204	430	258
Suspicion of sexual abuse	339	183	368	195	343	187

Data source: Annual report on the implementation of social and public authority services in Social Work Centres in Slovenia, year 2004

In the majority of social and public authority services received in 2004, the recipients sought the assistance of the Social Work Centre independently (self-referral) and submitted an application (42.5%). The recipients were often referred to the Centre by the family and relatives (16.6%), court-judicial body or the prosecutor's office (11%) and Social Work Centres as part of their official duty (10.8%).

Table 6: Individual referrals –all Social Work Centres in 2004

	All referrals in current year		Closed cases in social and public authority services area	
	Number	Percentage	Number	Percentage
Self- referral	41780	42,54	36525	47,09
Family, relatives	16317	16,61	13098	16,89
Neighbour, friend	1055	1,07	891	1,15
School, kindergarten	2730	2,78	1185	1,53
Police, criminal investigator	2038	2,07	1301	1,68
Court (judicial body, prosecutor's office)	10804	11,00	7141	9,21
Notary Public, lawyer	236	0,24	217	0,28
SWC on official duty	10621	10,81	6997	9,02
SWC according to the classification	2476	2,52	1668	2,15
Hospital, home nursing, primary health care centre	2248	2,29	1385	1,79
Municipality, Registrar's Office, local community	3071	3,13	2893	3,73
Employment agency	1339	1,36	1330	1,71
Victims assistance centre	21	0,02	15	0,02
Social institute	957	0,97	809	1,04
Foster parents	183	0,19	111	0,14
Guardians	911	0,93	800	1,03
Other	1430	1,46	1202	1,55
Total	98217	100.00	77568	100.00

Data source: Annual report on the implementation of social and public authority services in Social Work Centres in Slovenia, year 2004

Among the forms of social assistance to the abused, maltreated and neglected children, special mention should be made of Youth Crisis Centres. They deal with threatened children and offer protection and personal assistance to children, adolescents and families, by providing a one day care assistance with the possibility of a short-term placement, counselling and by settling the conditions for their return to home environment. In 2005, there are six regional crisis centres, operating as independent units of Social Work Centres and offering protection

and personal assistance to children and adolescents (another two crisis centres are planned in accordance with the National Social Assistance Programme until 2005).

In addition to services implemented by Social Work Centres and Youth Crisis Centres, there are other 27 providers of social assistance programmes for the victims of violence (associations, institutions). We have 12 safe houses on various locations in Slovenia and one crisis centre for women, who are victims of violence with the capacity of 168 beds. These programmes are carried out by 11 providers (societies or institutes). Seven providers of programmes for safe houses for battered mothers have 9 units in various towns in Slovenia with the total capacity of 126 beds. Shelters (safe houses, shelters, crisis centres) are intended for women and children, victims of all forms of violence, who need immediate withdrawal to a safe environment. They can stay in shelters for a period of 3 months to a maximum of one year, and in crisis centres for two days. Shelters are full occupied – in accordance with planned capacity. Before the placement is effected, the provider and the user conclude the placement agreement (MLFSA guidelines).

In accordance with the National Social Protection Programme until 2005, 250 places for mothers and children in safe houses for battered mothers and shelters are planned to be provided by 2005. The Social Chamber of Slovenia coordinates their expert activities.

In 2005, the Ministry of Labour, Family and Social Affairs allocated SIT 247 millions (ca. 1.029.200 EUR) for programmes offered in shelters, safe houses for battered mothers, other shelters and crisis centres and additional SIT 78,862,555.00 SIT (ca. 328.600 EUR) for 7 other programmes that deal indirectly or directly with these issues.

What programmes are being undertaken to create awareness (para. 22)?

There are awareness-raising campaigns in the area of internal affairs, social protection and family conducted by governmental and non-governmental organizations.

The police are working actively in the area of preventing domestic violence and familiarising people and victims with their rights both in police procedures and through information on the possibilities for assistance and support offered by other institutions and non-governmental organisations. In 2004 the police published the leaflet “When I become the victim of a crime”, aimed at victims of serious crimes (against life and limb and sexual integrity) and given to victims when they approach the police. The police are actively involved in events aimed at this subject, they cooperate with the media and at public events, often actually organising them.

We are aware that the training of police officers is an important factor in ensuring people’s safety, and the willingness to report crimes also depends to a large extent on people’s trust, which is especially true in cases of domestic violence.

For this reason in 2001 the police began intensive training of police officers, with the aim of enabling officers at all levels to recognise and respond professionally upon identifying violent behaviour. Domestic violence and violence against children are component parts of the Police Academy course, and these subjects are also included in the regular training of police officers and detectives. Additional programmes are provided for senior staff at police stations, and in 2003 we trained 46 police officers to work in their police administrative territories as

multipliers and who in turn pair up, one uniformed officer and one detective, to train police officers in professional and lawful action.

The following training courses were carried out in the area of preventing domestic violence and in social skills:

- within the framework of the CEPOL programme a seminar with international participation entitled Domestic Violence, Ljubljana, from 8 to 12 November 2004;
- specialist training of detectives in dealing with children and minors and in investigating crimes related to child pornography;
- training detectives to deal with children and minors and enhancing skills for interviewing child victims of crimes;
- inter-institutional cooperation in procedures involving crimes against children and in the family, 6-8 December 2004, Brdo pri Kranju;
- training multipliers to provide programmes on the use of restraining order powers.

Being aware of the problem of violence in the society the Ministry of Labour, Family and Social Affairs began to actively create the policy in this field by the National Social Protection Programme until 2005, by supporting programmes defined as starting points for establishing networks supported and co-financed by the state in three areas: networks of homes for mothers and shelters for victims of violence, networks of specialised preventive programmes for children with behavioural problems and for children and youth victims of violence or sexual abuse and networks of centres for psychosocial assistance to victims of violence. Furthermore in the period 2004-2005, twelve regional coordinators were employed in Social Works Centres, to coordinate and offer professional support to Social Work Centres workers and to victims of violence and work in inter-institutional professional teams for the prevention of violence.

In 2004, the Ministry of Labour, the Family and Social Affairs co-financed, based on a public tender, 24 programmes for preventing violence in families; the Ministry allocated SIT 9,000,000 (ca. 37.500 EUR) for these programmes. Twenty-one NGOs and three public institutions carried them out and these programmes include awareness rising among young generations.

4. Please provide information on the measures to increase women's participation in employment, particularly in public administration. Please also provide detailed information on the percentages of women employed at all levels of the public administration (para. 36).

The representation of women and men in government bodies and public administration bodies is unbalanced, as is the case with women's participation in political decision-making and in the commercial sector, although the share of women is slightly higher here than in the political sphere. In 2004 the share of women among senior administrative workers was 52%, although there were fewer of them in the highest positions. Among officials in positions with a mandate, the share of women was 25.6%, with the proportion of women highest among heads of government services (38.5%) and lowest among director generals of directorates (13.3%).

In government bodies in 2004 the share of women was 36.2%. The representation of women was worst in government working bodies (11.3%) and slightly better in government councils

(35.7%) and working groups (38.3%). Among representatives of the Republic of Slovenia in bilateral and international working bodies the share of women was 21.8%. There was a similar situation with government representatives in public enterprises, joint-stock companies and limited liability companies, where the share of women was 20.2%. Only among government representatives in public institutes was representation relatively balanced, with the percentage of women being 48.9%. Women's participation was higher than men's in social care institutions (71.4%) and social services centres (70.8%).

The structure of diplomatic/consular missions shows a gender imbalance in terms of both hierarchy and positions. Among diplomats, 20% of ambassadors and 28.6% of authorised ministers were women. There was one female consul general (14.3%), while women accounted for 60% of minister advisers. Adviser and secretary positions showed a relative balance between the genders: 43.9% of advisers, 46.4% of first secretaries, 59.1% of second secretaries and 37% of third secretaries were women, while there were two female attachés (33.3%). In the case of administrative/technical personnel, all correspondents, administrative assistants and clerical assistants were women, while all security personal and stewards/drivers were men.

In the judicial branch of authority the percentage of female judges is on average higher than the percentage of male judges and has continued to grow slightly in recent years. In 2004 70.5% of judges were women. The percentage of female judges was lowest at the Supreme Court (34.2%) and highest at labour courts (83.3%) and local courts (77.2%). Although female judges outnumber male judges at all courts except the Supreme Court, women only occupied the position of court president at district courts, local courts and labour courts, although the higher labour and social court and the higher court have also had female presidents. Among state prosecutors, the percentage of women was slightly higher than that of men. However the percentage of women at senior levels decreases the higher we ascend up the hierarchy of state prosecutor's offices. At district state prosecutor's offices the percentage of women at senior levels was 58%, while at the supreme state prosecutor's office it was 45%. The Equal Opportunities Act contains two provisions relating to the level of representation of the two genders on working bodies and other bodies of the National Assembly, the Government and the ministries. Article 10 of the Act provides that the National Assembly, in accordance with actual possibilities, shall observe to the greatest possible extent the principle of balanced representation of the genders in the forming of working bodies and the composition of delegations set up in accordance with its standing orders. Article 14 of the Act imposes a similar obligation on the Government, which is required to observe the principle of balanced representation of the genders in the composition of advisory bodies and coordinating bodies, other working bodies and delegations set up under the Government of the Republic of Slovenia Act and in accordance with its standing orders, and also in the appointing or proposing of government representatives in public enterprises and other subjects of public law, unless this is not possible for objective reasons. This obligation also binds ministers in the composition of expert councils.

On the basis of these two articles the Government of the Republic of Slovenia adopted the Decree regulating the criteria for implementation of the principle of balanced representation of women and men, which entered into force in September 2004. This Decree sets out the criteria for the composition of government bodies (advisory bodies and coordinating bodies, other working bodies and delegations) and the proposing of government representatives in subjects of public law and the criteria for the composition of expert councils. The Equal Opportunities Act defines balanced representation as at least 40-per-cent representation of one

gender. The Decree also permits exceptions to the principle of balanced representation of women and men, but these must be objectively justified.

5. Please provide further information on the participation of women in the private sector, especially at senior levels, and on measures taken to ensure equal pay for work of equal value by men and women (paras. 24-37). What practical measures have been taken or foreseen to address the fact that women are still primarily employed in poorly paid sectors (paras. 27, 32 and 34)?

Analysis of the labour market in Slovenia indicates both vertical and horizontal gender-based segregation in the labour market. Figures for 2003 show that women only occupy a third (33.2%) of the most senior and best paid positions (senior officials, managers, legislators) despite the fact that they are better educated than men and achieve a higher level of education and training. According to their audited and consolidated financial statements for 2000, none of the largest companies and business groups in Slovenia had a female CEO. Women accounted for just 12.8% of management board members, 2.4% of supervisory board chairpersons and 18.0% of supervisory board members. In 2004 the hundred most successful companies in Slovenia had 99 male directors and 3 female directors (two companies had two directors, both men). The Government of the Republic of Slovenia appointed a total of 187 members for 4-year terms of office to the supervisory councils, business committees and management committees of commercial subjects (public enterprises, companies, funds, etc.). Of these members, 42 or 22.3% were women.

In terms of profession, there is an above-average representation of women in clerical positions (65.4%), services and sales (64.9%), technical services (59.6%), while the percentage of women is lowest in non-industrial professions (8.0%). With regard to activities, women predominate among employees in service activities (54.9%), above all in the fields of health care and social care, education, financial services, catering and tourism. In non-agricultural activities women represent a third of the entire workforce, while there are fewest women in the construction sector.

It is clear from data on monthly gross wages that women with the same level of professional training as men earn on average 10 per cent less than their male counterparts. The biggest differences between women's wages and men's wages are among skilled workers (24%) and among workers with a higher education qualification and highly qualified workers (20%). In recent years the biggest reduction in the difference of women's wages and men's wages has been between employees with a doctor's degree. Here the difference has fallen by 10 percentage points to 8%.

The Labour Relations Act explicitly prohibits direct and indirect gender-based discrimination in employment, promotion, training and education, wages, working conditions, etc. In the case of a dispute regarding alleged unequal treatment, the burden of proof is on the employer. The Labour Relations Act also introduces the principle of equal pay for equal work and work of equal value, under which the employer is obliged to pay workers the same pay regardless of gender. The Act also provides that an employer may not advertise a vacant position only for men or only for women, or indicate that precedence will be given to one or other gender. Likewise, when concluding a contract of employment an employer may not demand from the candidate information about her/his family or marital status, information about pregnancy or family planning or other information, and may not make the conclusion of the contract of employment conditional on obtaining this information or other conditions relating to the prohibition of pregnancy or the postponement of maternity or a letter of resignation signed in

advance by the worker. The candidate is not obliged to answer questions that are not directly related to employment.

6. Please provide information on the prevalence of violence against children. What legislation exists to protect children against violence, for example against sexual exploitation and domestic violence? To what extent is it implemented, and with what success (paras. 251, 252 and 256)?

According to the Constitution of the Republic of Slovenia, children enjoy special protection and care. They are also guaranteed special protection from economic, social, physical, mental or other exploitation and abuse.

Article 56 of the Constitution of the Republic of Slovenia of 1991 states:

(Rights of Children)

»Children shall enjoy special protection and care. Children shall enjoy human rights and fundamental freedoms consistent with their age and maturity.

Children shall be guaranteed special protection from economic, social, physical, mental or other exploitation and abuse. Such protection shall be regulated by law.

Children and adolescents who are not cared for by their parents, who have no parents or who are without proper family care shall enjoy the special protection of the state. Their position shall be regulated by law. «

In Article 116, the Marriage and Family Relations Act (Official Gazette of the Republic of Slovenia No. 69/2004) defines the following conditions for removing parental rights from a parent: abuse of parental rights or negligence of parental duties toward the child. Parental rights may be taken away by a court whose duty is to consider the best interest of the child.

Common to both these reasons for withdrawing parental rights is the fact that the parents do not meet the basic requirements of parental responsibility for a child's subsistence, health and upbringing, and therefore do not ensure the basic conditions for its healthy physical, mental, intellectual and moral development. The procedure is defined in the Civil Procedure Act. Furthermore Article 119 of the Marriage and Family Relations Act grants to Social Work Centres public authority to undertake measures for the protection of child's rights and interests, on condition that the measures are necessary. Under the Social Protection Act, the Social Work Centre is obliged to take measures, if the child's development is threatened. In addition to assigning public authority for the protection of child's rights and interests, the Marriage and Family Relations Act also defines two more measures, which encroach upon the exercise of parental rights, and namely:

- taking away a child from his/her parents and entrusting the child into care of other persons or an institution in the cases of parents' neglect, or
- placing a child with an institution at the child's own initiative or in agreement with the child's parents if necessary due to the child's personality or behavioural disorder that substantially threatens healthy development of his/her personality (Articles 120 and 121 of the Marriage and Family Relations Act).

During the years 2002 and 2004, the number of cases falling under the public authority of the Social Work Centres increased almost to 8,500 cases. Great increase also occurred in relation to the child protection measures (a bit over 1,800 of public authority cases) such as removal from the family and placement with an institution. The greatest increase of public authority cases occurred with reference to maintenance responsibilities.

Table 7: Child protection measures - Public authority cases of Social Work Centres

Year	2002	2003	2004
Child's rights and interests protection measures	961	1299	1866
Child's rights and interests protection measures-termination of measures	14	11	20
Removal of the child	34	30	43
Removal of the child-termination of the measure	0	1	1
Placement of a child with an institution	318	357	478
Placement of a child with an institution-termination of the measure	63	53	58
Court proposal to limit the rights of parents in their administration of child's assets	1	7	5
Duty of providing maintenance – Maintenance Agreement	1837	3400	1673
Duty of providing maintenance - conciliation	668	1158	1610
Total of child protection measures	3896	6306	5754

Data source: Annual report on the implementation of social assistance and public authority services in Social Work Centres in Slovenia, year 2004

In the Republic of Slovenia corporal punishment of children within the family is not explicitly prohibited. Under the Implementation of Fostering Activities Act (Official Gazette of the Republic of Slovenia No. 110/2002), each foster carer must obtain a permit for carrying out fostering activities. The Act specifies that insofar as a foster carer carries out fostering activities in conflict with child's benefit (which certainly includes corporal punishment) the permit must be revoked on a proposal made by the competent Social Work Centre.

Protection of children from unsuitable behaviour is included in a series of measures by the state through which parental rights may be restricted or even taken away from parents and, in addition, parents are criminally responsible for neglecting and maltreating children. In the future, during the preparation of integral family legislation within the framework of measures for children, consideration will also be given to explicit prohibition of corporal punishment of children in the family, and the Prevention of Violence in the Family Act is in preparation.

Pursuant to criminal law, children and minors (hereinafter: children, in line with the definition of the term child as a person that has yet to attain majority, this definition being used in all international legal documents) are protected by general penal provisions, while the Penal Code also defines individual criminal offences aimed especially at protecting children.

Protection of children against sexual exploitation

Pursuant to Article 183 of the Penal Code (sexual assault on a person under 15 years old), children below the age of 15 years are protected from sexual abuse and sexual violence. The first paragraph lays down as a crime sexual intercourse or other sexual acts with a child under 15, on the condition that there is an obvious disproportion between the perpetrator and the victim. Paragraph two defines more serious forms of offence, where force or threats have been used to perpetrate the act or the child is under 10 years old. Paragraph three prescribes the penalty for a perpetrator that has abused his position (parent, guardian, person to whom a

child has been entrusted for care or education), while paragraph four sets out as crimes all other (less serious) forms of criminal act that have affected the child's integrity. The maximum threatened punishment is 15 years' imprisonment.

Violation of sexual integrity by abuse of position is defined in Article 184 as the criminal abuse of position for exploitation of a person over 15, while paragraph two of Article 185, pimping, lays down sanctions for the abuse of children for the purpose of prostitution.

Pursuant to Article 187, presentation, production, possession and supply of pornographic material, children are protected against the presentation of pornography and abuse for the production of pornographic material. In 2004 this article was supplemented with a new form of criminal behaviour, the production, purchase and spreading of child pornography, and under certain conditions the possession of such material is also punishable.

The other articles under the chapter on crimes against sexual integrity (rape, sexual violence, sexual abuse of a defenceless person, violation of sexual integrity by abuse of position) are aimed at the protection of all victims including children over 15. Under the age of 15 they are protected by Article 183.

Neglect and physical and psychological violence are sanctioned in Article 201 of the Penal Code (neglect of a minor and maltreatment).

Table 8: Number of child victims (under 18 years) and number of certain crimes against children

	2001	2002	2003	2004
number of victims of all criminal offences	3,479	3,464	3,229	3,042
sexual assault on person under 15	221	227	196	218
violation of sexual integrity by abuse of position	15	25	27	26
presentation, production, possession and supply of pornographic material	13	9	16	
neglect of minor and maltreatment	165	220	241	210

Table 8 shows in the first line the number of child victims under 18 years old regardless of the type of criminal offence, and the other lines show the numbers of certain criminal offences against children. Among crimes against children there is a growing number of sexual assaults on persons under 15 years old, along with neglect of minors and maltreatment, which is even more apparent over the longer term. This too, as in the whole area of domestic violence, reflects social changes, which can be seen in the awareness of the problem and a lower level of tolerance, while at the same time the number of cases reported is growing.

As an example, the Statistics for the year of 2003 show that in cases under Article 183 of the Criminal Code there were 55 judgments against perpetrators of this criminal offence, of which there were 27 with suspended punishment. No fines were imposed for this criminal offence. 3 judgments were imposed for the criminal offence from Article 103 of the Criminal Act from 1977 (a predecessor of Article 183 of the Criminal Code) that applied until 31 December 1994, all of them were punishments by imprisonment and no suspended punishments were imposed.

**Right to life; freedom from torture and cruel, inhuman or degrading treatment;
right to be free of arbitrary arrest and detention; treatment of prisoners
and other detainees (arts. 6, 7, 9 and 10)**

7. According to information before the Committee, human rights violations such as arbitrary arrest and detention, excessive use of force by the police, ill-treatment of detainees in police custody and inhuman conditions of detention still exist. Please provide information on the practical measures adopted to prevent such violations of human rights. Please also provide specific information on each case referred to in the report, for example regarding the death that occurred during a house search, the investigation undertaken and its outcome (paras. 41-51).

7.1. Information on violations of human rights through arbitrary arrest and deprivation of liberty (detention), excessive use of force by the police, ill-treatment of detainees in police custody (probably referring to those detained at police stations) and inhuman conditions of detention.

The above violations of human rights are defined as criminal offences by the Penal Code in Article 143, False Imprisonment, Article 270, Violation of Human Dignity by Abuse of Official Position or Official Rights, and Article 271, Extortion of Statement.

In the period from 2000 to 2004 a total of 536 acts by police officers were dealt with where there were grounds for suspicion that a criminal offence from the aforementioned articles of the Penal Code was committed. Of these, 59 cases were confirmed and charges were brought² or a report pursuant to paragraphs 6 or 9 of Article 148 of the Criminal Procedure Act was made against the police officers. In 412 cases it was determined on the basis of information collected that there was no basis for criminal charges, and a report on the matter³ was sent to the public prosecutor pursuant to paragraphs 7 or 10 of Article 148 of the Criminal Procedure Act.

In the period in question police officers therefore faced 6 charges relating to the criminal offence of false imprisonment, 50 charges relating to the criminal offence of violation of human dignity by abuse of official position or official rights and 3 charges relating to the criminal offence of extortion of statements.

7.2. Steps to prevent violations of human rights through arbitrary arrest and deprivation of liberty (detention), excessive use of force by the police, ill-treatment of detainees in police custody and inhuman conditions of detention.

Regardless of the level of democracy, no state is immune from excesses of police powers. Owing to the assignments carried out by the police, there is always the possibility in the exercising of police powers in individual cases of unjustified or excessive encroachment on human rights and fundamental freedoms. Procedures in the use of means of restraint are especially complex and sensitive, since here in the majority of cases in order to protect the human rights of third persons, police officers must make spur of the moment decisions, without any option for delay or thorough evaluation. We are aware of this, and through a very wide range of measures we are striving to reduce such violations to a minimum. Among the measures being carried out, most prominent are the permanent training and education of police officers and monitoring and overseeing procedures conducted by officers and the use of

² Paragraphs 6 or 9, Article 148 of the Criminal Procedure Act: On the basis of information collected, the internal affairs body shall make up a charge sheet.

³ Paragraphs 7 or 10, Article 148 of the Criminal Procedure Act: The internal affairs body shall also send a report to the public prosecutor in cases where on the basis of information collected there is no basis for charges to be brought.

means of restraint from the aspect of professionalism and legality. In recent years we also began the more intensive implementation of training in the area of communication skills⁴ and anti-stress programmes for police officers.

In the period to date the police have implemented a range of measures aimed at ensuring respect of human rights and freedoms in police procedures.

Special posters were devised within the police on the rights of detained persons, and these set out in 15 languages the rights of persons that have been deprived of liberty. These posters are displayed in police premises where procedures with detainees are carried out. A special brochure has also been issued and translated into 22 languages, containing an explanation of the way in which rights are ensured for persons that have been detained. The brochure must be available to detainees at the individual police unit throughout the period of detention. Police officers may order detention only in cases specifically detailed in various laws, and then the legality of detention is evaluated first by the duty officer of the police unit in which the detention will be carried out, then by the duty senior officer of the police unit and then also by the commander of the police unit. The Operations and Communications Centre of the Police Administration must also be immediately informed of every deprivation of liberty. The legality of detention is also evaluated by individual professional departments in the General Police Directorate (in the Uniformed Police Directorate as well as in the Criminal Police Directorate) and in the Regional Police Directorates. Every deprivation of liberty must be recorded in an appropriate written document setting out the legitimate grounds for detention or the legal basis for such action. Every detention must also be recorded in the police computer records, which facilitates additional oversight of the legality of detention.

For the duration of detention, persons detained have the right to appeal against the decision or other document ordering detention.

In order to reduce excessive use of force by police officers against persons in police procedures, alongside other forms of training, a programme was drawn up at the police for theoretical and practical training in the use of means of restraint and other police powers. Attendance at the training, which lasted eight hours (three hours of theoretical work and five hours of practical exercises), was compulsory for all police officers.

Despite the increase in the number of times means of restraint are used, each year there has been a reduction in the number of complaints owing to use of restraints, and there has also been a decline in the number of persons sustaining physical injury in police procedures.

The table indicates that the highest number of reasons for complaint owing to use of means of restraint was in 2001, at 171 complaints, of which 5, or 2.9%, were justified. In 2002 and 2003 the numbers of reasons for complaint were the same (124), and in 2004 the number rose slightly again.

The justification for complaints owing to use of means of restraint was relatively low compared to other reasons for complaint, the trend of justification showed some growth in the initial period, and in the last two years there have been no significant changes.

⁴ Training, communication and conflict management, communication and training for work with difficult clients.

Table 9: Overview of complaints owing to use of means of restraint (2001 – 2004)

COMPLAINTS OWING TO USE OF MEANS OF RESTRAINT 2001 – 2004																
	2001				2002				2003				2004			
	TOTAL	UNJUST.	JUST.	%	TOTAL	UNJUST.	JUST.	%	TOTAL	UNJUST.	JUST.	%	TOTAL	UNJUST.	JUST.	%
				JUST.				JUST.				JUST.				JUST.
PHYSICAL FORCE	92	89	3	3.3	68	64	4	5.9	69	61	8	11.6	55	51	4	7.3
MEANS FOR BINDING	69	68	1	1.4	50	47	3	6	46	45	1	2.2	41	40	1	2.4
GAS SPRAY	3	2	1	33.3	3	3	0	0	5	4	1	20	5	4	1	20.0
OTHER	7	7	0	0	3	3	0	0	4	3	1	25.0	33	29	4	12.1
TOTAL	171	166	5	2.9	124	117	7	5.6	124	113	11	8.9	134	124	10	7.5

All the detention premises that were unsuitable have been closed and are no longer in use. In individual detention premises there are just minor faults relating primarily to providing daylight to detainees. Slovenia is one of the few countries to have adopted regulated standards for the construction, conversion and furnishing of premises for detention, and these adhere entirely to the recommendations of the CPT. These regulations are observed in all conversions and new constructions of detention premises.

In procedures detainees are guaranteed all rights as provided by international conventions and the recommendations of the CPT. It is not possible to speak of ill-treatment of detainees or arbitrary arrest, something confirmed by the complaints from citizens relating to detention. In 2004 only 35 complaints were lodged owing to the power of detention (one complaint per approximately 250 detentions), and of these only 2 had some foundation.

7.3. Summary of police measures carried out in the cases stated in the report

7.3.1 Persons killed by police officers' firearms:

a) an armed killer during an attempt to apprehend him

Between 18 April 2000 and 6 May 2000, an individual, FB, carried out a large number of break-ins at weekend houses and vineyard cottages, mostly in the areas of jurisdiction of the Celje, Krško and Ljubljana Police Directorates. During these break-ins the individual sought, food, clothing and the means of subsistence. A connection was established between the incidents on the basis of traces and objects found.

On 22 April 2000, in the locality of Hrastnik, the individual fired at police officers when they attempted to stop him during a traffic control. The individual was at that time using a motorbike, which he had previously stolen in another locality. FB managed to escape and the police officers' examination failed to reveal traces of the firing. On the evening of 23 April 2000 FB was drove a stolen car up to a house and because of the narrowness of the road got

into a disagreement with a driver driving in the opposite direction, and fired a round from an automatic rifle at him but failed to hit him and fled the scene. On 29 April 2004 FB arrived at an isolated weekend house in the locality of Bele Vode and there shot dead the two owners – a married couple – with an automatic rifle. He then attempted to set fire to the bodies. Following the discovery of this crime, a major police operation was set up in order to track down and apprehend the murderer, who after committing the crime had hidden in the woods and was moving skilfully moving through an area of difficult access and in this way avoiding capture.

On 6 May 2000 FB was tracked down on the basis of the information gathered, but nevertheless avoided capture. A large number of police officers blocked off a wide area and carried out a systematic search. At approximately 2.50 pm a police patrol with two police dogs came across FB. One of the officers called to him to throw down his weapon and give himself up. FB did not respond but first attempted to get away and during his escape he shot a police dog which was sent after him by its handler. FB also fired a few shots at the officer (the handler of the shot dog) but did not hit him. The officer returned FB's fire with several rounds but owing to the distance failed to hit him. As he fled, FB was intercepted from the other side by another officer from the patrol. FB aimed his weapon (an automatic rifle) at him but did not manage to fire because he was disturbed by the police dog loosed by the officer. When FB aimed his weapon at the officer a second time, the latter used his service pistol and fatally wounded FB, who died at the scene.

Throughout the search the identity of the offender remained unknown.

In this connection:

- a search was made of the scene, and all objects and traces important for the subsequent criminal proceeding were secured.
- the weapon and traces related to the shooting were examined in detail and a ballistics report was drawn up by a ballistics expert.
- on 9 May 2000, FB's identity was established by means of a comparison of fingerprints in collaboration with another: he proved to be a citizen of a third country.
- FB's relatives were informed of his death and the circumstances thereof and the bodies of the country of which he was a citizen were informed via Interpol.
- data on FB were obtained from the country of which he was a citizen.
- an autopsy was carried out on the basis of an order.
- in relation with all the findings, the criminal police office at the Celje Police Directorate submitted a report to the District State Prosecutor's office in Celje, which issued an order dismissing the case.

b) a person against whom an arrest warrant had been issued, during an attempt to apprehend him

At approximately 9.15 pm on 23 April 1999, a police officer in Celje used his service pistol against NB.

At around 9.10 pm on 23 April 1999, while carrying out patrol duties in the town of Celje, two police officers came across an individual, NB, against whom an arrest warrant had been issued on the basis of a detention order and an order for an arrest warrant on the part of Celje Local Court. The person was required to be arrested in order to ensure his presence as a defendant at a trial in a proceeding for criminal offences with elements of violence, which he had managed to evade for a considerable time. The police officers knew the individual

personally and also knew that he had committed several criminal offences and other offences with elements of violence and had already served a prison sentence for this.

NB knew that the court was looking for him and therefore fled on foot when he encountered the police officers. The officers ran after him. NB ran into a poorly-lit dead-end street closed at the end by a low fence. NB did not managed to jump over the fence in time, since one of the police officers was already just a few metres away and would have been able to grab him. Realising this, NB turned round, reached for his belt, pulled out an object, stretched out the hand in which he was holding this object towards the police officer and said that he had a pistol and would shoot him. The police officer took NB's threat as being very serious and probable, and therefore stopped some metres from NB and drew his service pistol from its holster. He immediately loaded a cartridge into the chamber and ordered the individual to halt or he would fire. NB ignored the police officer's order and in the dark street continued to move towards him. The officer therefore fired several shots at him. In the shooting NB was fatally wounded, receiving several bullet wounds both on his front and on his back.

After the shooting it was found that NB had a mobile telephone in his hand. No weapon was found on him.

In this connection:

- an inquest was carried out by the examining judge in collaboration with criminal investigators and technicians.
- the court ordered an autopsy to be carried out on NB and an opinion drawn up.
- detailed ballistic and biological investigations were carried out (at the order of the court) by the General Police Directorate's Forensic Investigation Centre.
- the court ordered the measurement of the level of illumination at the scene of the shooting to be carried out by a suitably equipped and qualified company (Kova d.o.o.). It was found that in the given circumstances a person could only be seen as a silhouette.
- statements were collected from all police officers and other officials who were on duty at the time in question and were directly or indirectly involved in the incident, as well as from witnesses and nearby householders.
- in order to establish the justification of the use of a firearm, as a police power, a commission was set up at the Police Directorate level to study the case and give its opinion.
- after all the findings had been made, a report was submitted to the District State Prosecutor's office in Celje stating that the police officer used the firearm in circumstances of a 'mistake in fact' caused by the victim himself and that given this mistake he used the weapon within the framework of his powers under the Police Act (averting a direct illegal attack which threatened his life).
- after receiving the report the DSP's office submitted a request for an investigation to Celje District Court, later followed by a request for a supplement to this investigation, but then because of the established circumstances of 'mistake in fact' it dropped the criminal prosecution.
- for this reason Celje District Court issued an order halting the criminal proceeding.
- the relatives of the late NB then appeared as subsidiary prosecutors, and the proceeding against the police officer is still before the court.

c) an individual who threatened police officers with the use of a weapon

At 10.36 on 26 May 2002 a person phoned the operational communications centre and reported that his father was beating his mother and other members of the family. On the basis of this information, the operational communications centre sent a patrol car to the scene.

On arriving at the scene, the individuals who had phoned the police were waiting for the officers. The officers talked to them about the reported incident and learned that during the incident the father had said that he was going to get his pistol and that if the police came he would shoot the first police officer. After making a number of threats the father drove away in a car and then, in a wood near the house, fired two shots from the vehicle. He then returned to the house in the vehicle, got out of the vehicle and made for the garage.

Owing to the information obtained immediately before this that the offender was armed, and because of his aggressive behaviour on their arrival, evident in his manner of driving (turning the vehicle in a violent manner, reversing aggressively), his manner of getting out of the vehicle and approaching the building (getting out of the car very quickly and decisively and then walking with rapid steps towards the garage, the attitude and gestures of his body), one police officer got into a covering position on the left of the police vehicle. The other officer was not able to draw back and instead, in order to protect the family members, stayed in front of them in the middle of the garage. While the offender was walking towards the garage, he had his right hand in the pocket of his jacket so that the hand in the pocket gave the impression of a bulge and he made a verbal threat to use a firearm. The officer standing in a covering position behind the police vehicle removed his pistol from its holster and, in order to ensure the safety of the procedure, cocked it and pointed it at the offender and told him to put down his weapon. At that moment the offender turned in the direction of the police officer who had challenged him and the other officer took this opportunity to remove his pistol from its holster, load a cartridge into the chamber, and aim the weapon at the offender, whom he ordered four times to lay down his weapon. The offender did not obey the police officer's order but turned violently towards the officer, still with his hand in his pocket creating the impression of a bulge. While turning violently in the direction of the police officer who was standing two metres from him, he shouted out that he was going to kill one of the officers. At this moment the officer fired at the offender and hit him on the left side of the stomach. The offender collapsed to the ground, fell onto his side and lay still. The officer immediately rushed from cover to the offender lying on the ground in order to disarm him and pulled his hand from his pocket. He discovered that the offender only had a lighter and cigarettes in his pocket.

Because he could see that the offender had been wounded by the shot described above, the officer immediately informed the operational communications centre and requested an ambulance. During examination of the vehicle in which the offender had driven home, a small, home-made small-bore pistol containing the case of a round that had been fired.

An examination of the scene was carried out by the examining judge. On the basis of his finding, a report was sent to the competent District State Prosecutor's office on the basis of which an investigation was instituted against the police officer on the grounds of suspicion of a criminal offence. The proceeding is still in progress before the competent court.

In accordance with his powers, the director of the Police Directorate set up a commission to clarify the circumstances leading to the use of the firearm. The assessment of the commission

was that given all the circumstances the police officer justifiably assumed that the offender was armed and that he had lawful grounds to use his firearm.

d) An illegal immigrant as the result of the accidental discharge of a weapon during an attack on a police officer

At 8.40 pm on 18 December 2000 members of a special police unit were carrying out protection of the national border along the border itself in accordance with a previously prepared plan. During the course of the operation they attempted to stop two vehicles containing illegal immigrants, and one of the police officers was run over. In the process, a long-barrelled H&K service weapon discharged and a bullet struck a foreign national, who succumbed to his injuries at the scene.

An examination of the scene was carried out by the examining judge in the presence of a state prosecutor.

After investigatory measures had been carried out, a report was submitted to the competent state prosecutor's office, since on the basis of the collected statements there was no basis for a crime report against the police officer. Despite this, an investigation was instituted against the police officer on the grounds of suspicion of the criminal offence of causing general danger. On 30 January 2005 this was concluded with an order halting the investigation, since the state prosecutor dropped the criminal prosecution against the accused police officer.

In accordance with his powers, the director of the Police Directorate set up a commission to clarify the circumstances leading to the use of the firearm. The commission established that the case in question did not involve the use of a firearm as an instrument of restraint but that that the weapon had discharged itself. The procedure in which the discharge of the weapon occurred was taking place in circumstances which in accordance with the standardisation of types of police procedures, from the point of view of safety, define the procedure as a dangerous one. This fact justifies ensuring the safety of the procedure by using a firearm and other instruments of restraint.

e) Person killed during intervention by police officers

On 21 April 2004, on the basis of a court order, police officers were intending to forcibly bring a defendant to court for a trial. By agreement with the mother of the defendant, who was known to the police and the neighbourhood as an aggressive mental patient, police officers unlocked the door of the flat in the early hours of the morning. Knowing that the defendant was armed and dangerous, the police officers entered the flat with firearms and dressed in protective gear. The defendant was awake and in a state of readiness. When he saw the uniformed officers he began shooting at them with his own weapon and wounded two of them. In self-defence a police officer fired several rounds at the defendant and fatally wounded him.

The inspection of the scene was carried out by the examining judge. Several conversations were held with the police officers who were directly or indirectly involved. The plan for the realisation of the forcible production was reviewed, as was the report by the forensic medicine expert who was also present at the inspection of the scene. The Forensic Investigation Centre drew up an expert opinion on the analysis of the projectiles, an opinion on the distance from which the shots were fired, and an opinion on the inspection of the traces of firing. Alcohol and drug tests were carried out on the police officers who carried out the forcible production. After collecting statements and evidence, the criminal police submitted a report to the

competent state prosecutor's office since the defendant (who after firing at the police officers was an attempted murder suspect) had died. After receiving the report the competent state prosecutor's office did not request supplementation of the report.

A commission was appointed in order to clarify the circumstances surrounding the use of the police firearm and explain the course of the procedures followed by the police officers. This commission found that the police officers had used the firearm lawfully. However, owing to the fact that the dead man had several rounds fired into his body, the commission considered that the use of instruments of restraint was excessive.

7.3.2 Persons who committed suicide with their own weapon during an attempted arrest

a) a case linked to the murder of a duty officer at a police station

On 20 November 1997 police officers stopped the driver of a car and because of their suspicion that he was driving under the influence of alcohol they carried out a test of alcohol intoxication by means of a breath test. When this proved positive (1.48 g of alcohol per kg of blood), the officers confiscated the driver's driving licence and prohibited him from driving. The driver did not agree with this and later drove off in his car. After arriving home he telephoned the police station. He complained to the duty officer about the conduct of the police officers and then made his way to the police station on foot. He rang the bell at the door of the police station and the duty officer let him in by pressing the door release button in the duty room. The individual entered the public anteroom and stopped in front of the glass partition separating the duty room from the anteroom. The individual then fired several shots at the police officer through the glass, fatally wounding him. After killing the police officer the individual shot himself.

An examination of the scene was carried out, led by the examining judge. Interviews were held with the police officers indirectly involved and with the wife of the dead individual, who had been a passenger in the car at the time of the breath test. After the statements had been collected, a report was submitted to the competent state prosecutor's office.

b) the case of a citizen of the Philippines in Izola

At 7.50 am on 3 August 2000, carabinieri from Trieste (Italy) informed the operational communications centre of the Koper Police Directorate that they were looking for a vehicle described as a red VW Golf series 3, registration number AC...., in connection with the kidnapping of Italian citizens. The kidnapping had occurred in Rome at 3.00 am on 3 August 2000. Two kidnapped persons and the kidnapper were believed to be in the car. According to the notification, Italian security forces had last seen the vehicle on the motorway exit at Duino/Devin at 07.10 am, when it was driving in the direction of Slovenia. In connection with the case, Interpol Rome had put out an international search call for the kidnapper, with the kidnapper's personal details.

At 9.45 am on 3 August 2000 the carabinieri in Trieste informed the operational communications centre of the Koper Police Directorate that they had found the car they were looking for near Trieste and had managed to stop it in the immediate vicinity of a border crossing on the border with Slovenia. They had managed to rescue the kidnap victims but the kidnapper had escaped on foot towards the border. The Italian security forces informed their Slovenian counterparts that the escaped kidnapper was armed with a pistol with two magazines and provided a description of the kidnapper. He was believed to be limping because he had apparently shot himself in the foot when escaping.

Owing to the suspicion that the kidnapper had crossed the national border between Italy and Slovenia, a search operation was organised in the area under the jurisdiction of the Koper Police Directorate. The operation involved a large number of police officers and criminal investigators and a helicopter from the Police Airborne Unit.

At 1.30 pm a local resident contacted the police to say that she had seen a person matching the description of the kidnapper in the vicinity of an unmanned local border crossing. She also identified the kidnapper from a photograph provided by the Italian security forces.

At 00.35 am on 4 August 2000 a citizen approached an officer from the border police station and asked him whether they were still looking for the kidnapper who was supposed to have kidnapped a woman. When the officer said that they were, the citizen told him that at around 9.45 pm on 3 August 2000 he had seen an Asian man in the area of the border crossing and asked him whether he needed anything. The man replied that he needed a taxi and that he would like to get away from the border crossing as quickly as possible so as to find a hotel where he could spend the night. The citizen then offered the man a lift in his car and drove him to Portorož, where he dropped him off. The citizen also told the police officer that he had noticed that the man was limping and that he had a large quantity of money on him (he had paid him for the lift).

Owing to the reasonable suspicion that this was the person they were looking for, the police officers intensified the search operation in the area of Portorož and discovered that a citizen of the Philippines had checked into a hotel there. The hotel receptionist was shown the photograph of the kidnapper and recognised him as the man who had checked in for the night. Immediately after this, preparations began to arrest the man.

A search warrant for the hotel room was obtained from Koper District Court on the grounds of suspicion of the criminal offence of kidnapping in the territory of the Italian Republic and the criminal offence of illegally crossing of the state border, since there reasonable grounds to suspect that the man had entered Slovenia illegally and with a firearm.

With the permission of the Director General of the police, the Special Unit from the General Police Directorate was included in the operation.

At 8.00 am on 4 August 2000, police officers from the Special Unit together with officers from the criminal police office of the Koper Police Directorate entered the hotel room in which the suspect was staying. Owing to the reasonable suspicion that the suspect was armed and prepared to use his weapon against police officers who tried to arrest him, the officers effected entry by means of a tool designed to open doors by force. They used a bullet-proof shield to enter the vestibule of the hotel room. On entering the room, one of the officers observed the suspect lying on the bed with a pistol in his hand. The suspect immediately rolled from the bed towards the bedside table and remained in a half sitting position. At the same time, with a movement of his right hand, in which he held the pistol, he turned the pistol towards himself, rested it on his chest and fired. He was immediately offered first aid and paramedic team was summoned to the scene, but the suspect died of his wound while being given first aid.

The state prosecutor and examining judge were informed of the incident and took part in the examination of the scene.

During the examination the suspect's identity was confirmed by documents found in the room.

In relation to the arrest and suicide of the citizen of the Philippines, a report was submitted to the District State Prosecutor's office in Koper.

7.3.3 The case of a person who died while his flat was being searched by police officers

Police officers received a written search warrant issued by the examining judge of the competent court because of the suspicion of the criminal offence of illegal manufacture and traffic in drugs. The warrant related to the search of a flat used by the suspect. On the basis of information obtained, it was reasonable to expect that the arrival of the police would prompt an attempt to destroy evidence of criminal offences and that active or armed resistance would be offered. For this reason, on 3 April 2000, police officers carried out the search immediately and without warning. On apprehending the suspect in the corridor of the building, outside the flat to which the search warrant related, the police officers used physical force and instruments of constraint, since the suspect attempted to escape into the flat. After being overpowered, the suspect, who had long been an asthma sufferer, suffered a violent asthma attack while lying on the floor. The attack obstructed his airways and despite first aid and medical assistance he died. The police officers requested urgent medical assistance at the scene and with the help of the suspect's wife offered first aid (heart massage and artificial respiration).

Immediately after death was established at the scene, the duty examining judge and the duty District State Prosecutor were informed. The examination of the scene was conducted by the examining judge in the presence of the state prosecutor. The dead man's father filed a crime report against the police officers at the competent state prosecutor's office, which ordered the police to carry out certain measures. A commission was appointed in order to clarify the circumstances of the implementation of the procedure. The commission found that the conduct of the police officers had been lawful and professional. A report on these findings was submitted to the competent state prosecutor's office. The relatives of the dead man have filed several crime reports and actions for damages against the police officers. The proceedings before the competent court in this connection are still in progress.

8. Please provide information on the investigations, prosecutions and sentences of law enforcement personnel who have committed human rights violations such as those mentioned, in the past five years. What legal remedies are available to victims of those acts? Please provide information on the number of such cases, their outcome, and the compensation awarded to the victims when such claims are successful. According to information before the Committee, failure to investigate those acts and long delays frequently occur. Please provide information.

8.1. Information on investigations of criminal offences of which police officers have been suspected, prosecutions and sentences for violations of human rights and freedoms, and the duration of investigations of these criminal offences

As is evident from the collected data for the five-year period, as requested by the supplementation of the report before the Committee, police officers were investigated in connection with 1121 acts under Chapters XV, XVI and XXVI of the Penal Code where grounds existed for suspicion that a criminal offence for which the perpetrator is prosecuted *ex officio* had been committed – regardless of whether the offence was committed by an officer on duty. During the five-year period in question, 218 crime reports or reports under paragraph 6 or 9 of Article 148 of the Criminal Procedure Act were filed against police

officers for criminal offences under these chapters. During the five-year period police officers were also investigated for 537 offences against human rights and freedoms and abuses of office and public authorisations. For these offences 59 crime reports or reports under paragraph 6 or 9 of Article 148 of the Criminal Procedure Act were filed against police officers in the period in question on the grounds of suspicion that a criminal offence for which the perpetrator is prosecuted *ex officio* had been committed.

Table 10 merely contains data relating to violations of the traditional civil and political rights protected by the International Pact on Civil and Political Rights and which relate to the additional questions that will be set to the Slovenian delegation directly at the discussion of Slovenia's report under the International Pact on Civil and Political Rights. The table shows criminal offences against human rights and freedoms under Chapter XV of the Penal Code (Articles 141 and 143) and criminal offences involving abuse of office and public authorisations under Chapter XXVI of the Penal Code (Articles 270 and 271) in the period 2000 to 2004. The figures only include criminal offences, which an official can commit when carrying out his duty.

In the given period a total of 537 actions by police officers involving grounds for suspicion that a criminal offence had been committed were investigated. In 59 cases the suspicion was confirmed and a crime report or report under paragraph 6 or 9 of Article 148 of the Criminal Procedure Act was filed against the police officers. In 413 cases it was established on the basis of collected statements that there was no basis for a crime report and a report on the case was sent to the state prosecutor as per Article 7 or Article 10 of the Criminal Procedure Act. As can be seen from the table, by far the largest number of crime reports filed against police officers related to suspicion of the criminal offence of violation of human dignity by abuse of office or official duties, under Article 270 of the Penal Code. The data for 2000 and 2001 are incomplete because in these two years data comparable to data from the period 2002 to 2004 was not collected. It is evident from the data collected for these two years that a total of 161 actions were investigated where there were grounds to suspect a criminal offence for which the perpetrator is prosecuted *ex officio*, but it was not possible to establish from the available data in how many cases a crime report was filed against police officers or a report on the case sent to the state prosecutor's office in the absence of grounds for a crime report.

Table 10: Criminal offences by police officers against human rights and freedoms and abuses of office and public authorisations (2000–2004)

YEAR Offence under Article	2000	2001	2002	2003	2004	TOTAL
141 ⁵	0	0	0	0	1	1
Report to the District State Prosecutor	0	0	0	0	1	1
Crime report	0	0	0	0	0	0
143 ⁶	6	6	14	15	19	60
Report to the District State Prosecutor	/	/	12	12	18	42
Crime report	/	/	2	3	1	6
270 ⁷	47	96	86	113	115	457
Report to the District State Prosecutor	/	84	73	98	105	360
Crime report	/	12	13	15	10	50
271 ⁸	2	4	4	3	6	19
Report to the District State Prosecutor	/	/	4	1	5	10
Crime report	/	/	0	2	1	3
TOTAL	55	106	104	131	141	537

The figures in Table 11 include all actions by police officers in which grounds existed to suspect a criminal offence for which the perpetrator is prosecuted *ex officio*, regardless of whether a crime report was filed against the police officer or a report on the case was sent to the state prosecutor's office in the absence of grounds for a crime report. The table includes data on criminal offences that can be committed by an official in the course of his duty and other criminal offences of which police officers have been suspected. Data on how many criminal offences under a specific chapter police officers were investigated for could not be obtained since these data were not collected separately.

⁵ Violation of right to equality

⁶ Unlawful deprivation of liberty

⁷ Violation of human dignity by abuse of office or official duties

⁸ Extortion of statement

Table 11: Reports to District State Prosecutor's offices and crime reports filed against police officers for criminal offences under Chapters XV, XVI and XXVI of the Penal Code

YEAR	2000	2001	2002	2003	2004	TOTAL
CHAPTER OF THE PENAL CODE						
XV – Offence against life and limb ⁹	8	10	11	18	16	63
XVI – Offence against human rights and freedoms ¹⁰	30	41	47	51	63	232
XXVI – Abuse of office and public authorisations ¹¹	92	164	157	194	219	826
TOTAL	130	215	215	263	298	1121

Table 12 contains data on the number of crime reports filed against police officers in connection with suspicion of a criminal offence under Chapter XV, XVI or XXVI of the Penal Code. The data include all crime reports filed against police officers for criminal offences under these chapters of the Penal Code, regardless of whether these were committed while during the course of duty, since data on this were not collected separately. For 2000 and 2001 it was not possible to establish the of criminal offences under individual chapters for which crime reports were filed against police officers since these were not processed in a statistically suitable way. For these years we have only been able to obtain the data that in 2000 60 police officers were reported and that in 2001 54 crime reports were filed in connection with the suspicion of a criminal offence under Chapters XVI or XXVI.

Table 12: Crime reports filed against police officers for criminal offences against human rights and freedoms and abuse of office and public authorisations (2000–2004)

YEAR	2000	2001	2002	2003	2004	TOTAL
CHAPTER OF THE PENAL CODE						
XV – Offence against life and limb	/	/	6	18	10	34
XVI – Offence against human rights and freedoms	/	/	12	51	15	78
XXVI – Abuse of office and public authorisations	/	/	25	37	44	106
TOTAL	60	54	43	106	69	218

With regard to the statement in the letter from the Committee for Human Rights that they are in possession of information on a large number of uninvestigated cases of offences of which police officers or officials are suspected, and that the investigation procedures are very lengthy, we can state that under the provisions of the Decree on cooperation between the state prosecutor and the police in detecting and prosecuting the perpetrators of criminal offences,¹² it is necessary to notify state prosecutors of all cases in which there exist grounds for suspicion that a criminal offence has been committed. Under the provisions of Article 4 of

⁹ Articles 127 to 140 of the Penal Code

¹⁰ Articles 141 to 160 of the Penal Code

¹¹ Articles 261 to 272 of the Penal Code

¹² Official Gazette of the Republic of Slovenia No. 52/2004

this Decree, in some cases a state prosecutor must also be immediately notified verbally when a criminal offence is suspected, and in some cases in writing, by means of the filing of a crime report or other report. Following notification the competent state prosecutor may immediately or no later than within three days issue the police officer with instructions and proposals for action in the pre-trial procedure. It follows from this that in investigating criminal offences of which police officers are suspected, the police are bound to follow the instructions and proposals of the state prosecutor and, in accordance with the provisions of the Decree, notify him when they suspect that a criminal offence has been committed. Unfortunately we do not have concrete information on the duration of the investigation of criminal offences of which police officers have been suspected. The police have no direct influence on the duration of proceedings before justice bodies.

8.2 The legal remedies available to victims of criminal offences of which police officers are suspected

In reply to the question of the legal remedies available to victims of criminal offences of which police officers are suspected, we can state that both the Police Act and the Criminal Procedure Act and the Code of Obligations make several legal remedies available.

In accordance with the provisions of Article 28 of the Police Act, if an individual believes that the actions of a police officer or a police officer's failure to act have violated his rights or freedoms, in addition to all the legal and other remedies that are available for the protection of his rights and freedoms, he may also complain to the police within 30 days. He can submit his complaint to any police station or to the General Police Directorate. In accordance with the provisions of the Rules on addressing complaints, in the first phase the complaint is dealt with by the head of the police unit where the police officer is employed, except when the suspicion of a criminal offence derives from the complaint. On concluding the complaint procedure, the head of the unit passes the matter on to the competent internal organisational unit of the ministry.

The complaint is then assessed by a complaints panel at the Ministry of the Interior consisting of an authorised representative of the minister and two representatives of the public.

In accordance with the provisions of Article 148 of the Criminal Procedure Act, if an individual believes that the police have used a measure against him incorrectly or unlawfully during the pre-trial procedure (e.g. the collecting of statements, interview, production by force, etc.), he has the right to complain to the competent state prosecutor within three days. He can submit the complaint, either verbally or in writing, to the state prosecutor in the area in which the incident occurred. In this case the state prosecutor's office may initiate the necessary investigation into abuse of police powers.

An individual who believes that through his conduct a police officer has committed a criminal offence may also file a verbal or written crime report against the police officer with the competent state prosecutor's office or the police. The state prosecutor's office may initiate a criminal proceeding against the suspected officer and the injured party may assert a claim under property law for compensation for damage. Under the provisions of the Code of Obligations, the individual may also claim compensation for damage suffered because of the unlawful conduct of a police officer in a civil proceeding by means of a civil suit, either directly from the police officer or from the Republic of Slovenia.

Finally, an individual who believes that his human rights have been violated in a police procedure may also turn to the Human Rights Ombudsman.

8.3. Information on police officer convictions and compensation from those convicted to the victims of criminal offences committed by police officers

The courts do not acquaint the Ministry of the Interior with police officer convictions, except in cases where the police officer has been finally convicted of a premeditated criminal offence that is prosecuted *ex officio* and for which the punishment is imprisonment for more than three months without probation. On the basis of a final court conviction, police employment is terminated on the day a stated resolution of termination of employment is issued. In the past few years no cases of termination of police officers on the basis of this legal provision have been recorded.

Compensations for victims of human rights or fundamental freedoms violations by law enforcement personnel

Legal remedies and other legal avenues for victims of human rights or fundamental freedoms abuses committed by law enforcement personnel (in addition to above mentioned internal police enquiry) are:

- criminal complaint (denunciation) to the competent District State Prosecutor's Office with a view of opening criminal proceedings against a violator of human rights from the law enforcement personnel,
- in case if criminal complaint of alleged victim is rejected by the District State Prosecutor's Office, then the alleged victim is informed of that by the competent District State Prosecutor and can enter (start) criminal proceedings as a subsidiary prosecutor,
- the alleged victim can also sue for compensation the Republic of Slovenia as a responsible party for the law enforcement personnel - civil suit,
- the alleged victim can also sue before the Administrative Court of the Republic of Slovenia against acts or actions of law enforcement personnel, alleging that his/her human rights or fundamental freedoms were violated,
- the alleged victim can also request an investigation by the Human Rights Ombudsman,
- the alleged victim can also contact a Deputy of the National Assembly (the Member of Parliament) and the Deputy can address a parliamentary question to the Minister of Interior or other appropriate Minister,
- the alleged victim can also contact the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly and request a deliberation on the alleged violation of her/his human rights or fundamental freedoms by law enforcement personnel.

Concerning compensations paid to the victims of human rights or fundamental freedoms abuses, data cannot be adduced from the statistics. In general, courts do provide adequate compensations, if it is proven, that an abuse of human rights or fundamental freedoms has occurred and that there is a causal link between this abuse and an action or inaction of a member of law enforcement personnel. For example, the courts set as a standard that the entire event has to be assessed, including the actions of the aggrieved party herself/himself, to answer the question, whether actions of policemen were within legally permissible grounds or they have violated their authorisations with the use of force that was greater than that one, that was required in a specific case for the purposes of their action

9. According to the report (paras. 43 and 44), there has been a significant increase in the use of coercive measures by the police. Please explain the reasons.

The statistically significant major increase in the use of force in recent years is primarily the result of differing methods of recording the uses of force in the past, and ensuring consistent and accurate entry of the uses of force into police records. The police only began using electronic recording of uses of force in 1998; previously the information was collected and recorded by hand, and for that reason many incidents went unrecorded. In October 2003 we introduced an even more up-to-date electronic system of recording uses of force, along with a very precise methodology of collection and handling of data. With this system we have ensured better monitoring of the use of force, while the new methodology has enabled us to perform numerous analyses that have helped us to improve police operations.

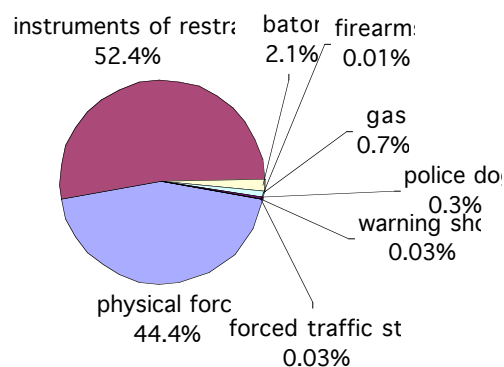
Another reason for the increase in the use of force is that since 2000 we have recorded every incidence of physical contact with (handling of) an individual that resists as a use of physical force (e.g. when an individual refuses to place his own hands into handcuffs).

It is necessary to mention another reason, which is that in the past few years there have been more actively resisting individuals and mass violations of public order, which did not occur in the past, or else they were of smaller scope. Now there are more large sporting events, at which large groups of fans commit mass violations of public order.

The increase in the use of force is also related primarily to the increase in the use of instruments of restraint and trained restraint techniques, while the use of more severe means of force has lessened.

It is necessary to point out that methodologies of collecting data differ among countries. In Slovenia every incidence of the use of force in every individual case is recorded, not just the worst examples.

Graph: Proportions of types of force used in 2004



In 2004 (figures from 2003 in parentheses), the most-used methods were instruments of restraint: 4,688 times (4,217); and physical force: 3,970 times (4,024). Other means of force were used in much smaller numbers. The most often used means of physical force were restraint techniques: 3,676 times (3,603); trained blows: 151 times (208); and throwing techniques: 143 times (213). The most lethal means – firearms – were used only once (twice) and 3 times (5) as a warning shot.

10. According to information before the Committee, excessive use of force and torture by the police, especially against minorities, is frequent. Please explain the reasons why torture is not made a specific offence and provide more detailed information on the introduction of a special provision in the Penal Code, as mentioned in paragraph 60 of the report.

Information on the use of force and other police methods against members of national and ethnic minorities is not available, because in accordance with the provisions of the Police Act in relation to carrying out police powers, the police do not maintain records of the above information.

In 2004 the use of force was the reason for complaint in 110 cases, of which 7 (6.4%) were substantiated. The most frequent reasons for complaint were the use of physical force (55, of which 4 were substantiated) and instruments of restraint (41, of which 1 was substantiated).

A special criminal offence of torture (a draft of new Article 271.a of the Criminal Code) was drafted by the Ministry of Justice in 2003, but it was retracted later that year, because external legal experts criticised its structure (elements of criminal offence) and stated that these prohibited practices were already proscribed by Articles 270 (Violation of Human Dignity by Abuse of Official Position or Official Rights) and 271 (Extortion of a Statement) of the Criminal Code. They were also quite concerned whether the new criminal offence could in practice overlap with criminal offences from Articles 270 and 271. This criticism was accepted by the Ministry of Justice and it was decided that more detailed work and research on this issue is needed.

The final decision whether the specific (separate) criminal offence of torture shall be included in the future in the Criminal Code depends on one outgoing project. It is the Research Project performed at the Faculty of Law of the University of Ljubljana on the substantive criminal law that shall be finalised in 2006 (guidelines for the reform of substantive criminal law). This Project was proposed and is now supervised by the Ministry of Justice.

Case law of courts of general jurisdiction of the Republic of Slovenia from 2004 and 2005 concerning criminal offence from Article 270 shows that courts have been deciding upon these issues.

In one case in 2005 the High Court of Koper/Capodistria decided that the accusation against two accused policemen for a criminal offence from Article 270 of the Criminal Code should be rejected, due to the application of the statute of limitations, however the costs of criminal proceedings should be borne by the state budget, since the delays in criminal proceedings cannot be attributed to subsidiary prosecutor. The court of first instance had acquitted both accused policemen, since the subsidiary prosecutor has partially confessed his flight from the place of the police stop (suspicion of traffic offence) and the court has assessed that the abrasion on his skin can be attributed to his flight from the policemen.

In one case in 2004 the High Court of Celje confirmed the judgment of the court of the first instance that the policeman is guilty of a criminal offence from Article 270 of the Criminal Code and that the suspended punishment of three months of imprisonment is adequate. The case involved hitting an arrested person that was lying on the ground.

In another case in 2005 the High Court of Ljubljana confirmed the judgment of the court of first instance that the policeman is guilty of a criminal offence from Article 270 of the Criminal Code and that the suspended punishment of three months of imprisonment is adequate. The case involved stepping on the neck of an arrested person that was lying on the ground and was already handcuffed and as a result of this action of a policeman the arrested person had his nose damaged.

In another case from 2005 the High Court of Maribor confirmed the judgment of the court of first instance that the policeman is guilty of a criminal offence from Article 270 of the Criminal Code and that the suspended punishment of two months of imprisonment is adequate. The case involved policeman's hitting of an arrested person.

In another case from 2004 the High Court of Maribor annulled the judgment of the court of first instance that the policeman is not guilty of a criminal offence from Article 270 of the Criminal Code, because the statute of limitations should be applied. The case involved policeman's slapping of an arrested person's ear and as a result the eardrum of left ear of the arrested person was perforated.

In another case from 2004 the High Court of Maribor confirmed the judgment of the court of first instance that the policeman is guilty of a criminal offence from Article 270 of the Criminal Code and that the suspended punishment of two months of imprisonment is adequate. The case involved policeman's hitting of an arrested person around its ear, which caused some red marks to appear around its ear, but he has also stated an insulting statement to the arrested person.

11. Please provide updated information in regard to pre-trial detention: number of remand orders; place and conditions of detention; average period of detention; and compensation for unlawful detention. What measures are being taken or foreseen to reduce the number of those who are kept under pre-trial detention (paras. 84-92 and 96)?

In Slovenia the police do not have the right to order custody of an individual, but they may detain an individual. The maximum length of a police-ordered detention is 48 hours, after which the police must either release the individual or bring him before the court for further proceedings by means of a written order.

The provisions of the second paragraph of Article 109 of the Minor Offences Act (Official Gazette of the Republic of Slovenia, nos. 7/03, 86/04, 7/05, 34/05 and 44/05) authorize police officers to detain perpetrators that are under the influence of alcohol or other psychoactive substances at the time of apprehension for an offence if there is any danger that he will continue to commit offences. Detention of such individuals may last until they become sober and are once again able to control their behaviour, but no longer than 12 hours.

The provisions of the first paragraph of Article 110 of the Minor Offences Act authorize police officers to detain individuals without a court order, if they are caught committing an offence. Officers may do this when it is impossible to confirm a perpetrator's identity, or when he does not have residency, or when he is a foreign citizen that is likely to be able to evade being accountable for the offence by returning to his home country, or if there are circumstances leading to the conclusion that the perpetrator is likely to continue committing

the offence or that he will repeat his offence. In these cases it is necessary to detain such perpetrators without prior deferment to the court of jurisdiction.

The second paragraph of Article 110 of the Minor Offences Act states that if a perpetrator is detained under the conditions detailed in the above paragraph outside the normal working hours of the court, and if circumstances indicate the danger that he may flee or that he will continue committing the offence or repeat the offence, police may detain him. The detention may last until it is possible to obtain a court order from the court of jurisdiction, but no longer than 12 hours.

Police officers may also detain individuals on the basis of the provisions of Article 43 of the Police Act (Official Gazette of the Republic of Slovenia, nos. 49/98, 66/98, 93/01, 52/02, 56/02, 26/03, 48/03, 79/03, 43/04, 50/04 and 54/04). The provisions of the first paragraph of Article 43 authorize police officers to detain individuals that disturb or threaten public order, if the public order cannot be restored in another way or if the threat cannot be averted any other way. This detention may last no longer than 24 hours.

The provisions of the second paragraph of Article 43 of the Police Act authorize police officers to detain individuals for whom law enforcement organizations in other countries have issued warrants, and who must be turned over to the proper authorities. These individuals may be detained no longer than 48 hours.

From 1 January 2005 up to and including 4 June 2005, a total of 3,207 individuals were detained in Slovenia, which is 17% fewer than in the same period in 2004, when 3,875 individuals were detained. Detentions of these individuals were ordered on the basis of all three acts (the Minor Offences Act, Police Act and Criminal Procedures Act) that authorize the police to order detentions.

Table 13: The length of the detentions:

Detention Time	Number of people
Up to 1 hour	63
1 do 2 hours	191
2 to 3 hours	228
3 to 4 hours	271
4 to 5 hours	300
5 to 6 hours	212
6 to 7 hours	148
7 to 8 hours	144
8 to 9 hours	140
9 to 10 hours	174
10 to 11 hours	308
11 to 12 hours	359
12 to 13 hours	177
13 to 14 hours	25
14 to 15 hours	36
15 to 16 hours	28
16 to 17 hours	36
17 to 18 hours	28
18 to 19 hours	43
19 to 20 hours	30
20 to 21 hours	37
21 to 22 hours	31
22 to 23 hours	42
23 to 24 hours	56
More than 24 hours	100
TOTAL:	3,207

These data show that the majority of individuals are detained for less than 12 hours.

In the past three years we have renovated 27 detention cells in various police stations.

Table 14: Renovated detention cells

Police Station	Number of renovated detention cells
- Sežana PS	- 2 cells
- Nova Gorica PS	- 5 cells
- Postojna PD	- 3 cells
- Maribor I PS	- 3 cells
- Celje PS	- 2 cells
- Velenje PS	- 2 cells
- Novo mesto PS	- 2 cells
- Dravograd PS	- 4 cells
- Tržič PS	- 2 cells
- Lj. Vič PS	- 2 cells

Along with these renovations, we have also built 6 new detention cells as part of the newly-constructed police station in Ptuj, and new detention cells are still under construction at the Murska Sobota Police Station (6 cells) and the Ljubljana Moste Police Station (20 cells). The expected date of completion of both investments is the second half of 2005. Detention cells at a further three police stations will be renovated in 2005.

By the end of 2006 there will have been around 50 detention cells either newly built or renovated as part of the construction and adaptation of law enforcement buildings to serve the needs of the Schengen border.

Detention (when it is ordered by the courts - the investigating judge) is executed in nine facilities in the Republic of Slovenia. Average time spent in detention facilities in the Republic of Slovenia was in the year of 2004 approximately 103,8 days.

Detention premises are separated for male and female detained persons. Men are detained on eight of those facilities and women on four of those facilities. The full capacity of detention facilities is for 251 persons, in accordance with prescribed standards. The smallest detention facility can accept 9 detained persons and the largest can accept 73 detained persons. Detained persons are housed in one-bedded rooms or more-bedded rooms, the biggest being four-bedded rooms. During the last 10 years 78% of today's detention facilities were built anew or refurbished. All rooms have sanitary space that is separated from the living quarters. Every detained person has a bed at his disposal, a wardrobe, a chair and a table. He/she can possess his own clothing and shoes, bedding, personal hygiene kit and other personal items (watch, jewellery, books...). They can also have radio and television receivers in their rooms. Non-smokers can be separated, if they wish so, from smokers. All rooms are equipped with a hailing system, so that a guard on duty can be called by the detained person. In accordance with House Rules of particular detention facility detained persons can also use the common spaces, like sports' fields, rooms for recreation, rooms for visits, library, and shop. Basic health protection is performed by detention facilities' internal services, specialists' checks and hospitalisations are performed in external facilities within the public health network facilities. Detained persons are also helped by various types of expert workers, like psychologists, social care workers, pedagogues. The detained person's right to religious confession is also guaranteed. Special care is devoted to juvenile detained persons.

Still, irrespective of numerous spatial improvements, the greatest problems in detention facilities are still overcrowding and lack of common premises in some facilities. In the year of 2004 on the average day there were 280 detained persons, which is 9% more than the officially prescribed spatial capacity.

In practice some types of alternative measures to detention, as permitted by the Criminal Procedure Act are employed, like bail, prohibition of access to a specific place or a person, appearing at the police station, house detention.

Compensation for unlawful detention

Provisions on compensation for unlawful detention (when it is ordered by the courts - the investigating judge) are provided for in Article 542, paragraph 1, subparagraphs 1, 3 and 4 of the Criminal Procedure Act. Essentially, the right to compensation is enjoyed by a person who was held in detention and criminal proceedings against him were not instituted or the indictment was dismissed by the final ruling or proceedings were discontinued or he was

acquitted of the charge by the finally binding judgement or the charge was rejected, then a person who by reason of a mistake or unlawful act of a state body was unjustifiably deprived of his freedom or held for longer time in detention or in a prison and also a person who was held in detention longer than the punishment by imprisonment to which he/she was convicted. Proceedings for compensation for unlawful detention are instituted by the aggrieved party - in civil proceedings before the civil law departments of courts of general jurisdiction.

Selected case law on compensations:

1. In case of a salesman the court awarded him compensation for unlawful detention (44 days) in the amount of 400.000,00 Slovene Tolars (SIT), which is approximately 1.671,00 Euros (EUR).
2. In case of a lawyer the court awarded him compensation for unlawful detention (83 days) in the amount of 800.000,00 Slovene Tolars (SIT), which is approximately 3.342,00 Euros (EUR).
3. In case of an official of municipality the court awarded him compensation for unlawful detention (35 days) in the amount of 700.000,00 Slovene Tolars (SIT), which is approximately 2.924,00 Euros (EUR).
4. In case of a manager of commercial company the court awarded him compensation for unlawful detention (12 days) in the amount of 900.000,00 Slovene Tolars (SIT), which is approximately 3.760,00 Euros (EUR).
5. In case of a law enforcement official (policeman) the court awarded him compensation for unlawful detention (46 days) in the amount of 1.800.000,00 Slovene Tolars (SIT), which is approximately 7.519,00 Euros (EUR).
6. In case of a retired person the court awarded her compensation for unlawful detention (17 days) in the amount of 600.000,00 Slovene Tolars (SIT), which is approximately 2.506,00 Euros (EUR).
7. In case of a lecturer the court awarded him compensation for unlawful detention (6 months) in the amount of 2.000.000,00 Slovene Tolars (SIT), which is approximately 8.354,00 Euros (EUR).

12. Please elaborate on information provided in the report (para. 114) on measures taken or foreseen to overcome overcrowding in prisons.

The number of incarcerated persons is on decrease since the year of 2001. In the year of 2004 an average number of incarcerated persons in prisons was 1132, which would be 57 persons on 100.000 residents (inhabitants). In 2001 prisons were overcrowded for 12% and in the year 2004 only for 2.6%. 5 out of 14 prison facilities were overcrowded. The prescribed standard of space per incarcerated person is 9 m² and 7 m² per person in multi-bedded room.

Overcrowding of prisons is being constantly solved by following a Recommendation R (99) 22 of the Council of Ministers of the Council of Europe. Actions in this respect are mostly directed towards:

- searching for other alternatives for deprivation of liberty and increased application of already prescribed possibilities,
- improvements (refurbishments) and increases of spatial capabilities in existing prisons.

Courts have already started imposing alternative sanctions such like work for the benefit of humanitarian organisations or of a self-governing local community, by which the court can replace the imposed punishment by imprisonment up to three months.

Also, the punishment by imprisonment was abolished by the new Minor Offences Act (entered into force on 1 January 2005) and the new Minor Offences Abolition Act was adopted in April 2005. The last adopted Act has prevented most of the enforcements of punishments by imprisonments that were imposed by Minor Offence Judges until 31 December 2004.

Also, the Amnesty Act of 2001 (*de facto* mostly applied in 2002) had some influence on early release of prisoners from serving the punishment by imprisonment.

Also, conditional and ahead of time releases from serving a punishment by imprisonment are also applied in practice. Statistics show that of the released prisoners in 2004 only 15% of them served their punishment by imprisonment full-time.

The National Prison Administration of the Republic of Slovenia monitors on a daily basis the number of incarcerated persons in prisons. Cases of overcrowded prisons are solved by transfers of prisoners from more occupied rooms to less occupied rooms, departments and prisons and with other measures. Other negative consequences of overcrowded prisons are solved by increased care for hygiene, health protection etc.

Building of new prisons or improvement of existing facilities of prisons is an ongoing and successful project in the Republic of Slovenia. In the last 10 years 43% of today's facilities for prisoners were built (added buildings, two new buildings) or refurbished. The full spatial capacity of prisons was therefore increased for 4%. An important improvement is the new open department of the Prison Dob.

The latest achievement in this respect is the newly built building of the Koper/Capodistria Prison that was planned and built since 1998 and entered in its function on 22 January 2004. This is the first new prison building in the Republic of Slovenia after 40 years. It has the capacity for serving a punishment by imprisonment for 112 prisoners, which is a substantial increase from the previous 76. There are 72 rooms (cells), 32 of them are single-bedded with a space of 9 m² and 40 are double-bedded with a space of 14 m². Every prisoner is entitled to a bed, a chair, a wardrobe, a desk and shelf. Every room has a shelf for a television set or radio, a shelf for a cooker and a wastebasket. Every room has its own sanitation with a lavatory, wash-hand basin and a shower.

The Human Rights Ombudsman stated in its Annual Report for the year of 2004 that his representatives have inspected the new Koper/Capodistria Prison building in August 2004 and recognised the existence of high, improved standards at the new prison facility, especially concerning enough space for the activities of prisoners, lighting...

The National Prison Administration of the Republic of Slovenia has a long-term development plan, by which it should further increase the spatial capacities of prisons. This plan is fulfilled on a step-by-step basis, in accordance with the budgetary provisions for these issues.

Prohibition of slavery or forced or compulsory labour (art. 8)

13. According to information before the Committee, trafficking in women and children remains a significant problem in Slovenia. Please provide information on trafficking in persons. What legal and practical measures have been taken or are foreseen to combat trafficking, and with what results (paras. 63-67)?

The Republic of Slovenia is fully aware of the complexity of the phenomenon of the trafficking in human beings, which is increasingly becoming a major challenge on the global level. Slovenia is a signatory of all important international documents defining the field of trafficking in human beings. Because of its geo-strategic position Slovenia is primarily a transit European country and in some cases also the final destination. The existing facts call our attention to the presence of this phenomenon in our State as well also to the need of taking proper measures.

In December 2001 an **Interdepartmental Working Group (Interministerial Task Force) on the Fight against Trafficking in Persons** was established by the Government of the Republic of Slovenia. It includes representatives of relevant ministries of the Republic of Slovenia, of the Police, Parliament, Supreme State Prosecutor's Office of the Republic of Slovenia, Intergovernmental International Organisations and Non-Governmental Organisations. Its tasks include coordination of the state policies with a view of fighting and prevention of trafficking in persons.

In 2004 the Interdepartmental Working Group drafted, and the Government of the Republic of Slovenia adopted, an **Action Plan on the Fight against Trafficking in Persons**. The Plan is based on the preventive and protective operation of all bodies and organisations that are represented in the Interdepartmental Working Group for the fight against trafficking in persons. It is also based on training and international cooperation of professional staff, officials and volunteers working in the area of trafficking in persons.

During the three years work of this working body various activities were carried out in the field of suppression of trafficking in human beings.

- By adopting the Action Plan for the Period 2004-2006, the Slovenian Government committed itself to an organised fight against Trafficking in Human Beings at all levels. The active work of the IWG and proper financial means guarantee the realisation of the set goals.
- In 2003/04 the police processed 21/14 cases related to trafficking in human beings. There have been a total of 19 victims of Trafficking in Human Beings. It has to be mentioned that the Association Ključ dealt with an additional 14 persons, in respect of which elements of Trafficking in Human Beings have been found.
- 2004 saw progress in the area of legislation. The UN Convention on Transnational Organised Crime and the relevant Protocol to Prevent, Suppress and Punish Trafficking in Human Beings, Especially Women and Children, were ratified. Also, the Act Amending the Criminal Code was adopted which re-regulated Trafficking in Human Beings.
- Last year, the IWG achieved significant progress in collecting statistical data. This is also reflected in the table of criminal offences, the perpetrators and the victims of Trafficking in Human Beings. The data provided by the Employment Service of Slovenia show that Slovenia has made important steps towards reducing potential abuses of work permits in cases of employing aliens, particularly where circumstances might point to the possibility of Trafficking in Human Beings. In issuing work permits for the so called risk occupations (probability of trafficking in human beings) the Employment Service of Slovenia makes

examinations of general as well as additional conditions stricter and actively collaborates with the criminal office of Police and the Labour Inspectorate of the Republic of Slovenia.

- In addition, 2004 saw the continuation of the existing projects of assisting victims of Trafficking in Human Beings and raising the awareness of professional public. The progress in the training of professional workers who are confronted with victims of Trafficking in Human Beings, particularly prosecutors, must also be underlined.

- Slovenia shares its experience in the prevention of Trafficking in Human Beings with the countries of South-Eastern Europe.

In the context of collaboration between Government of the Republic of Slovenia and NGOs, it is necessary to say that NGO's maintain a key role in the implementation of projects. We are fully aware that a constructive cooperation between the government and NGOs, is a precondition for successfully fighting THB.

On 15 September 2003, the agreement on cooperation was signed in Ljubljana between the non-governmental organisation Ključ, the Ministry of the Interior and the Office of the State Prosecutor General of the Republic of Slovenia. The agreement defines the procedures for action and specific cooperation in the process of assistance to the victim both as regards the regulation of the victim's status in the country and comprehensive assistance and informing the victim during the rehabilitation process as well as further decision-making on cooperation with prosecution authorities. There is a possibility of a three-month stay of a victim of trafficking in human beings in the Republic of Slovenia, issued by a competent authority on the basis of a certificate of the victim's accommodation in a safe place provided by the Ključ association. This period is intended for providing the first forms of information as well as for psychosocial, medical and legal assistance. Following a period of "reflection", the victim may decide on further cooperation with prosecution authorities, on the basis of which he/she is issued with a permit for temporary residence in the Republic of Slovenia, which is extended until the end of the criminal procedure.

14. Please provide detailed information about cases of enslavement investigated by the police between 1991 and 2003. Have there been any convictions as a result of those investigations? Have there been any convictions under new article 387 of the Penal Code on "Trafficking in Human Beings" (para. 61)?

Until 5 May 2004 trafficking in persons was mostly prosecuted by the use of Article 387 (Placing in a Slavery Condition) of the Criminal Code, other forms of trafficking in persons were prosecuted by the use of criminal offences from the Criminal Code concerning prostitution (Articles 185 and 186). In 2002 1 criminal complaint (denunciation) under Article 387 was rejected by the State Prosecutor and 1 indictment was filed in 2003 under Article 387 by the State Prosecutor.

The Interdepartmental Working Group has closely cooperated with the Ministry of Justice in drafting amendments to the Criminal Code that are presented below.

On 20 April 2004 a new criminal offence was introduced in the Criminal Code, its text is:

"Trafficking in Persons

Article 387.a

(1) Whoever purchases another person, takes possession of it, accommodates it, transports it, sells it, delivers it or disposes with it in any other way, or acts as a broker in such operations, for the purpose of prostitution or other forms of sexual exploitation, forced labour, enslavement, servitude or trafficking in organs, human tissues or blood,

shall be punished by imprisonment of one up to ten years.

(2) If an offence from the preceding paragraph was committed against a minor or with force, threat, deception, kidnapping or abuse of a subordinate or dependent position, or with intention of forcing towards pregnancy or artificial insemination,

the perpetrator shall be punished by imprisonment of at least three years.

(3) The same punishment from the previous paragraph shall be imposed on whoever that commits an offence from the first or second paragraphs of this Article as a member of a criminal association for the commission of such offences, or if a large property benefit was gained through this offence."

This change of Criminal Code entered into force on 5 May 2004.

Amended criminal legislation in 2004 had some impact on the detection and investigation of criminal offences, particularly those in the field of prostitution and relating to Trafficking in Persons. New standards have been set, which reduced the number of police interventions planned in advance and applying covert investigation methods. This has resulted in a decrease in the number of detected and investigated criminal offences. On the initiative of the coordinator for combating Trafficking in Persons at the Supreme State Prosecutor's Office, all heads of the District State Prosecutor's Offices in the Republic of Slovenia designated within their respective offices a state prosecutor to deal with criminal offences in this field. The designated State Prosecutor is at the same time the contact person bound to report on activities in this field to the Supreme State Prosecutor's Office of the Republic of Slovenia every six months.

In 2004, the Police dealt with 14 cases related to Trafficking in Human Beings.

- One criminal complaint (denunciation) was filed with the competent State Prosecutor's Office concerning the prejudice done to the five adult females (victims) for a criminal offence of "Placing in a Slavery Condition" under Article 387 of the Criminal Code. The District State Prosecutor ordered an investigation against the defendant on the grounds of the criminal offence he allegedly committed, which the court also initiated. One report was also submitted to the District State Prosecutor's Office.

- Two criminal complaints were filed with the District State Prosecutor's Office for the criminal offence of "Interceding for Prostitution" under Article 186 of the Criminal Code.

- One criminal complaint and two reports were filed for the criminal offence of "Pimping" under Article 185 of the Criminal Code.

- Five criminal complaints and two reports were filed with the competent district state prosecutor's offices which related to "Abuse of Prostitution" under the newly defined Article 185 of the amended Criminal Code. In one instance the State Prosecutor modified, within his competences, the legal definition of the criminal offence allegedly committed by the defendant into a criminal offence of "Trafficking in Persons" under Article 387.a of the amended Criminal Code (hereinafter referred to as CC-B). The act was committed to the prejudice of a female (one victim). He ordered an investigation to be carried out on the

grounds of a criminal offence of "Trafficking in Persons" under Article 387.a of the CC-B; the court also initiated the investigation on the basis of the order.

- In 2004, a criminal charge was filed against a defendant on the grounds of a criminal offence of "Placing in a Slavery Condition" under Article 387 of the Criminal Code, following a completed investigation into the offence committed in 2001.

Criminal complaints have been filed against 12 persons in total, 10 men and 2 women. There have been a total of 25 injured parties (victims); only 19 of these have been recognised as victims of Trafficking in Persons. Out of 25 injured parties of all criminal offences, there are six citizens of the Republic of Slovenia who figure as injured parties under "Abuse of Prostitution" with no elements of trafficking. Among aliens (foreign citizens) there are five injured parties under Article 185 and the same five under Article 387, which means that there are actually only five such persons. Detailed statistics are shown in annexed Table, stating the age, sex and nationality of both human persons against whom the criminal complaint was filed, and of victims of criminal offences. The Table also briefly presents further procedures involving victims of criminal offences, whose care was in most cases provided by a Non-Governmental Organisation - the Association *Ključ*. It has to be mentioned that the Association *Ključ* dealt with an additional 14 persons, in respect of which elements of Trafficking in Persons have been found.

Table 15: Statistics in the fields of investigating and prosecuting criminal offences relating to Trafficking in Persons for the year of 2004

Criminal offence (Article of Criminal Code - CC)	Placing in a Slavery Condition Article 387 CC	Interceding for Prostitution Article 186 CC	Pimping Article 185 CC	Abuse of Prostitution Article 185 CC – 04	Trafficking in Persons Article 387.a CC – 04	TOTAL
Criminal complaints filed with District State Prosecutor's Offices	1	2	1	5 (-1)		8
Redefinition of a criminal offence by District State Prosecutor					1	1
Reports to District State Prosecutor's Offices	1	0	2	2		5
Number of perpetrators against whom criminal complaints have been filed	1	3	1	7 (-1)	1	12
Nationality of perpetrators of criminal offences against whom criminal complaints have been filed	1/SLO	3/SLO	1/SLO	7/SLO	1/BUL	
Sex and age of perpetrators of criminal offences against whom criminal complaints have been filed	M/54	M/28, 52 F/25	M/54	M/54, 37, 31, 39, 35, 54 F/26	M/34	
Investigation initiated against (no. of Human Beings)	1(1)				1(1)	
Criminal charge filed	1(1) from 2001					
Issuing of final judgements						

Number of injured parties - victims of criminal offences	5	6	5 (-5)	13 (-6)	1	25 (19) + 14
Nationality of victims	UKR	SVK	UKR	6 SLO, 5 UKR, 2 SVK	1 BUL	
Sex and age of victims	F/21, 22, 23, 24	F/19, 22, 25, 23, 24	F/21,22, 22, 23, 24	F/ 19, 19, 34, 21, 24, 19, 19, 21, 24, 33, 19, 26, 23	F/20	
Further procedures involving victim	Victims reported maltreatment, exploitation and restriction of liberty to the Police. NGO <i>Ključ</i> provided for crisis placement and repatriation.	NGO <i>Ključ</i> provided for crisis placement of two victims. On repatriation, escort was organised together with the Police.	Victims reported maltreatment, exploitation and restriction of liberty to the Police. NGO <i>Ključ</i> provided for crisis placement and repatriation.	Exploitation by pimps reported to the Police.		

Current assessment is that the methods of transit through the Republic of Slovenia of victims – injured parties in the Trafficking in Persons Article – have been changed. In the past years, the transit of victims of Trafficking in Persons through the Republic of Slovenia was organised by members of criminal gangs engaged in smuggling people, and victims were found when investigating such criminal offences.

In 2004, the District State Prosecutor's Offices in the Republic of Slovenia received 2 criminal complaints (denunciations) on the grounds of acts incorporating elements of conduct which, following the aforementioned amendments to the Criminal Code of the Republic of Slovenia that entered into force on 5 May 2004, fall within the scope of the criminal offence of "Trafficking in Persons" under Article 387.a from the Act on Amendments and Changes of the Criminal Code of 2004 (hereinafter referred to as CC-B).

- The District State Prosecutor ordered an investigation against the defendant on the grounds of alleged criminal offence of "Placing in a Slavery Condition" under Article 387 of the Criminal Code to the prejudice of five adult females (victims), which the court also initiated.

- The Police filed a criminal charge against a defendant on the grounds of a criminal offence. The State Prosecutor modified, within his competences, the legal definition of the criminal offence of "Abuse of Prostitution" under Article 185 of the CC-B, allegedly committed by the defendant, into a criminal offence of "Trafficking in Persons" under Article 387.a of the CC-B. The offence was committed to the prejudice of a female (one victim). He ordered an investigation to be carried out on the grounds of a criminal offence of "Trafficking in Persons" under Article 387.a of the CC-B; the court initiated the investigation on the basis of the order.

- In 2004, a criminal charge was filed against a defendant on the grounds of a criminal offence of "Placing in a Slavery Condition" under Article 387 of the Criminal Code following a completed investigation into the commission of a criminal offence committed in 2001.

Jurisdiction of the State Prosecutor's Offices in the Republic of Slovenia concerning trafficking in persons is specialised up to a certain degree - when criminal offences of trafficking in persons are committed within the framework of the organised criminal association with internal rules of operation, which operates in business fashion and thus as a rule uses violence or corruption and with the intention of acquiring unlawful material benefit or social power, then the Group of State Prosecutors for Special Affairs at the Supreme State Prosecutor's Office of the Republic of Slovenia **has the primary jurisdiction** to prosecute perpetrators of those criminal offences (Article 10, paragraph 2 of the State Prosecutor's Office Act of the Republic of Slovenia).

In 2004 in addition to new Article 387/a, concerning trafficking in human beings some other changes to the Penal Code, which regulates prostitution and human trafficking, came into force. The articles of the Penal Code that concern pimping (Article 185) and presenting persons for prostitution (Article 186) were replaced with a new article on the abuse of prostitution (Article 185), and Article 186 was struck out.

These changes to the Penal Code have influenced the detection and investigation of criminal offences, primarily in the area of prostitution. New standards were set, so fewer police actions using undercover investigative methods had been planned in advance. This resulted in there being a reduced number of criminal offences detected and investigated.

Table 16: The number of criminal offences (CO) detected and the numbers of suspects (Sus) and victims (Vict) according to Articles 185, 186 and 387 of the Penal Code, included with data from after the changes and additions to the Penal Code

	2003			2004		
Articles	CO	Sus	Vict	CO	Sus	Vic
185	1	1	1	1	1	5
186	13	25	21	2	3	6
387	2	8	0	1	1	5
185/04				5	7	13
387/A						

The reasons for reduced numbers of criminal offences detected in the area of human trafficking compared to previous years lie in changes to the way victims (injured parties) transit through Slovenia. In previous years victims were taken across Slovenia by criminal groups that dealt with people smuggling, and the victims were discovered upon investigation of these criminal offences. Another influence on the fall in numbers of detected and investigated criminal offences is the successful concealment of exploitation, as both suspects and injured parties have an interest in keeping their operations concealed.

In recent years the General Police Administration has been carrying out intensive training for investigators concerning the fight against human trafficking, in which experts from other institutions, NGOs and also other countries participate, just as in the other areas of training.

Table 17: The number of criminal offences detected according to Articles 185, 186 and 387 of the Penal Code, included with data from after the changes and additions to the Penal Code

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Art. 185	3	5	6	6	10	4	3	1	1	3	0	1	1
Art. 186	0	0	0	25	29	22	22	20	10	22	21	13	2
Art. 387	0	0	0	1	3	3	2	4	2	4	10	2	1
Art. 185/04													5
Art. 387/A													

Freedom of movement (arts. 12 and 13)

15. Please describe the measures that have been taken or are foreseen to address the cases of residents who are originally from other republics of the former Federal Republic of Yugoslavia and have expressed their desire to become Slovenian citizens. Are they in a position to obtain the necessary identity documents? On what basis have applications for permanent residency and citizenship been rejected (paras. 5-9 and 133-143)?

The Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia (Official Gazette of the Republic of Slovenia, nos. 61/1999, 54/2000, *Odl. US*: U-I-295/99-13, 64/2001, 36/2003, Constitutional Court Decision: U-I-246/02-28) (hereafter ZUSDDD) regulates the issuance of permanent residency permits for citizens of countries that were members of the former Yugoslavia; under other conditions they are treated the same as all foreigners in accordance with the Aliens Act (Official Gazette of the Republic of Slovenia, no. 108/02 – consolidated text).

The ZUSDDD stipulates that a citizen of a country that was a member of the former Yugoslavia may receive a permanent residency permit if the person was registered as having a permanent residence in the area of the Republic of Slovenia as of 23 December 1990 and continued to actually live in Slovenia thereafter. A citizen of a country that was a member of the former Yugoslavia may also receive a permanent residency permit if the person lived in Slovenia as of 25 June 1991 and has thereafter continued to actually and uninterruptedly live in Slovenia. The issuance of the permanent residency permit according to the ZUSDDD does not require the possession of a valid passport or any other valid identification document.

By 31 May 2005, the Ministry of the Interior had received 13,235 requests for issuance of permanent residency permits on the basis of the ZUSDDD; of these, 11,001 permits were granted. A further 1,039 permanent residency permits were granted on the basis of the ZUSDDD, although the requests had originally been filed under the Aliens Act, because during the process it was determined that the ZUSDDD was more advantageous (Article 6 of the ZUSDDD). Altogether there were therefore 12,040 permanent residency permits issued on the basis of the ZUSDDD by 31 May 2005.

In 321 cases the request was denied because all the conditions for the issuance of the permit had not been fulfilled; in 1,173 cases the process was halted (because the applicant became a citizen of Slovenia during the process, because the applicant withdrew the request, or because the applicant did not participate in the process); and in 141 cases the request was thrown out (because of missed deadlines or because the applicant became a citizen of Slovenia during the process). The remaining cases are still in the process of being resolved.

With regard to the conditions surrounding residents from former Yugoslav republics who have requested to become citizens of Slovenia, it should be mentioned that the Citizenship of the Republic of Slovenia Act (Official Gazette of the Republic of Slovenia, no. 07/03 – consolidated text) was adopted on 25 June 1991, and it described the methods and conditions for ordinary (Articles 10 and 12) and extraordinary (Article 13) naturalization. By 31 May 2005, 199,920 individuals had been granted Slovenian citizenship; of these, around 170,000 were accepted under Article 40 of the above-mentioned act, which applies only to citizens of the former Yugoslavia, who were citizens of one of the republics of the formerly united country, and who were registered as having permanent residency in Slovenia as of 23 December 1990, and who also actually lived here.

On 29 November 2002 an amended Citizenship of the Republic of Slovenia Act (Official Gazette of the Republic of Slovenia, no. 96/02) was passed, which introduced an important new feature in Article 19, which eased conditions for receiving citizenship for individuals who (while also fulfilling some of the conditions from the first paragraph of Article 10 of the above Act) were registered as having permanent residency in Slovenia as of 23 December 1990 and had also thereafter actually and uninterruptedly lived in Slovenia. The deadline for submitting applications under these legal conditions was limited to a period of one year after the amended law came into effect, and it expired on 29 November 2003.

With regard to the reasons for which applications for citizenship were denied it should be mentioned that being granted citizenship under the above legal conditions requires the cumulative fulfilment of all particular conditions proscribed by law. It is possible that the application be denied (aside from processing reasons) upon non-fulfilment of certain material conditions (e.g., not showing a source of support in at least the amount that assures material and social security, not submitting evidence of having learned enough basic Slovenian to enable everyday communication, interrupted residency in Slovenia as the reason for non-fulfilment of the legal condition of residency in Slovenia for a specified period, the commitment of criminal offences, etc.). The stated reasons, which must be attached to any denial of application for citizenship, are also among the most frequent reasons that requests for citizenship are not granted.

16. Please explain the legal and practical progress made in regard to the enactment of a comprehensive integration policy for refugees and asylum-seekers. Please provide additional information that enables the Committee to get an accurate picture of the present situation of refugees and asylum-seekers in Slovenia. What measures have been taken or are foreseen to integrate refugees into Slovenian society? Please comment on reception facilities, court procedures, as well as on education and health condition (paras. 15-17 and 132-143).

In the year 2004 there were 1173 persons who applied for asylum in the Republic of Slovenia. This year there were 674 persons (that is until 1 June 2005) who applied for asylum. The first five countries of origin from where the asylum seekers come from are Serbia and Montenegro, Bosnia and Herzegovina, Bangladesh, Turkey and Albania.

Slovenia is still considered a transit country, because some 70% of asylum seekers leave the country, which means that the asylum procedure is stopped. Slovenia granted refugee status to 131 persons, among whom 15 refugees were granted Slovenian citizenship, one person died, one moved to another country and obtained the citizenship there whereas one person returned to his country of origin.

According to the Asylum Act, the procedure contains three instances. The asylum seeker has a possibility to appeal against the first instance decision (Ministry of the Interior) to the Administrative Court and against its judgement to the Supreme Court. In a lot of appeals against the decision of the Ministry, the Administrative Court orders a trial. This practice started by the end of 2003.

A court trial is obligatory in cases when the restriction of movement of asylum seekers has been imposed. The appeal deadlines are shorter in manifestly unfounded cases.

The rights of asylum seekers are defined in the Regulations on Manners and Conditions to guarantee the Rights of Asylum Applicants and Foreigners who have been granted the Special Form of Protection (in Slovenia), published in the Official Gazette of the Republic of Slovenia, no. 80 dated 13 September 2002, which is an executive rule of the Asylum Act.

Upon receiving an asylum applicant his or her dignity as well as the right to privacy should be duly considered. Once accommodated in the Asylum Home, the asylum applicant shall during the reception procedure undergo a hygienic and medical examination. This medical procedure is defined by the Institute of Medical Care – Epidemiology Centre.

As regards the reception, the principle of family unity, protection of family life and privacy should be considered. This means that appropriate measures should be taken to preserve this principle all over the Slovene territory if an applicant so requests.

Special vulnerable categories include above all minors, unaccompanied minors, the disabled, sick people, the elderly, pregnant women, children with one parent, victims of sexual abuse, victims of violence and torture as well as victims of organised crime etc. Particular care should be paid to their situation and material reception conditions as well as their medical and psychological care. Unaccompanied minors are accommodated according to the possibilities and rules on the foster care in Slovenia or in suitable premises at the Asylum Home.

The authority, responsible for the refugee status determination procedure and the accommodation of asylum applicants shall immediately start to trace the minor's family members and relatives. The competent authority shall accommodate all these vulnerable groups in special premises and provide adequate rehabilitation programmes. Single women shall not be accommodated together with men unless they wish to stay with them or in case involving a family.

Health care of asylum seekers in the Republic of Slovenia has been organised within the context of the national health care system.

The scope of health care of asylum seekers is defined by the Regulations on Manners and Conditions for guaranteeing the Rights of Asylum Applicants as well as Foreigners who have been granted the Special Form of Protection. These Regulations are an executive regulation of the Slovene Asylum Act.

Medical care of asylum seekers includes:

- Right to emergency medical aid and transport by ambulance car, ordered by the physician, as well as the right to an emergency dental treatment;
- Right to emergency treatment, ordered by the physician, including:

- preserving vital functions, stopping major bleedings or prevention from bleeding to death;
- preventing a sudden collapse of the medical condition that might cause a permanent damage to individual's organs or vital functions;
- treatment of shock;
- interventions regarding chronic diseases and similar conditions the omission of which might directly or in a short time cause disability or other permanent damage, or death;
- treatment of fevers and preventing infections that might cause the spreading of sepsis;
- treatment of poisoning and prevention from poisoning;
- treatment of bone fractures or dislocation of joints and other injuries requiring an immediate intervention by the physician;
- medicines or medications from the so called "positive list" (free of charge) on prescription for the treatment of the above diseases or conditions;
- right to medical care of women (birth control, abortion, medical care of pregnant women, medical care during pregnancy as well as at childbirth – same rights as Slovene citizens).

Medical institutions offer asylum seekers their services on condition that the asylum seeker produces the so-called Identity Card of Asylum Seeker or the Certificate of filing an Asylum Application. The funds for exercising the right to medical care of asylum seekers are provided by the Slovene Ministry of Health.

The right to compulsory elementary education of asylum applicants is guaranteed pursuant to Article 10 of Elementary School Act (Official Gazette of the Republic of Slovenia, no. 12/96, 33/97 and 59/01)

The funds to exercise this right are provided in the same way and within the same scope as for Slovene citizens, attending public elementary schools, i.e. pursuant to Article 81 of the Organisation and Funding of Education and Schooling Act (Official Gazette of the Republic of Slovenia, no.12/96, 23/96, 22/00 and 64/01).

The contributions for the extended stay at school in the fifth and sixth grade of elementary schools, contributions for material expenses for the so called "school in nature", costs for meals of asylum applicants-pupils who attend elementary schools are determined pursuant to the second and third paragraph of Article 83 of the Organisation and Funding of Education and Schooling Act. Funds for individual and common assistance during the first year of their education is provided for the above pupils from the state budget, namely for up to 2 hours a week. As long as the pupils attend an elementary school they may use textbooks from the school funds free of any charge.

In April 2004 Slovenia's government passed the Decree on the Rights and Duties of Refugees in the Republic of Slovenia (Official Gazette of the Republic of Slovenia, nos. 33/2004 and 129/2004), with which the integration of refugees is harmonized with the rules and practices of European Union countries. The decree enables the enforcement of rights that refugees have already had so far, but some of which were only assured to a lesser extent, such as: Slovenian language lessons; introduction to the culture, history and constitutional regulations of Slovenia; refugee accommodation; the right to enrol as regular students in secondary schools and universities, the right to apply to have their educational credentials recognized and the right to take examinations and other professional educational activities. This decree supersedes the previously valid Decree on the Rights of Foreigners that have been given the Status of Refugees from 1996.

The Slovenian Resolutions on Immigration Policy (Official Gazette of the Republic of Slovenia, no. 40/99) and Migration Policy (Official Gazette of the Republic of Slovenia, no. 106/2002) were taken into account upon preparation of the executive act. Both resolutions place integration as well as protection and help for refugees among the basic immigration and migration policies and establish that the country must carry out a policy of integration whose goals will be based on fundamental rules and values of equal rights, freedom and mutual cooperation, taking into consideration societal multiculturalism with the recognition of the wealth of diversity, peaceful coexistence and social stability and cohesiveness.

The Decree on the Rights and Duties of Refugees in the Republic of Slovenia regulates assistance with integration, which is carried out with the aid of personal integration plans whose fundamentals include helping refugees with inclusion in the environment and engagement in learning Slovenian, evaluation of the hours of language instruction required to pass the test of Slovenian as a foreign language at the basic level, introduction to the culture, history and constitutional regulations of Slovenia, education and training for improving their chances of employment, employment and work opportunities, housing opportunities, and opportunities for active inclusion in the local community.

The Decree establishes refugees' right to six months' housing within the housing capacities of the Ministry of the Interior. Currently there are four housing centres available, and the establishment of an Integration Home in Ljubljana is expected by the end of 2005. For especially vulnerable groups of refugees, particularly unaccompanied minors, invalids, the elderly, pregnant women, single women, single-parent families with minor children, and victims of sexual abuse, torture or organized crime the ministry arranges appropriate housing according to the opinion of a commission consisting of representatives from the ministry, the relevant Centre for Social Work, and the local community, taking the refugees' needs into account. Pupils and university students are housed in dormitories. Refugees without any income that live in private housing are entitled to monetary assistance for the private housing, which they can receive for a maximum of three years after receiving refugee status. The amount of monetary assistance depends on the number of family members and is determined as a percentage of the basic minimum income.

The Decree additionally establishes that refugees have the same rights to social services as do foreigners with permanent residency permits.

With regard to health insurance rights, although refugees are not included in the national health care system, they are nonetheless entitled to the same range of rights as participating individuals that are included in obligatory and optional health insurance. The medical expenses are covered by the Ministry of the Interior.

With regard to rights to employment and work; preschool, primary, secondary and tertiary education; as well as access to the courts and legal assistance, refugees are entitled to the same rights as Slovenian citizens.

The Decree also establishes refugees' duties in a special chapter. The intention of these provisions is to ensure accuracy of information and the obligation of notification of changes in entitlement to rights. In this regard refugees must demonstrate willingness to fulfil agreed obligations within the integration plan; when this is not the case, continued integration assistance may be limited.

Currently there are 113 individuals with recognized refugee status in Slovenia. Of these, 11 are receiving temporary monetary aid; the rest are either employed or are receiving social assistance through the relevant Social Work Centre. Sixty-two refugees receive monetary assistance for private housing.

Slovenia drew funds for the first time in 2004 from the European Refugee Fund, which is designated for the reception, integration and voluntary return of individuals with recognized refugee status, asylum seekers, and displaced persons. With regard to integration of refugees, Slovenia has dedicated some of the funds to the purchase and establishment of an Integration Home in Ljubljana, whose purpose is to house refugees upon receipt of refugee status and leaving the Asylum Home, which will ease their first steps on the path to independent life and integration into Slovenia society. Some of the funds will be distributed to aid programmes that are conducted by NGOs and other non-profit organizations, selected on the basis of public tenders that were published in January 2005. The selected programmes relate to education and improvement of refugees' employment opportunities, refugee employment placement with contracts for work relationships, seeking appropriate housing for refugees, psychosocial assistance for underage refugees to help them with inclusion in the new environment, public awareness of the need to integrate refugees, and other activities that contribute to the successful integration of refugees.

Right to a fair trial (art. 14)

17. How does the State party intend to address the problem of backlogs in the courts? How does the backlog affect penal matters? What measures has the State party taken or foreseen to reduce delays in the disposal of cases (para. 153 ff.)?

Concerning the problem of court backlogs in the Republic of Slovenia it can be stated that **courts of the Republic of Slovenia solved in 2004 14.34% more cases than in 2003.**

In general, county courts (one type of first instance courts) of the Republic of Slovenia received in 2004 4.11% more cases than in 2003, district courts (second type of first instance courts) received in 2004 18.49% more cases than in 2003. The high courts received in 2004 5.58% more cases than in 2004. These numbers show that even all efforts in solving court backlogs are on the other hand "balanced" with an increase of cases filed at courts of the Republic of Slovenia.

More specifically, on one hand it can be stated that county courts are succeeding in reducing of court backlogs with the exception of civil enforcement matters (enforcement of civil judgments). Concerning district courts it can be said the number of court backlogs in general is also on decrease, but in cases of juveniles and criminal investigation, there is an increase of court backlogs. Concerning the high courts (courts of appeals) there is also an increase of court backlogs, that can be however attributed to accelerated solving of cases on first instance courts, that are then appealed to high courts.

Concerning influence of court backlogs in the area of penal matters (criminal law cases) it can be stated that high courts of the Republic of Slovenia started in 2004 to apply more the provisions of Criminal Procedure Act on main trial hearing of the parties at the appellate level - meaning that they have decided upon the case on merits and reduced the reversal of judgments of the courts of first instance and remanding cases back to these courts.

Other important legislative change, albeit in the area of social and labour courts, is the introduction of obligatory second instance (appellate) main trial hearing. Therefore, the High Labour and Social Court is obliged (with minor exceptions) to solve appellate cases on the merits and not reverse judgments of first instance courts and remand them back to those courts. This change was introduced by the new Act on Labour and Social Courts of 2004.

The "Hercules Project" that was already described in general terms under item 2 of these replies has been extended in 2004. The budgetary resources for this Project were substantially increased in 2004, so the output of the Project in the year 2004 was 582% higher as in comparison with the year 2003. 8 county courts participated in this Project in general (solving of all court backlogs) with the Supreme Court of the Republic of Slovenia, 23 county courts participated in this project in relation to elimination of court backlogs at land registers, while one district court started an experimental programme concerning the elimination of court backlogs from the viewpoint of the reform of administration and management of court.

Most of the courts that participated in this Project assess it positively, but they also stress that this Project cannot be deemed as a replacement for personnel and financial shortcomings of some courts. So, the programmes of courts, conducted under the "Hercules Project" are a useful tool for solving some problems that can be applied when the particular court exhausts its internal reserves, but cannot be used for solving the "systemic" problems.

Right to freedom of expression (art. 19)

18. According to information before the Committee, no prosecution was initiated in the case of a serious attack on Mr. Miran Petek, an investigative journalist. Please provide information on this case and explain the reasons.

Information on the non-existence of criminal proceedings in the case of "Petek" is not correct. The District Court of Murska Sobota in the Republic of Slovenia already conducts criminal proceedings against four (4) indicted persons for the criminal offence of attempted murder and against one (1) indicted person for aiding the criminal offence of murder.

The criminal trial (main trial) in this case started on **20 May 2004** and until now the panel of court has examined 57 witnesses, 2 court experts, an expert from the Centre for Forensic Research at the Ministry of Internal Affairs and an expert from the Faculty for Computer Science of the University of Ljubljana. The case is quite sensitive (complex), it involves anonymous witnesses and the State Prosecutor that prosecutes the indicted persons enjoys police protection due to the special circumstances of the case.

19. Please provide additional information in regard to the competence and activities of the Broadcasting Council. How does the Council ensure the independence of the media? Please provide information regarding the practical measures addressing the reported problem of self-censorship (paras. 210 and 243).

The Competences of the Broadcasting Council are defined in the Article 100 of the Mass Media Act which defines that The Broadcasting Council is an independent expert body, and shall conduct the following tasks:

- it shall provide the agency with initiatives for the conduct of expert supervision of the implementation of programming requirements and restrictions specified in the present act and shall adopt the annual plan for the conduct of such supervision
- it shall adopt decisions on the issue, revocation and transfer of licences for performing radio and television activities, and provide the agency with binding proposals and

approvals for the issue and revocation of licences for performing radio and television activities

- it shall adopt decisions on the assignment or revocation of the status of a local, regional or student radio or television station, and propose to the agency the issue of the relevant acts
- it shall provide the relevant ministry with a preliminary opinion on the assignment or revocation of the status of a non-profit radio or television station
- it shall adopt decisions for the preliminary opinion of the agency in connection with the restriction of concentration
- it shall assess the situation in the area of radio and television stations
- it shall propose to the responsible minister detailed criteria for defining local and regional programming, the procedure and conditions for acquiring the status of special stations, and criteria for in-house production and other programming on radio and television stations specified in the present act
- it shall give approval to regulations setting out the procedure for issuing, amending, renewing and revoking the licence for performing radio and television activities and the content of the ruling on the issue thereof
- it shall propose the method and criteria for formulating the list of events of public importance in the Republic of Slovenia and the procedure for compulsory consultations among interested parties, and shall formulate the agency proposal for the content of the list
- it shall propose to the relevant ministry a development strategy for radio and television stations in the Republic of Slovenia
- it shall for the National Assembly draw up an annual report or assessment of the situation in the area of broadcasting and proposals for improving the situation
- it shall perform other tasks in accordance with the present act and the founding act

The Broadcasting Council shall consist of seven members, who shall be appointed by the National Assembly on the basis of a public invitation. Candidates shall be proposed by:

- Slovenian universities (candidates from the areas of law, telecommunications and informatics)
- the Chamber of Culture of Slovenia (candidates from the area of audio-visual culture)
- the Chamber of Commerce and Industry of Slovenia (candidates from the area of commerce)
- the Journalists' Society of Slovenia (candidates from the area of journalism and communication studies)

Irrespective of the provisions of the previous paragraph the National Assembly may also choose from among candidates who submit their own candidacy if they are experts in the areas specified in the previous paragraph.

Concerning the independence of media and freedom of expression the modification of the Article 45 of Mass Media Act, which is predicted in new Act on the Modifications and Completions of the Mass Media Act, is just as well important. This Act will be harmonised with Access to Public Information Act, adopted in March 2003 which has strongly facilitated the access to public information for clients and journalists. The new article of the Act on the Modifications and Completions of Mass Media Act will provide that the journalists will in case of denial of access to public information have the possibility of complaint at the special state office called Commissioner for Access to Public Information. For the presentation of public information the term of seven days will also be defined. The judicial review of

administrative acts will also be allowed against the decisions of the Commissioner for Access to Public Information.

Concerning problems of self-censorship the Article 6 of the Mass Media Act is to be mentioned which defines that the mass media activities shall be based on freedom of expression, the inviolability and protection of human personality and dignity, the free flow of information, media openness to different opinions and beliefs and to diverse content, the autonomy of editorial personnel, journalists and other authors/creators in creating programming in accordance with programme concepts and professional codes of behaviour, and the personal responsibility of journalists, other authors/creators of pieces and editorial personnel for the consequences of their work.

The Article 84 of the Mass Media Act is also very important which defines that television stations may not present scenes of unjustified or excessive violence or pornography or other programmes that could seriously harm the mental, moral or physical development of children and other minors. Some programmes of violence and erotic are indeed allowed but only between 12 am and 5 am and must be clearly and understandably designated by a visual symbol; prior to the presentation thereof an audio and visual warning must be given that such programming is not suitable for children under the age of fifteen.

Concerning the activities of the media in Slovenia the fact that Slovenia has entirely harmonized their legislation with European legislation should also be mentioned. All Acts related to audiovisual sector are harmonized to *acquis communautaire* and Slovenia has ratified the European Convention on transfrontier Television and the Protocol that amended this Convention already in 1999.

In the course of implementation of the Mass Media Act some points, which needed further clarification, were observed. They will be abolished by the above mentioned Act on the Modifications and Completions of the Mass Media Act, which will likely be adopted this autumn.

Right to take part in public affairs; non-discrimination; protection of national minorities (arts. 25, 26 and 27)

20. In addition to the bilateral agreements on minority rights mentioned in the report, is there general legislation for the protection of ethnic, linguistic, and religious minorities? Do other communities have equal access to public service and governmental positions? What practical measures have been taken or are foreseen to prevent discrimination against persons belonging to an ethnic minority (paras. 268-279)?

In May 2004 the Implementation of the Principle of Equal Treatment Act entered into force (Official Gazette of the Republic of Slovenia, 50/2004). This is a fundamental and general act (*lex generalis*) on the prohibition of discrimination on the basis of any personal circumstance whatsoever. With it, Slovenia has implemented Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation. The Act sets out the common foundations and starting points for ensuring the equal treatment of everyone in the exercising of his or her rights and obligations and in the realisation of his or her fundamental freedoms in any area of the life of society, but in particular in the spheres of employment, labour relations, membership of trade unions and interest associations, education, social security, access to goods and services and provision of

the same, irrespective of personal circumstances such as national origin, race or ethnic origin, gender, state of health, disability, language, religious or other belief, age, sexual orientation, education, material standing, social status or any other personal circumstance. The Act provides the basis for the founding of the Government Council for the Implementation of the Principle of Equal Treatment (founded 26 August 2004), within the context of which the Government's cooperation with non-governmental organisations in the sphere of the implementation of the principle of equal treatment is realised. The Act also provides a basis for the work of the Equality Advocate who works within the Equal Opportunities Office. It is the Advocate's job to deal informally with cases of alleged unequal treatment and in the end issue a written opinion.

The Republic of Slovenia introduced minority protection for the Italian and Hungarian national communities and for the Roma ethnic community in the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia. The members of the Italian and Hungarian national communities exercise their rights in accordance with Article 64 of the Constitution of the Republic of Slovenia, and the members of the Roma ethnic community in accordance with Article 65 of the Constitution of the Republic of Slovenia.

The protection of the Italian and Hungarian national communities in the Republic of Slovenia is also defined in over 60 sectoral laws and other regulations, in the decrees and statutes of municipalities in nationally mixed areas, in other legal acts, in bilateral treaties or agreements, and in international conventions ratified by the Republic of Slovenia (e.g. the Framework Convention of the Council of Europe for the Protection of National Minorities and the European Charter on Regional or Minority Languages).

The implementation of Article 65 of the Constitution of the Republic of Slovenia regarding the protection of the Roma ethnic community is built into nine (9) sectoral laws. The provisions from the Framework Convention for the Protection of National Minorities, in so far as this is not contrary to the Constitution of the Republic of Slovenia and other statutory acts of the Republic of Slovenia, shall also relate to members of the Roma ethnic community in the Republic of Slovenia. Similarly, the provisions from the first to the fourth paragraph of Article 7 of the European Charter on Regional or Minority Languages shall *mutatis mutandis* apply to the Romani language.

The members of other minority ethnic communities may exercise their rights under Article 14 (equality before the law), Article 61 (expression of national affiliation) and Article 62 (right to use one's language and script) of the Constitution of the Republic of Slovenia. Access to public service and governmental positions is available to them under the same conditions as for every citizen of the Republic of Slovenia, provided they have this status.

1. MEASURES TAKEN BY THE REPUBLIC OF SLOVENIA TO IMPROVE THE POSITION OF THE ITALIAN AND HUNGARIAN NATIONAL COMMUNITIES:

a) Recent changes to regulations

In 2001:

Act governing the special rights of the Italian and Hungarian national communities in the sphere of education (Official Gazette of the Republic of Slovenia, 35/2001),
Libraries Act (Official Gazette of the Republic of Slovenia, 87/2001).

In 2002:

Exercising of the Public Interest in Culture Act (Official Gazette of the Republic of Slovenia, 96/2002).

In 2003:

Register of Deaths, Births and Marriages Act (Official Gazette of the Republic of Slovenia, 37/2003),

Matura Examination Act (Official Gazette of the Republic of Slovenia, 15/2003),

Organisation and Financing of Education Act (Official Gazette of the Republic of Slovenia, 55/2003),

Decree on the Founding of the University of Primorska (Official Gazette of the Republic of Slovenia, 13/2003).

In instruction No 023-12/2001 dated 3 March 2003 regarding the inclusion of national communities in the process of adopting decisions relating to the position of their members – the second paragraph of Article 15 of the Self-Governing National Communities Act (Official Gazette of the Republic of Slovenia, 65/1994), in relation to the comment of the representative of the Italian national community in the National Assembly, Roberto Battelli, and the leaders of the Italian national community on the consistent observing of the second paragraph of Article 15 of the Self-Governing National Communities Act – the Secretary General of the Government of the Republic of Slovenia called on all state bodies (government, ministries, other state bodies) to consistently observe the provisions of standing orders and corresponding statutory provisions. He stated, *inter alia*, that state bodies, before making decisions as part of the executive branch of authority (government, ministries, other state bodies) by means of implementing regulations and other acts, are obliged, in accordance with the second paragraph of Article 15 of the Self-Governing National Communities Act, to obtain the opinion of the highest bodies of the national communities: a) when the Italian national community is concerned, the opinion is given by the Italian national community's highest body, the *Comunità Autogestita Costiera della Nazionalità Italiana* (Župančičeva 39, Koper); b) when the Hungarian national community is concerned, the opinion is given by the *Muravidéki Magyar Önkormányzati Nemzeti Közösség* (Glavna ulica 124, Lendava).

In 2004:

Decree Amending the Decree on the Founding of the University of Primorska (Official Gazette of the Republic of Slovenia, 79/2004),

Act Amending the Consumer Protection Act (Official Gazette of the Republic of Slovenia, 51/2004),

Public Use of the Slovene Language Act (Official Gazette of the Republic of Slovenia, 86/2004).

The Government's Commission for National Communities met in January and March 2004 and, *inter alia*, adopted the following resolution: '*The Government Office for Nationalities shall in the future, in the budget (financial plans) phase, regularly summon representatives of these bodies and representatives of the Italian and Hungarian national communities for the purpose of coordination in advance with the individual departmental bodies that finance the two national communities.*'

In 2005:

Decree on Administrative Operations (Official Gazette of the Republic of Slovenia, 20/2005).

b) Analysis of the position and the exercising of the special rights of the Italian and Hungarian national communities in the Republic of Slovenia in the light of the implementation of statutory regulations, implementing regulations and other regulations and the definition of possible measures for their maintenance, support and further development

The Government of the Republic of Slovenia, at its 86th regular session on 29 July 2004, adopted the Analysis of the position and the exercising of the special rights of the Italian and Hungarian national communities in the Republic of Slovenia in the light of the implementation of statutory regulations, implementing regulations and other regulations and the definition of possible measures for their maintenance, support and further development.

The following are the most important **adopted measures**:

MEASURES RELATING TO BOTH NATIONAL COMMUNITIES

- 1) Consistent implementation of statutory regulations and implementing regulations (and their amendment after observation and evaluation), consistent implementation of the constitutional provisions and international conventions that are a constituent part of the legal system of the Republic of Slovenia and which related to both autochthonous, constitutionally protected national communities – Italian and Hungarian – on the part of all state bodies and local self-government bodies and other institutions and organisations that are bound to observe these regulations in accordance with applicable legislation.
- 2) Consistent implementation of bilingualism in all spheres in accordance with the Constitution of the Republic of Slovenia and positive legislation.
- 3) Consistent implementation of paragraph 2 of Article 15 of the Self-Governing National Communities Act (Official Gazette of the Republic of Slovenia, 65/1994) and the detailed instruction of the Secretary General of the Government of the Republic of Slovenia (No 023-12/2001 of 3 March 2003) relating to the preparation of statutory regulations, implementing regulations and other acts.
- 4) Stimulating an economic basis for both national communities in the sense of a recapitalisation of the National Fund for Regional Development and the Preservation of Settlement of Rural Areas, where both national communities are already represented by two members each on the appropriate committee, or in the sense of seeking other solutions that are more suitable for the two national communities.
- 5) In all aspects where the State has competences, efforts need to be made for a European model of coexistence.
- 6) In the direction of the greatest possible coexistence between the two national communities on the one hand and the majority population on the other, with the aim of ensuring that the two national communities will be a constituent element of the Republic of Slovenia, even more than they have been to date, it should also be expected that they will supplement the strategy for their own preservation and development and use all legal possibilities in implementing the rights pertaining to them.

MEASURES RELATING ABOVE ALL TO THE ITALIAN NATIONAL COMMUNITY

- 1) Appropriate co-financing of informative and cultural activities¹³ ranging from amateur to professional activities. The latter are now temporarily being realised within the framework of joint institutions (co-financed by Slovenia in the absence of a suitable bilateral agreement with Croatia) providing activities for the Italian national community living in Slovenia and Croatia (EDIT in Rijeka – publication of the daily newspaper *La Voce del Popolo* and other titles; the Dramma Italiano theatre in Rijeka; the Centro di Ricerche Storiche in Rovinj; the Agenzia Informativa Adriatica in Koper; and the Unione Italiana in Rijeka).
- 2) Conserving the current extent of broadcasting Italian radio and television programmes within the context of RTV Slovenija's Regional RTV Centre Koper/Capodistria, and the conservation of in-house production of these programmes, all with appropriate financial support from the public television company and the State in accordance with Article 14 of the Radiotelevizija Slovenija Act (Official Gazette of the Republic of Slovenia, 18/94, ..., 79/2001).
- 3) Development of programmes in the Italian language and programmes in the Slovene language for cross-border television.
- 4) Strengthening of the television signal to cover the whole of the territory historically settled by the Italian national community and under the jurisdiction of the Republic of Slovenia.
- 5) A discussion of measures and activities (at 1 to 4 above) shall be held at least once a year at the proposal of the umbrella organisation of the Italian national community by the Government Commission for National Communities, which shall then report on this to the Government of the Republic of Slovenia in order for appropriate additional measures to be adopted.

MEASURES RELATING ABOVE ALL TO THE HUNGARIAN NATIONAL COMMUNITY¹⁴

- 1) Conserving the economic activity of the region in the sense of countering economic underdevelopment and creating employment, which also includes the ethnically mixed area in the Lendava, Dobrovnik, Moravske Toplice, Šalovci and Hodoš municipalities, or in other words the whole area of the Hungarian-Slovenian border.
- 2) Further prevention, including State help, of disappearance of jobs in the ethnically mixed area (Nafta Lendava, Mura, etc.).
- 3) Earmarking of suitable tax incentives and grants for agriculture, which is in decline.
- 4) Conservation of specific State institutions in the sense of ensuring the conservation of the current standard of access to administrative services in connection with the principles of the new organisation of the administration at the local level.

¹³ A cultural institute is currently being founded whose founder will be the Italian national community. The Government of the Republic of Slovenia will provide money for this as part of the 2005 budget revision.

¹⁴ In the cultural field the Hungarian national community also works within the framework of the Institute for the Culture of the Hungarian Nationality. Since 2005 a cultural activities programme is also being realised in the large new cultural centre in Lendava, almost entirely co-financed by the Republic of Slovenia. This cultural centre is managed by the Lendava Institute for Culture and Promotion, which is headed by a member of the Hungarian national community.

- 5) A discussion of measures and activities (at 1 to 4 above) shall be held at least once a year at the proposal of the umbrella organisation of the Hungarian national community by the Government Commission for National Communities, which shall then report on this to the Government of the Republic of Slovenia in order for appropriate additional measures to be adopted.

c) Coalition Agreement

With the signing of the Coalition Agreement on 23 November 2004, the governing coalition committed itself (in Chapter 11) to dealing with issues relating to the Italian and Hungarian national communities through consistent implementation of independence documents, the Constitution of the Republic of Slovenia and international obligations (international agreements and ratified international charters).

Most important emphases:

- the existing level of financing represents a starting point for the further development of the national communities,
- the implement of measures against assimilation including stimulation of economic and infrastructure development,
- strengthening the institutions of the national communities, their languages and cultures,
- creation of a favourable social climate,
- preparation of a resolution on the Italian and Hungarian national communities.

2. MEASURES ADOPTED BY THE REPUBLIC OF SLOVENIA TO IMPROVE THE POSITION OF THE ROMA ETHNIC COMMUNITY

The Government of the Republic of Slovenia devotes universal and constant attention to the addressing of Roma issues. Thus the leaders of the National Assembly, on the occasion of a working discussion with representatives of the Union of Roma of Slovenia on 4 February 2003, at which, among other things, the issue of a systemic act on the protection of Roma in Slovenia was set out, adopted the decision, within the context of the National Assembly's competences when dealing with specific statutory areas relating to the Roma ethnic community, to invite representatives of the Union of Roma of Slovenia, as the highest Roma body in the Republic of Slovenia and thus the interlocutor of state bodies, to present their views. In one specific case the Internal Policy Committee of the National Assembly informed the leaders of the Federation that their representatives would be invited to sessions of the committee in the case of discussion of issues directly affecting the position of the Roma Community in the Republic of Slovenia. As already stated, the Speaker of the National Assembly also recommended this to the presidents of a number of other National Assembly commissions or committees.

In this connection, the General Secretariat of the Government of the Republic of Slovenia, in the matter of the inclusion of national communities in the process of adopting decisions relating to the position of their members (second paragraph of Article 15 of the Self-Governing National Communities Act, Official Gazette of the Republic of Slovenia, 65/94), adopted in a recommendation (No 023-12/2001 of 3 March 2003) a similar position and, among other things, called on state bodies – within the context of the executive branch of authority (government, ministries, state bodies) – to obtain the prior opinion of the highest Roma body, i.e. the Union of Roma of Slovenia when deciding on implementing regulations and other acts which, *mutatis mutandis*, apply to the Roma community living in Slovenia.

On 7 October 2004 the Government of the Republic of Slovenia adopted resolutions relating to the Roma community in the Republic of Slovenia:

1. The Government of the Republic of Slovenia has acquainted itself with the Report on the Position of Roma in the Republic of Slovenia (2004) with the following annexes:
 1. Review of the co-financing of the Roma ethnic community in the Republic of Slovenia in the period 2002–2005;
 2. Review of the state of Roma settlements in the Republic of Slovenia.

The Government of the Republic of Slovenia finds that despite the progress that has been made, the Roma are still a vulnerable group of the population who in specific cases and sometimes in the actual implementation of regulations are still in an unequal position with respect to other citizens and that is therefore necessary to continue with efforts to improve their position and improve cooperation between state bodies and local community bodies and members of the Roma community.

2. The Government supports the creation of conditions that enable the Roma to respect the values of the majority population (attitude towards private property, towards the environment, etc.) more than has hitherto been the case, and enable the majority population to accept with tolerance the difference and cultural diversity of the Roma.
3. With regard to the Report on the Position of Roma in the Republic of Slovenia (2004) and its annexes, the Government of the Republic of Slovenia considers that the following already adopted measures are still current:
 - Government Programme of Measures of Assistance to Roma (1995)
 - Resolutions of the Government of the Republic of Slovenia from July 1999
 - Other regulations relating to the autochthonous Roma community in the Republic of Slovenia.

Additionally, the Government of the Republic of Slovenia orders those ministries from the fields of security and supervision (inspection) which encounter the issue of personal security and the security of property within the context of their competences to devote special care to these issues irrespective of ethnic, religious or other circumstances.

4. With regard to the Government Programme of Measures of Assistance to Roma (1995), the Government of the Republic of Slovenia finds that in certain areas (living conditions, employment, the economic position of Roma, etc.) the programme is being implemented too slowly, problems have still not been completely resolved, although some projects (e.g. in the field of employment) have already been realised, and therefore instructs ministries and government services to consistently include the addressing of Roma issues in their programmes, according to their competences, and to prepare action plans for their realisation and other programmes and measures, including financial measures, by way of assistance to those municipalities where autochthonous Roma communities live.

5. The spheres of Roma living conditions, education and employment must be given special attention and assistance within the context of state funds, and ministries and government services shall be specifically responsible for this.

Government representatives on management bodies of the Housing Fund of the Republic of Slovenia, the National Fund for Regional Development and the Preservation of Settlement of Rural Areas, and other institutions and organisations whose work affects members of the autochthonous Roma community in the Republic of Slovenia are obliged to propose suitable conduct, in accordance with the first paragraph of this point, to the boards of these funds/organisations.

6. The Ministry of Finance commits itself to the realisation of the Resolution of the National Assembly of the Republic of Slovenia dated 30 May 2002 under which it is necessary to provide the competent ministries or government services with extra funds for municipalities with an autochthonous Roma community to address Roma issues.

The competent ministries or government services, in conjunction with the Nationalities Office, shall prepare a proposal for the allocation of the additional funds under the first paragraph of this point, within the framework of the provisions of Article 26 of the Financing of Municipalities Act, as is regulated for the two autochthonous national communities, this proposal to include the specification of precise criteria.

7. The Ministry of Finance, the Ministry of the Environment, Spatial Planning and Energy and the Housing Fund of the Republic of Slovenia, in conjunction with local communities, shall prepare a suitable proposal for the funding of the acquisition of land and infrastructure for Roma settlements by municipalities where Roma are traditionally (autochthonously) settled, and the regulation, with all necessary activities (legalisation or removal) of existing settlements.

The funds necessary for the purposes under the first paragraph of this point shall be determined by taking into account the Review of the state of Roma settlements in the Republic of Slovenia (Annexe II to the Report on the Position of Roma in the Republic of Slovenia, July 2004) and by taking into account findings made in the field by the professionally trained organisation or institution within the competence of the Ministry of the Environment, Spatial Planning and Energy that carries out evaluation of the work that needs to be done.

This evaluation shall include the following:

- Purchase of land where illegal Roma settlements already exist and urgent regulation of infrastructure;
- urgent regulation of infrastructure in legal Roma settlements;
- costs relating to a necessary and permissible change to the purpose of use of land;
- other costs (project documentation, etc.) necessary to ensure decent housing for members of the Roma ethnic community.

With regard to the programmes of regulation of Roma settlements financially evaluated in this way, the municipalities shall prepare proposals for expert

assistance from the State and the use of funds from the national budget for this purpose.

8. The Ministry of Education, Science and Sport shall be required to prepare the legal basis for the provision of funds from the national budget to pay higher costs for those classes in nursery schools in which Roma children are integrated.

The Ministry of Education, Science and Sport should begin as soon as possible the implementation of the Strategy of Education of Roma in the Republic of Slovenia that was adopted in 2004 by the competent expert councils. The Ministry should prepare an action plan for its implementation by the end of 2004.

In accordance with regulations, the Ministry of Education, Science and Sport, in conjunction with education providers, must ensure regular primary school attendance by Roma children. It shall cooperate on this matter with the Ministry of Labour, Family and Social Affairs or social services centres and other competent bodies.

The competent bodies are obliged to study the possibilities for additional stimulation of education of Roma by means of a scholarship policy for Roma children which takes into account their special position.

9. The Ministry of Labour, Family and Social Affairs is obliged to ensure, within the context of its competences, that social services centres consistently implement statutory acts and implementing regulations in the following ways :
 - by consistently concluding contracts on active addressing of social problems with persons entitled to financial social assistance,
 - in the case of failure to observe a contract on active addressing of social problems, by consistently using the possibility of revoking or reducing financial social assistance,
 - by allocating financial social assistance in a functional form whenever it is established that it is not being used for the purpose for which it is intended.

In the case of the measures under the first paragraph, the Ministry of Labour, Family and Social Affairs shall cooperate with the Ministry of Education, Science and Sport.

10. The Government of the Republic of Slovenia considers that on the part of those entitled to EU funds (cohesion funds and structural funds), funds from the EQUAL initiative (employment) and INTERREG funds (intended for promotion of cross-border, international and inter-regional cooperation, and above all for balanced development of border areas), these possibilities, which affect the autochthonous Roma community, are not sufficiently exploited.

3. MEASURES ADOPTED BY THE REPUBLIC OF SLOVENIA TO IMPROVE THE POSITION OF MEMBERS OF THE NATIONS OF THE FORMER YUGOSLAVIA IN THE REPUBLIC OF SLOVENIA

The Republic of Slovenia realises the petitions and demands of new minority ethnic groups (immigrants and their descendants), as it has done up to now, on the basis of Articles 61 and

62 of the Constitution of the Republic of Slovenia, which provide that everyone has the right to free expression of affiliation to a nation or national community and to cultivate and express his or her own culture and use his or her own language and script. Additionally, the Republic of Slovenia committed itself, in the Declaration of Good Intentions¹⁵, to guarantee the right of universal cultural and linguistic development to all members of other nations and nationalities.

The Republic of Slovenia has already adopted some legal frameworks and practical measures to open the way to realisation of this constitutional provision:

1. Since 1992, the Ministry of Culture has been supporting, as far as material possibilities have allowed, cultural programmes and projects proposed by societies which bring together members of other minority ethnic groups besides the Italian and Hungarian national communities. In 2004 SIT 19 million was provided for such programmes, while approximately SIT 5 million was additionally provided by the Republic of Slovenia Public Fund for Cultural Activities. With the adoption of the Exercising of the Public Interest in Culture Act in 2002, these measures gained a legal basis.
2. Within the contexts specified by statute, everyone in the Republic of Slovenia is guaranteed the right to use his or her mother tongue before judicial and administrative bodies.
3. Everyone is guaranteed the right to use his or her name in its original form.
4. Everyone is guaranteed the right to profess his or her faith.
5. Members of minority ethnic groups have the right of free association in societies and organisations in which they realise their cultural, linguistic and other interests. In 2004 more than 60 such societies were registered in Slovenia.
6. The Primary School Act (Official Gazette of the Republic of Slovenia, 12/1996, ..., 71/2004) opens the possibility of organising instruction in their mother tongue and culture for children of Slovenian citizens living in the Republic of Slovenia whose mother tongue is not Slovene, while instruction in the Slovene language may be additionally organised.
7. Members of minority ethnic communities from the area of the former Yugoslavia (immigrants and their descendants) have access in Slovenia to newspapers, magazines and books in the native language; in a large part of Slovenia it is also possible to receive, via electronic systems, television broadcasts in Croatian, Serbian, Bosnian, Macedonian and Albanian.

In November 2001 the Nationalities Office commissioned a report entitled 'The Position and Status of Members of the Nations of the Former Yugoslavia in the Republic of Slovenia' from the Institute of Ethnic Studies. This research, which is publicly accessible on the Nationalities Office's website, will be the basis for a fresh consideration of the position of these ethnic groups in the Republic of Slovenia and, thus, of what must or can be done so that any justified expectations they may articulate are given due consideration, within the context of Articles 61 and 62 of the Constitution, and adequate solutions adopted.

The authors of the research (Dr Miran Komac, Dr Vera Klopčič, Dr Vera Kržišnik-Bukić) do not occupy a uniform position with regard to the treatment of the position and status of

¹⁵ Official Gazette of the Republic of Slovenia, 44/1990.

members of the nations of the former Yugoslavia in the Republic of Slovenia (immigrants and their descendants).

Also worth mentioning is the research entitled 'Perceptions of Integration Policy in Slovenia' produced by experts from the University of Ljubljana (Faculty of Social Sciences), the Institute of Ethnic Studies and the Slovene Academy of Sciences and Arts.

It should be highlighted that the programmes and measures for the preservation of the linguistic and cultural identity of the minority ethnic communities living in Slovenia are producing positive results.

The Republic of Slovenia will endeavour to do the following:

1. increase the funds already being provided by the Ministry of Culture and the Republic of Slovenia Public Fund for Cultural Activities for the cultural programmes of immigrants and their descendants, since in this way the opportunities for their cultural activity and their equal inclusion in the cultural arena in Slovenia would increase;
2. provide more support to societies which bring together members of minority ethnic groups and in this way help them ensure the basic conditions for their operation;
3. ensure that the competent state bodies grant without delay the status of 'societies in the public interest' to those societies that meet the conditions for this, since this is also the basis for increased material assistance;
4. increase targeted funds for municipalities where members of the nations of the former Yugoslavia live in concentrated numbers. With these funds municipalities will be able to support their various societies more effectively at the local level;
5. study possibilities for the introduction of supplementary instruction in the mother tongue in those primary schools and for those citizens of the Republic of Slovenia whose mother tongue is not Slovene and when clear interest is expressed, the consent of both parents is given and other appropriate conditions are met;¹⁶
6. for education at a higher level, study possibilities for learning the language under the preceding point within the framework of elective subjects.¹⁷

21. Please provide information about the Roma minority and the specific measures taken to improve its situation in regard to employment, education, health and housing (paras. 251, 269 and 274).

Roma and Education

Acts and implementing regulations governing the rights of Roma in education are:

- the Organisation and Financing of Education and Training Act (Official Gazette of the Republic of Slovenia, no. 115/03 - official consolidated text),
- the Pre-School Institutions Act (Official Gazette of the Republic of Slovenia, no. 12/96, 44/00 and 78/03),
- the Elementary School Act (Official Gazette of the Republic of Slovenia, no. 12/96, 33/97, 59/01 and 71/04).

¹⁶ This academic year instruction is being offered in Macedonian, Serbian and Croatian. This is organised on the basis of bilateral agreements.

¹⁷ A syllabus has already been approved for Croatian as an elective subject in the last triennium of nine-year primary school and is being implemented in a few schools. A syllabus for Serbian as an elective subject is being prepared.

The Council of Experts adopted the Instructions for Carrying out the Programme of the 9-year Elementary School for Roma Pupils in 2000, and the Supplement to the Curriculum of Preschool Institutions for Work with Roma Children in 2002.

Roma pre-school children attend forty pre-school institutions in Slovenia, mostly in Dolenjska, Posavje, Bela Krajina, Štajerska and Prekmurje. They are included in Slovene pre-school institutions in three different ways: most of them are integrated in ordinary groups, and the minority in special Roma groups consisting of Roma children only, and in Roma pre-school institutions.

Table 18: Data on Roma in pre-school institutions classes attended only by Roma children (homogenous classes) in the 2003/04 school year

Pre-school institution within the Elementary School of	Pre-school institution of	Pre-school institution B.	Pre-school institution	Pre-school institution Murska	Pre-school institution
Črenšovci	Lendava	Peče, Maribor	Novo mesto	Sobota	Ribnica
No. of children	No. of children	No. of children	No. of children	No. of children	No. of children
12	14	5	27	23	10

In the 2003/04 school-year, 1,469 Roma children were enrolled in elementary schools. In the 2004/05 school-year, 1,547 Roma children were enrolled in elementary schools.

In 2004, the Ministry mostly co-financed the education of adult Roma in Kočevje, Murska Sobota and Črnomelj. Contents: functional and computer literacy, revival of Roma customs and occupations, household skills, etc.

In December 2002, the Ministry set up a special working group tasked with drawing up a strategy for ensuring the participation of Roma in education. The working group consists of experts in the areas of pre-school to adult education and representatives of the Ministry of Education, Science and Sport, the Union of Roma of Slovenia, and the National Education Institute. The Working Group drew up a strategic document entitled "Strategy for Education of Roma in the Republic of Slovenia", which was adopted by the competent expert councils in May/June 2004.

The document provides a basis for further measures in the education of Roma, while also containing an analysis of the situation to date and the Ministry's measures, a review of key unresolved issues and proposals for their settlement (e.g. integration of Roma children in pre-school institutions, abolishing prejudices, permanent professional teacher training, etc.). The document also covers education of Roma from pre-school to adult age. The Union of Roma of Slovenia was involved in the formulation of this strategic document, and will also be engaged in its implementation.

The following are the most important solutions provided for in the document:

- Early inclusion in the education system: inclusion of Roma children in pre-school institutions at least two years prior to their enrolment in elementary schools, i.e. when they are four years of age at the latest. The main purpose of this inclusion of Roma children in pre-school institutions is to learn the language (Slovene and Romany) and to get socialised in an educational institution that applies experience and patterns which facilitate the child's entry and integration into elementary school;

- Roma assistant: lack of knowledge of the Slovene language and unsuccessful integration of children may be overcome or alleviated by a Roma assistant who will help children overcome the emotional and linguistic barriers and represent a bridge between the pre-school institution and school on the one hand and the Roma community on the other.
- adapting programmes in terms of substance: introduction of Romany language lessons in elementary schools as an optional subject, learning of the Slovene language, identification of objectives (e.g. multiculturality) or standards of knowledge in curricula to be achieved through the contents taken from the Romany culture, history and identity;
- in-service training and additional educational programmes for professionals;
- specific forms of organisation and material conditions: to preserve the currently applicative norms at least ; to continue providing financial support and assistance of the Ministry of Education and Sport;
- no segregation and homogenous classes; use approaches such as individualisation, internal and flexible differentiation, levelled classes;
- different forms of learning assistance;
- confidence-building in school and removing prejudices (a special school scheme defining communication and cooperation activities involving the parents of Roma children and a scheme for identifying and continued removal of stereotypes and prejudices that occur among the majority population in relation to Roma pupils);
- Roma pupils as an ethnic group are not pupils with special needs (pupils' poor results in school deriving from the lack of knowledge of the language or from specific features of the Romany culture cannot provide a basis for directing children into programmes with a lower educational standard);
- adult education: the starting point for identifying the objectives in educating adult Roma are the basic goals set out in the National Programme of Adult Education in the Republic of Slovenia until 2010 (to improve the general education level of adult population, whereby a 4-year secondary school is the basic educational standard, to increase employability of adult population and their participation in lifelong learning). Special attention will be devoted to the education of adult Roma to improve their educational level and develop labour force, to the establishment of consultancy centres or networks in the areas where Roma live, as well as to the institute of a Roma coordinator, special norms and standards for programmes involving adult Roma, to ensure funds for potential participation in programmes and learning assistance free of charge.

The Ministry of Education and Sport of the Republic of Slovenia will work together with other relevant ministries in settling the issues which surpass the problem of education but nevertheless have an impact on education. The Ministry will also establish links with other institutions (National Education Institute of the Republic of Slovenia, Centre of the Republic of Slovenia for Vocational Education and Training, Slovenian Institute for Adult Education, Institute of Public Health, Health Protection Institute of the Republic of Slovenia, Employment Office of the Republic of Slovenia, Chamber of Commerce and Industry of Slovenia, Chamber of Craft of Slovenia, etc.). The Ministry will continue to provide its support to research and development projects which promote measures that are in compliance with this strategy.

It has to be underlined that certain objectives are long-term objectives, so the document provides for the drafting of action plans covering individual areas.

Since May 2005, the working group has been managed by the president of the Union of Roma of Slovenia. Its most important task is to prepare an action plan for the implementation of the strategy.

In order to facilitate the planning of new measures, the Ministry also co-finances some target research programmes:

- within target research programmes, the Ministry has since 2002 also co-financed the project entitled the “Development of Models for the Education and Training of Roma Aimed at Increasing Regular Employment” carried out by the Institute for Ethnic Studies (duration 2002-2004);
- the Ministry has since 2003 also co-financed the research and development project entitled “Ensuring Equal Opportunities in Education for Roma Children and Their Families” carried out by the Educational Research Institute (duration 2003-2005). The project focuses on the integration of Roma children into schools, an increase in school efficiency, adequate training of experts, and on work with parents. The project also aims to reduce intolerance towards Roma. On the basis of an evaluation upon the conclusion of the project, an attempt will be made to transfer the solutions to schools that have not been involved in the project;
- since 2004 the Ministry has been co-financing a development and research project entitled “Standardization of the Romany language in Slovenia and including the Romany culture in education” which is carried out by the Faculty of Education of Ljubljana (duration: 2003-2006).

In accordance with the Programme of Assistance to Roma from 1995, the Resolutions of the Government from 1999, the Resolutions of the Government from 2004 and the statutory basis (Organisation and Financing of Education Act, Nursery Schools Act, Primary Schools Act), the Ministry of Education, Science and Sport grants schools with Roma pupils additional teaching hours for the joint provision of instruction outside the main class, whereby pupils attend after-school classes.

The norms and standards for forming classes are more flexible for Roma. For example, at primary school the norm for the formation of one class in which there are at least 3 Roma pupils is 21 pupils.

Special workbooks are also prepared for Roma pupils for maths, Slovene language, and nature and society. The State provides extra funds to schools for Roma pupils on a monthly basis (purchase of teaching aids and costs relating to activities and excursions) and a reimbursement for break-time snacks. Scholarships are provided for Roma university students – with priority given to those studying to be teachers.

It should be mentioned that attempts are under way in Slovenia to create a Romani grammar and vocabulary. Particular mention is due to Mr Rajko Šajnovič in Dolenjska and Mr Jožek Horvat-Muc in Prekmurje, where historically the Roma population has been largest. These two authors have prepared a draft grammar of the Romani language, although for the time being this is still rather unstructured.

Employment

The general picture of unemployment of Republic of Slovenia points to a concentration of Roma in a few areas, particularly Prekmurje and Dolenjska, which also represents a regional problem. The education structure is very poor. In Dolenjska 98.2% of unemployed Roma

have not completed primary school, while the figure for Prekmurje is 90%. The number of registered unemployed Roma is increasing every year. According to information from regional employment offices and services where unemployed Roma are registered, some employers actually have a negative attitude towards Roma. Despite this we can state that the main reason for the high unemployment of Roma is their very low level of education. By way of example we should state that in Dolenjska only 1.5% of registered unemployed Roma have a level II vocational education qualification and only 0.3% have a level IV qualification. With such an educational structure the opportunities to get a job or keep a job are relatively few.

The Ministry of Labour, Family and Social Affairs and employment offices have for a number of years been creating and implementing special active employment policy programmes for unemployed Roma. The aims of these special programmes are social inclusion and preparation for employment, which also includes training and education and (direct) employment. The content of the programmes is adapted to the needs of the groups. They include the following:

- Social inclusion programme,
- Special programmes for employment,
- Special programmes for education,
- Employment of Roma programme.

In past years the Ministry of Labour, Family and Social Affairs has also defined special measures, projects and programmes aimed at creating employment for Roma:

- Equal Employment Opportunities for Roma – Our Common Challenge,
- Subsidised Employment: Thousand New Opportunities Programme,
- Public Works Programmes.

Given the willingness of the Ministry of Labour, Family and Social Affairs for new steps to be taken in the sphere of the employment of unemployed Roma in Slovenia, an initiative was put forward at a meeting on 7 August 2003 between the Union of Roma of Slovenia and the Ministry of Labour, Family and Social Affairs under the title 'A solution must be found to the Roma problem in the sphere of unemployment'. It was resolved that the Ministry of Labour, Family and Social Affairs, in conjunction with the Union of Roma of Slovenia, would implement employment programmes designed to open up new jobs and give support to the Union of Roma of Slovenia for this field at other ministries.

In accordance with Government Programme of Measures of Assistance for Roma adopted on 30 November 1995, the Resolutions of the Government of the Republic of Slovenia adopted on 1 July 1999 and the Resolutions of the Government of the Republic of Slovenia adopted on 7 October 2004, the regulation of employment opportunities or the regulation of full-time jobs at the offices of the Union of Roma of Slovenia in Murska Sobota and Novo Mesto is in the national interest and is urgently necessary for the continued operation of the Union and its endeavours.

In cooperation with local communities, the Ministry of Labour, Family and Social Affairs will in future enable the expansion of the public works programme for Roma, in particular in the sphere of environmental regulation both in Roma settlements and more widely in local communities, and with regard to offering teaching assistance to Roma children during schooling. This will enable the inclusion of 50 more people in these programmes. The purpose of the programmes is to increase the employment opportunities of Roma in the local

environment. The national employment service will take an active part in designing these programmes and will take into account experience from previous years

Under current legislation, and with the aim of increasing the employment of Roma, social services centres have the possibility of concluding individual contracts with persons entitled to assistance. Article 32 of the Social Protection Act states that *‘A social services centre may, on the basis of a definition of social problems, or hardship and difficulties and an assessment of possible solutions, conclude with an entitled person a contract on the active addressing of his social problem, in which the activities and obligations of the entitled person are specified and his eligibility for financial social assistance ceases in the case of failure to respect the terms of the contract.’*

At the same time the applicable Slovenian legislation provides for a possibility to motivate the employers by entitling them to subventions in accordance with the Article 36 (a) of the Social Protection Act if the employ of a long term employed person (for example a Roma). In accordance with Article 36 (a) of the Social Protection Act the employer which has concluded the employment relationship for an indefinite period with a long term unemployed worker that receive social assistance for at least 24 month during the last three years, is entitled to and employment subvention. The decision on the subvention is rendered by the Employment Service of Slovenia with the agreement of the competent Social Work Centre, The Employment Service of Slovenia supervises the fulfilment of the contract obligations and in the case of violation, takes appropriate measures; if the employment have elapsed he must reimburse the whole amount of the subvention. When reasons for terminating the relationship rest with the employer the case are solved by substitute employment.

Data show that in 2004 only 30 social assistance recipients – out of 300 planned – were employed in such a manner. In consequence, this measure will be changed by the planned amendments of the Act.

In the field of anti-discriminatory measures, the Equal Opportunities Office, for the purpose of bringing Slovenia’s legislation into line with European legislation, has prepared the text of a bill on the implementation of the principle of equal treatment which has been adopted by the National Assembly (Realisation of the Principles of Equal Treatment Act (ZUNEO), Official Gazette of the Republic of Slovenia, 50/04. and which includes the necessary anti-discrimination measures in accordance with European Union directives.

Living conditions

The majority of Roma still live in settlements that are isolated from the rest of the population or on the edge of settled areas in conditions below minimum living standards. Figures show that 39% of Roma live in houses, half of which are built without the necessary permits, while just 12% live in flats. The remainder live in private dwellings – shacks, containers, caravans, etc.

According to available data, there are 90 Roma settlements in just over 20 municipalities in Slovenia. The largest Roma settlement is Pušča in the Murska Sobota urban municipality. This settlement is home to around 670 inhabitants. The smallest settlement, with just two inhabitants, is Pince in the Lendava municipality.

In September 2004 the National Fund for Regional Development and the Preservation of Settlement of Rural Areas published a 'Public call for tenders for the co-financing of basic communal infrastructure projects in Roma settlements' in the official gazette (Official Gazette of the Republic of Slovenia, 98-99/2004). In the preparation of this call for tenders the Nationalities Office worked closely with the Government Structural Policy and Regional Development Service (since renamed the Government Service for Local Self-Government and Regional Policy). The Nationalities Office proposed to municipalities with a Roma population that they submit tenders and in this way obtain suitable funds for the regulation of infrastructure in Roma settlements and the purchase of land (arrangement and rounding-off of Roma settlements).

In December 2004 the Housing Fund of the Republic of Slovenia published a 'Programme to encourage the provision of non-profit rental accommodation in municipalities for 2005' in the official gazette (Official Gazette of the Republic of Slovenia, 111-112/04). This programme was among other things aimed at addressing the housing problems of various social groups (Roma, etc.). Under this programme, a municipality, public property fund or non-profit housing organisation may obtain a loan and grants (co-investment principle).

Health care

Owing to the specific nature of the Roma population, the health of Roma is not as exclusively dependent on health care as the health of other groups of the population. Given the special characteristics of their culture and tradition, sometimes tied to ancient customs of natural and magic healing, their health also depends on improvements to housing and living conditions, hygiene, employment and greater social security, and also education.

The Ministry of Health states that health care institutions and services provide routine health care for Roma. The Infectious Diseases Centre at the Public Health Institute has studied aspects of the accessibility of the health service that carries out vaccinations and in 2000 collected data on the vaccination of pre-school and school-age Roma children. Analysis of the data showed that the percentage of those vaccinated against all diseases is considerably lower than the Slovenian average. A special project working group has also been set up to improve health and prevention for Roma. This working group has prepared conferences with representatives of the Union of Roma of Slovenia and health care institutions in the field. The group will continue to work in the direction of promoting healthy eating among Roma children.

In accordance with the findings above and in accordance with the development policy of the Ministry of Health, the improvement of Roma health – because of its importance and special characteristics – has been included in the national programme of health promotion and prevention.

22. What is the legal distinction between "indigenous" (autochthonous) and "new" (non-autochthonous) Roma? What measures have been taken or are foreseen to reduce the number of cases of those without official documents or who are stateless (para. 272)?

In the case of this distinction, it is important to be aware that 'autochthonous' is a concept that exists and is applied in Slovenia's legal system. The concept of autochthonous appears twice in the Constitution of the Republic of Slovenia (Articles 5 and 64), but no final definition is provided. It should be stressed that the concept is not defined in international law either. In most cases we talk about the autochthonousness or historical settlement of a given community if it has been present in a given territory for at least two generations. In the case of the Italian

and Hungarian national communities, they live in precisely defined ethnically mixed areas where members of these communities have lived for centuries and are only separated from their mother country by the national border. In other words they have always lived here but owing to historical and political circumstances have remained within the borders of another country.

The situation is different with the Roma ethnic community, which does not have the position of a national minority. It is an ethnic community or minority with special ethnic characteristics (own language, culture and other specific ethnic characteristics). The legal basis for the statutory regulation of the special rights of Roma in Slovenia is in Article 65 of the Constitution of the Republic of Slovenia, which provides that *'the status and special rights of the Roma community living in Slovenia shall be regulated by statute.'*

In the territory of present-day Slovenia, Roma are mentioned by historical sources from as early as the 15th century, while from the 17th century onwards information about them is more common and they can also be found in registers of births, marriages and deaths. Research shows that the settlement of Roma in this area followed three routes: the ancestors of the Roma living in Prekmurje came to Slovenia across Hungarian territory; the Dolenjska group of Roma came via Croatia; and small groups of Sints settled in Gorenjska having come from the north via present-day Austria. Although these are peoples who initially lived a mainly nomadic lifestyle with frequent changes of abode, today it is possible to talk about self-contained areas of settlement in Prekmurje, Dolenjska, Posavje and, to a lesser extent, Gorenjska. In these areas Roma are counted among the traditional inhabitants and settlement has been more or less permanent right up to the present day.

Discussions about the specification of the individual areas where Roma are supposed to be historically or traditionally settled (autochthonous) in Slovenia are still continuing. The Institute of Ethnic Studies is currently preparing research commissioned by the Nationalities Office. The data and findings from this study should contribute to greater clarity of the concept of autochthonousness.

23. The law allows only the Italian and Hungarian minorities the right to be represented as a community in Parliament. Please explain this situation, in particular in view of the fact other minorities are numerically larger than the Italian and Hungarian communities (paras. 270 and 275).

Three approaches exist in the Republic of Slovenia for the regulation of the situation of members of various nations. Members of the Italian and Hungarian national communities enjoy collective rights in addition to individual rights (these include representation in the National Assembly). The position of the Roma community, which does not have the position of a national minority, is under the Constitution left to sectoral statutory regulation by means of which their special rights are defined. Members of other nationalities enjoy individual rights under the Constitution. These rights enable them to preserve their national, linguistic and cultural characteristics in various ways.

Good grounds exist for the differentiation in the rights granted to these various groups. The Italian and Hungarian national minorities are historic (autochthonous) national communities present in a specific settlement area throughout a long period of history. It should also be pointed out that the rights of the two national communities and their members are guaranteed irrespective of the number of members of the community.

Efforts with regard to the representation of the autochthonous Roma ethnic community in the National Assembly were already under way at the time of the preparation of Slovenia's new constitution (1989–1990) but for reasons unknown the regulation of this issue was postponed.

Article 27 of the Covenant provides that in States in which ethnic minorities exist, persons belonging to those minorities shall not be denied the right, in the community with the other members of the group, to enjoy their own culture. This right is conferred on individuals belonging to minority groups.

Besides the above-mentioned article there also other **normative basis** used by Ministry of Culture for the measures in the field of minorities. Such are: Article 61 of the Slovenian Constitution, Law on Public Interest in the Field of Culture, Framework Convention for the Protection of Ethnic Minorities and European Charter for Regional or Minority languages. Under article 61 of the Slovenian Constitution everybody has the right to express freely belonging to his community, to express his culture and use his language. These are individual cultural rights. People need not be nationals or citizens, they need not be permanent residents, but they can enjoy their own culture and can contribute to the cultural diversity as a wealth of variety. Under article 8 of the Law on Public Interest in the Field of Culture public interest is implementing through conditions for cultural diversity. Article 65 of the Law mentioned defines the basis for the programs for minorities and immigrants. In addition to the bilateral agreements on minority rights there exists also the above mentioned legislation for the protection of cultural rights of ethnic minorities.

Ministry of culture has developed **the goals of minority cultural policy** which take into account the existence of different cultures in the territory of the Republic of Slovenia: the Italian and the Hungarian ethnic communities, the Roma Community, other minority ethnic communities and immigrants in the Republic of Slovenia. One of the goals is to stimulate through special measures the cultural activity and in particular the cultural creativity of the people belonging to minority groups taking into account the special circumstances in which these communities live, their tradition and values, and the special features of their cultural needs. Among the goals there are also the following: to encourage mutual respect and cooperation among various ethnic communities, to encourage better linguistic competence among the members of minority ethnic communities, to enable broader acquaintance of the population of Slovenia with the special cultural features of ethnic minorities and to cooperate with local communities in creating better conditions for the cultural work of the members of minority groups. The goals are implemented by the performance of the projects financed by Ministry of Culture.

There is a **special section in the Ministry of Culture**, which is responsible for the conditions for the protection of cultural rights of minorities and the development of cultural diversity. The activities of the section are the following: creating adequate normative basis and goals in cooperation with minorities; consulting and expert or administrative help for the users, especially for the minority artists; mediation, if needed; observing media reporting on minorities; cooperating with the researchers in the field, especially with the Institute for Ethnic studies. The section is open for the participation of members of minority communities in decisions which affect them, for the expression of their cultural needs and problems and is trying to satisfy needs and solve their problems in accordance with its competence. One of the activities of the section are procedures, connected by financing cultural programs and projects of minorities.

Cultural programs and projects of minorities

Ministry of Culture takes into account that culture manifests itself in many forms, including a particular way of life. So the programs and projects, financed by the Ministry are very different and include: publications, mother-tongue books, magazines and newspapers, contacts with the mother country, round tables, lectures and seminars on cultural and historical themes, amateur cultural activities, language camps and workshops, manifestations and presentations (in the field of literature, film, music etc). There are also joint projects performed by different minority communities. All these are positive measures of protection. Their extension depends on the ability of a minority group to maintain its own culture and the financial possibilities on the part of the State.

The annual expenditure for the special protection of the culture of minorities is about 150.000.000 SIT - 626.054 EUR) . That means cca. 0,5 % of the budget of the Ministry of Culture. Inside financial specification of the programs is the following for the year 2004: 29,6% for Italian minority, 48,9% for Hungarian minority, 8,8% for Roma minority and 12,7% for all other ethnic minorities, most of them consist of people, coming from ex Yugoslav republics. The situation is different in 2005 because the budget for the so-called new minorities will be increased for 100%.

In addition to the above-mentioned **special program** an **integration program** is actual when projects of members of ethnic minorities satisfy the criteria of the regular arts programs of the Ministry. In these cases the sector, responsible for minorities, prepares recommendations for the responsible cultural institutions.

As it has been explained above Ministry of Culture creates conditions for cultural diversity as a wealth of cultural life and the life of society as a whole and includes positive measures for all, including new (non-autochthonous) Roma and other de facto ethnic minorities. Contacts with various minority groups are realized. On 6th of June this year there was for example a special meeting of minister of culture and the Coordinating Committee, consisting of associations of people from the ex Yugoslav republics.

The protection of cultural rights is now and will be in future, too, directed towards ensuring the survival and continued development of the cultural identity of the minorities. **The priority will be given to the following measures:**

1. increase of finances for supporting the cultural activities of minorities (this is to be/has been realized in June 2005, the budget for the so called new minorities is to be increased for 100 %);
2. cooperation of the Ministry of Culture with the Public Fund for Amateur Cultural Activities and local communities in providing better basic conditions (money, assistance of trained specialists, infrastructure etc.) for cultural work of the minority associations and cultural groups;
3. the best associations will be given the status of organizations of public interest;
4. Ministry of Culture will intensify dialogue with the representatives of different minority groups so as to help them solving actual problems in the field of culture. Such a dialogue will in addition stimulate their quality integration into the society.