



DEMAND DIGNITY DE

## ROMA DENIED RIGHTS TO HOUSING AND WATER IN SLOVENIA

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*Cover photo:* A Romani girl collects water for her family every day from a dirty stream near Dobruška vas, Slovenia, September 2010. Her family uses the dirty water for washing, cooking and drinking. © Arne Hodalič

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# 1. INTRODUCTION

*"We would like to live like people. Not like we do now, without water and electricity."<sup>1</sup>*

Ljubo Novak lives with his partner Dunja Hočevar and eleven children aged between 3 months and 15 years in an informal Roma settlement of Dobruška vas in Škocjan municipality. They live in an overcrowded one-room wooden hut of 30 m<sup>2</sup>. They have no security of tenure, limited access to safe water, no electricity and no sanitation. They collect water for drinking, cooking and washing from the dirty stream near their home. They have no toilet and no bathroom.

Their neighbour Vanja Hočevar lives with her partner Ivan Kavčič and nine children in similar conditions. She said: *"We built this wooden hut but they don't allow us to build anything else. There are rats, mice and cockroaches everywhere."*<sup>2</sup>

Three years ago Vanja Hočevar and her partner Ivan Kavčič attempted to buy a property and move outside the Roma settlement, but the owner said that he didn't want to sell his property to Roma. They cannot access social housing through a public call to apply for non-profit rented housing since the Škocjan municipality has not issued one for years.



Ljubo Novak and his children. ©Arne Hodalič

Most of the Romani population in Slovenia live in isolated and segregated settlements or slums in rural areas. Their housing and living conditions that are far below international standards; many live in poorly constructed dwellings such as small wooden huts (known locally as “barracks”). Many of these settlements are informal settlements and residents lack security of tenure. They have poor or limited access to services and infrastructure such as water, sanitation and transport facilities. Widespread discrimination often prevents Romani families from buying or renting housing in other areas. There are a number of documented cases in which other communities have blocked attempts to locate Romani families in the areas that they reside in or prevented private sales of properties to Roma. In most municipalities Romani families face particular barriers in accessing the few existing options for non-profit rented housing. These barriers include lack of information, biased attitudes and discriminatory criteria for allocation.

This report documents violations of the right of Roma in Slovenia to adequate housing. It describes the poor conditions in which many Romani communities live, and examines the failure of the government to address insecurity of tenure in the decades since the informal settlements were set up. It also looks at how the government has failed to address the insecurity of tenure of Roma living on socially owned property<sup>3</sup> when these properties were transferred to municipalities in the post-independence period or returned to private owners during the denationalisation process. It failed to confer a minimum degree of security of tenure on Romani communities, in particular protections against forced evictions, regularize their situation or provide them with alternatives in terms of resettlement.

Under Slovenian law, citizens can only obtain access to services if they own or hold other legal claims over the land on which they live, along with requisite planning permission. Due to their lack of security of tenure, many Roma are therefore unable to access even minimum essential levels of water and sanitation. Although a number of municipalities have waived these requirements for informal Roma settlements some, particularly those in southeast Slovenia, have failed to take adequate measures to provide these essential services.

Some communities are forced to collect water from petrol stations, cemeteries and polluted streams. Amnesty International found that some people are only able to collect 10–20 litres a day for drinking, bathing and cooking – below the minimum recommended even in humanitarian emergencies. Very few of the settlements are connected to the public sewage system. The main options for residents are to construct outdoor toilets — holes in the ground that are covered with mud when they are full, sheltered by basic wooden structures — or use nearby wooded and other open areas.

The denial of the rights of Romani communities to adequate housing, water and sanitation negatively impacts their rights to education, work and health, and feeds into a cycle of poverty and marginalization. For instance, in most of the settlements visited while conducting the research, Amnesty International heard frequent reports of Romani children stigmatised as “smelly” and “dirty” by other students in schools. The lack of water and sanitation also particularly affects Romani women who bear the responsibilities for washing and cleaning children and clothes and struggle to find privacy for their own hygiene and sanitation needs. Following her mission to Slovenia, on 28 May 2010, the UN Independent Expert on human rights obligations related to safe drinking water and sanitation, issued a statement saying: “*The consequences of this lack of access to water and sanitation are devastating for these communities.*”<sup>4</sup>

Amnesty International acknowledges and welcomes positive steps taken by the government of Slovenia to address the situation of the Roma community. Amnesty International records some improvements in recent years especially in relation to the political participation of Roma and the level of their inclusion in the education system. Housing conditions have been improved in some municipalities in response to policy initiatives. The Roma Community in the Republic of Slovenia Act<sup>5</sup> (hereinafter referred to as The Roma Community Act), which aims to ensure the rights of the Roma community, was adopted in 2007. The National Programme of Measures for Roma, for the period 2010 to 2015, was adopted in March 2010. This programme sets out measures for improving housing conditions, access to education, employment, and health care, to stimulate Roma culture and tackle discrimination.

Under international human rights law, Slovenia is obliged to address discrimination, to end segregation, to ensure at least a minimum security of tenure to all persons who lack it, to provide adequate housing for all persons without discrimination, to prioritise the most disadvantaged groups in housing policies and programmes, and to guarantee access to at least the minimum essential levels of water and sanitation for all persons. Slovenia has failed to comply with these obligations and confer security of tenure to people living in informal settlements and to provide access to water and sanitation to all persons, including those living in informal settlements.

Spatial planning and provision of infrastructure within settlements fall within the competencies of municipalities. The government has however failed to put in place adequate monitoring and regulatory frameworks to ensure that municipalities comply with international human rights standards in relation to adequate housing, water, sanitation and non-discrimination. Instead the government has taken the position that it cannot compel municipalities to take particular actions to address insecurity of tenure, improve housing and living conditions in informal settlements or provide people with access to water and sanitation. Implementation of measures to improve the situation in Roma settlements is therefore dependent on the political will of each municipality. Under international law, a state cannot invoke internal law to justify a failure to perform its obligations under international treaties.

The report exposes the failure of the Slovenian government to ensure non-discrimination and equality. The government does not have an adequate monitoring and institutional framework to combat discrimination against the Roma by private and public actors; nor does it have in place effective means to ensure appropriate remedies for victims.

Amnesty International considers these failures as violations of Slovenia's obligations under the International Convention on the Elimination of Racial Discrimination (ICERD), the International Convention on Economic, Social and Cultural Rights (ICESCR) and the Revised European Social Charter.

Amnesty International therefore calls on the authorities of Slovenia:

- To address discrimination against Roma from public and private actors, strengthen mechanisms for monitoring discrimination and provide the victims with effective redress;
- To immediately ensure at least the minimum essential level of safe water for personal and domestic use and sanitation in all Roma settlements;

- To confer security of tenure on all people living in informal settlements who currently lack it. All persons must be provided with protection against forced evictions; settlements should be regularized where possible or adequate alternative housing and resettlement options made available. The government should undertake a genuine consultation with all affected communities on its plans and ensure that all regularization and resettlement programmes comply with criteria for adequacy of housing under international law;
- To review and monitor all spatial plans and housing programmes to ensure that they do not discriminate against the Roma or further entrench segregation. Authorities should also identify and make available housing options outside of Roma settlements that are accessible to Romani communities;
- To improve inadequate housing conditions in Roma settlements through modification of regulatory frameworks to enable people to regularize construction where possible, and by providing support to upgrade and improve buildings;
- To prioritise Romani communities living in informal settlements and other disadvantaged groups in all housing policies and programmes, including schemes for non-profit housing and housing subsidies.

Amnesty International's work on the housing conditions of Roma in Slovenia follows from work on the enjoyment of the right to education of Romani children, which started in 2006 with the report *False starts: The exclusion of Romani children from primary education in Bosnia and Herzegovina, Croatia and Slovenia*.<sup>6</sup> Amnesty International has also campaigned against the unlawful "erasure" in 1992 of thousands of people from the Slovenian registry of permanent residents, which has ongoing negative effects on the human rights of the individuals concerned. Amnesty International's research highlighted that the "erasure" and the subsequent and ongoing failure to regulate the status of the "erased" have disproportionately affected Roma and in general non-ethnic Slovenes, as well as other marginalized people.<sup>7</sup>

The report is part of Amnesty International's Demand Dignity campaign, which focuses on human rights violations that drive and deepen poverty. As part of the campaign, Amnesty International is focusing on human rights violations against people living in informal settlements and slums. Amnesty International is calling on all governments to end forced evictions, ensure equal access to public services, and promote the active participation of people living in informal settlements and slums in decisions and processes that impact their lives. The report also forms part of Amnesty International's Fight Discrimination campaign, which aims to ensure that all individuals in Europe enjoy effective protection against discrimination.

## BACKGROUND

*"Most Roma in Slovenia continue to live in settlements that are isolated from the rest of the population or on the outskirts of inhabited areas, in conditions that are far below any minimum living standard. Some live in houses or flats, but most live in haphazard dwellings such as shanties, containers, trailers and the like. Only a small number of Roma live with the majority population (mostly in Prekmurje region) and have attained a satisfactory level of socialisation and satisfactory integration with the environment and the society."*<sup>8</sup>

National Programme of measures for Roma (2010–2015).



In the 2010 UN Human Development Report, Slovenia is assessed as a country with very high human development. It is ranked 29th among 169 countries on the Human Development Index, which combines information on life expectancy, schooling and income in a simple composite measure.<sup>9</sup> Slovenia's GDP per capita in 2009 was 17,331 euro, one of the highest in Central Europe. In 2009, 11.3 per cent of people lived below the poverty line. Households without employed members experienced the highest levels of poverty, especially those with dependent children.<sup>10</sup>

The majority of Roma in Slovenia live in conditions of poverty and are marginalized in education, employment and housing. There are no detailed records on the number of Roma living in poverty or on other key socio-economic indicators, since data in these records are not entered in relation to ethnic origin.

The Slovenian authorities and other sources estimate only 2 to 10 per cent of all Roma in Slovenia are employed.<sup>11</sup> This reflects decades of exclusion and segregation in the educational system. For instance, 98.2 per cent of unemployed Roma in Dolenjska region and 90 per cent in Prekmurje region did not finish elementary school.<sup>12</sup> Social benefits (social allowance and child supplements) provide the only source of income for the majority of Romani families.<sup>13</sup> This situation can be partially explained by the fact that many Roma lack the level of education and skills required to find employment. It is compounded by the discrimination that confronts Romani communities. According to Slovenian authorities it is evident that some employers are reluctant to hire Roma.<sup>14</sup>

Despite measures introduced by the Slovenian government in recent years, which have led to improvements regarding the inclusion of Romani children in the educational system, Amnesty International is still recording alarmingly high dropout rates. For instance, 13 out of 22 Romani pupils in first grade did not advance to second grade in Leskovec pri Krškem Primary School in the school year 2009/2010, while only one Romani pupil was enrolled the final ninth grade, but did not complete the year.<sup>15</sup> In the school year 2008/2009, 14 out of 25 Romani first grade pupils in Bršljin Primary School in Novo mesto did not advance to second grade and only two Romani pupils were enrolled in the ninth grade.<sup>16</sup>

Roma have been living on the land that makes up the Slovenia of today since the 14th century. According to official sources the number of Roma in Slovenia is now estimated to be between 7,000 and 12,000, which represents approximately 0.5 per cent of the whole population.<sup>17</sup> Most of the Roma in Slovenia are concentrated in the Dolenjska, Posavje and Bela krajina regions in the southeast of the country, and in the Prekmurje region in northeastern Slovenia near the border with Hungary. Some Roma also live in Slovenian urban centres, mostly in Ljubljana, Maribor and Velenje.<sup>18</sup> According to the data from the 2007 survey undertaken by the Expert Group on Roma settlements there are 105 settlements in Slovenia that are inhabited by Roma only.<sup>19</sup> It is estimated that around 9,000 people live in these settlements. Most of the Roma settlements are small, with fewer than 50 inhabitants. Only seven of them have more than 200 inhabitants and just two are home to over 500 people.<sup>20</sup>

Slovenian legislation makes arbitrary distinction between Romani communities sometimes labelling them "autochthonous" or "non-autochthonous" Romani communities. While the term "autochthonous" is not defined in Slovenian law, the Slovenian Constitutional Court accepted that in those cases where Roma settlements were present on a certain territory "for centuries", their inhabitants should be considered "autochthonous Roma".<sup>21</sup> The Local Self-Government Act, which provides for the political representation of the Roma, includes a list of 20 municipalities where

Roma are regarded as "autochthonous". Only these municipalities are obliged to have an elected Roma councillor in municipal councils. In a similar vein, the provisions of the Roma Community Act, which was adopted in 2007 and provides for the rights of Roma as a minority community, including the right to have a Roma councillor in the municipal council, only apply to the Roma living in municipalities where Roma are regarded as "autochthonous". Various international treaty monitoring bodies have highlighted concerns about this distinction and classification.

While Roma are not the only people facing poor living conditions in Slovenia, the living standards of the majority of the Romani communities are well below that of the general population. Roma continue to be subjected to discrimination by private and public actors.

For instance, in 2007, the Žužemberk authorities prevented a Romani family from moving to the Žužemberk municipality with the mayor saying that he would *"definitely prevent the sale of a real estate to Roma... If a Roma wanted to move to our municipality, our people would decide whether to accept him or not by referendum"*.<sup>22</sup> In 2010, in Trebnje municipality, non-Romani parents from one of the local communities<sup>23</sup> boycotted a New Year event for children because Romani children were also invited.<sup>24</sup> Romani individuals were barred from the Novo mesto Red Cross warehouse during their general opening hours for the distribution of humanitarian aid.<sup>25</sup> In January 2010, more than 100 people demonstrated in protest against the burial of a Romani woman in the local cemetery. The burial was subsequently carried out with the presence of the police. Anti-Roma statements and hate speech are very common on Internet forums.

*"Considering the difficulties faced by the Roma community in Slovenia... this community may be defined as the most exposed to discrimination on the grounds of national and ethnic origin."*

National Programme of Measures for Roma (2010–2015)<sup>26</sup>

## METHODOLOGY

Information in this report reflects research conducted in Slovenia between May 2009 and January 2011. Amnesty International researchers visited the Roma settlements Žabjak in municipality Novo mesto, Goriča vas in Ribnica municipality, Dobruška vas in Škocjan municipality, Smrekec, Ponova vas and Pri Nikotu in Grosuplje municipality, Dolga vas in Lendava municipality, Beltinci in Beltinci municipality, Hudeje in Trebnje municipality, Loke and Kerinov grm in Krško municipality, Draškovec and Roma settlement on Trdinova cesta in Šentjernej municipality, Sovinek in Semič municipality, Kanižarica and Beličnik in Črnomelj municipality and Mestni log and Trata pri betonarni in Kočevje municipality.

The report draws on individual interviews with residents of the settlements listed above. From these interviews clear patterns and issues emerged about the factors affecting the attainment of the right to adequate housing. Contacts with Romani communities living in informal settlements have been of pivotal importance in shaping Amnesty International's recommendations in the report. The recommendations reflect the needs of members of Romani communities as well as international human rights standards.

During the course of the research, Amnesty International representatives met with governmental and municipal officials, Roma and non-Roma non-governmental organizations (NGOs) and public officials in the social services department. Amnesty International met with representatives of the Ministry of Environment and Spatial Planning, the Office for National Minorities, the Human Rights

Ombudsman, the Advocate of the Principle of Equality and the President of the Expert Group for solving Spatial issues of Roma settlements in Slovenia. Amnesty International representatives met with municipal officials from Beltinci, Kočevje, Krško, Ribnica, Semič and Šentjernej municipalities and talked to representatives of Novo mesto, Škocjan and Trebnje municipalities. In September 2009, Amnesty International sent questionnaires regarding housing conditions of Roma to all 210 Slovenian municipalities, to which eight of them responded. Amnesty International sent letters to the Ministry of Environment and Spatial Planning in May 2010 and December 2010 and received responses; relevant aspects of the information contained therein are included in the report.

Background information about Roma settlements in Slovenia was collected from official and academic sources. Two surveys of an Expert Group for solving spatial issues of Roma settlements in Slovenia, established by the Ministry of Environment and Spatial Planning (hereafter the Expert Group on Roma settlements), also served as important sources of information regarding Roma settlements (later referred to as 2007 Survey and 2010 Survey).<sup>27</sup> Both surveys aimed at updating information about Roma settlements in Slovenia and are based on questionnaires sent to municipalities and administrative units. According to the Slovenian government, despite some incomplete or incorrect data, the surveys demonstrate the current extent of the problems around lack of spatial planning of Roma settlements in Slovenia.<sup>28</sup> Wherever appropriate, Amnesty International has also referred to the study commissioned by the EU Fundamental Rights Agency and undertaken by the Peace Institute on Housing Conditions of Roma and Travellers, which examines the legal and policy initiatives adopted by Slovenia in detail.<sup>29</sup>

The report uses the term "Roma settlement" to mean a conglomeration of varying numbers of dwellings predominately inhabited by a Romani population, as it is also used in governmental documents.

This report adopts the definition of "informal settlements" and "slums" used by UN Human Settlements Programme (UN-HABITAT) which states that "informal settlements" refer to: "(i) residential areas where a group of housing units has been constructed on land to which the occupants have no legal claim, or which they occupy illegally; (ii) unplanned settlements and areas where housing is not in compliance with current planning and building regulations (unauthorized housing)". The term "slums" refers to "an area that combines, to various extents... residents' inadequate access to safe water; inadequate access to sanitation and other infrastructure; poor structural quality housing; overcrowding; and insecure residential status".<sup>30</sup>

In this report Amnesty International uses examples of housing conditions in the Roma settlements in the southeastern region of Slovenia, which are, in the main, considered worse than those in Prekmurje region.

## MAIN SETTLEMENTS WHICH ARE REFERRED TO IN THIS REPORT

**Beličnik in Črnomelj is an informal settlement, home to 20 people who are the owners of the land. They have no access to water, no electricity, no sanitation.**

**The informal settlement of Dobruška vas in Škocjan is home to 250 people. Some families living there have no access to water, electricity or sanitation. The first residents settled there in the 1970s with the approval of the municipal authorities. The land is owned by the Agricultural association and the municipality. In**

2001 the state decided that a business centre would be built on a part of this land. The residents are facing eviction. The municipality has no plan for resettlement options.

The informal settlement Goriča vas in Ribnica is home to 70 people. They have no water supply, no electricity, no toilets, sewerage or drainage. According to authorities the settlement will not be regularized and the municipality of Ribnica says it is not responsible for seeking alternative locations for the residents.

Roma settlement Loke in Krško is an informal settlement initially built on socially owned land, which was later returned to its previous private owners in the process of denationalization. In 2009 this land was sold to a company for the construction of residential buildings. Sixty Roma living there now fear what will happen to their homes.

The informal settlement of Ponova vas in Grosuplje was established 10 years ago after two Romani groups were forcibly evicted from the locations where they had been living. One Romani family bought the land, which is designated as agricultural land, and built four temporary structures. Twenty-three people now live there without water supply, electricity, toilets, sewerage or drainage.

Smrekec in Grosuplje was also established 10 years ago after two Romani groups were forcibly evicted from the locations where they had been living. It is home to 110 people. The settlement is regularized to an extent; people have access to water and they were connected to electricity in November 2010, but the housing stock is poor and sanitation is lacking.

The informal settlement of Trata pri betonarni in Kočevje stands on a municipal land and is home to 65 people. They have access to water through one communal pipe but have no sanitation. The municipality decided to build an industrial zone on this land and is currently searching for new locations where residents of Trata could move to.

Žabjak in Novo mesto is an informal settlement in existence for 60 years and built on land owned by the Ministry of Defence. According to official sources it is home to 200 residents. They do not have access to electricity. Some families have access to water, mostly through illegal connections, while others have to collect water from petrol stations or streams.

## 2. DISCRIMINATION, SEGREGATION AND INADEQUATE HOUSING

### DANILO HUDOROVIČ

Danilo Hudorovič, his partner and three children live in the informal Roma settlement of Goriča vas, which has some 70 inhabitants, 22 of them children of school age. The settlement has no water supply, no electricity, no toilets, sewerage or drainage. He told Amnesty International:

*"My four-year-old son has to take antibiotics very often because he gets sick a lot. Those antibiotics have to be kept in the refrigerator. We don't have electricity. I have to drive three times a day, even in the middle of the night, to get his medicine from my mother-in-law. Our baby is only a few months old. She is sick all the time. I don't know how we will survive the winter. I tried to apply for non-profit rented housing but received an answer that the Ribnica municipality doesn't have any empty apartments and no open public call to apply to.<sup>31</sup> My children are living without water, without electricity, in awful conditions and I feel I can't do anything about it. I went to the mayor several times asking him to help me and my family. The whole community has been asking him for years to provide us with one water pipe in the vicinity of the settlement."<sup>32</sup>*

In summer 2009, Danilo Hudorovič wrote about his family's housing conditions and lack of access to alternative housing in letters to the Office for National Minorities, the President of the Republic of Slovenia, the Ministry for Environment and Spatial Planning, the Government Office for Local Self-Government and Regional Development and to the president of the Roma Council of Slovenia asking for help. He also filed a complaint to the Ombudsman. The Ministry for Environment and Spatial Planning and Government Office for Local Self-Government and Regional Development responded that it was the municipality and not they who were responsible for solving his problem. The President of the Republic of Slovenia expressed concern over his family situation and called on the mayor to provide water to their settlement. The Office for National Minorities got actively involved and organized a meeting between Danilo Hudorovič and representatives of the municipality of Ribnica, the Ministry for Environment and Spatial Planning and Amnesty International, in November 2009. In this meeting, the mayor stated that the municipality had no apartments available and that he could not provide the settlement with access to water because it would be illegal under Slovenian law. In May 2010, the Housing Fund of Slovenia placed six apartments, which are owned by the Ministry of Defence, at the disposal of Ribnica municipality to offer to its residents through a public call to apply for non-profit rented housing.<sup>33</sup> When in December 2010, Amnesty International asked the municipality of Ribnica why the public call had not yet been issued, the municipality responded that they plan to request transfer of ownership of the apartments from the Ministry of Defence to the municipality. As the apartments are already assigned to the municipality to use for non-profit housing, it is not clear why the municipality is insisting on a full transfer of ownership before making these apartments available for non-profit housing.

As of February 2011, Danilo Hudorovič and his family still lived in the Roma settlement of Goriča vas, without water and electricity in an over-crowded home.



Danilo Hudorovič has to go to collect water from the public pipe in the cemetery which is 2 km away from his home. Roma living in the Goriča vas Roma settlement in Ribnica have no access to water in the near vicinity of their settlement. ©Arne Hodalič

Many Romani communities live in isolated and segregated rural settlements, often in housing conditions that fail to meet the criteria for adequacy of housing under international human rights law.

The housing situation of Roma in Slovenia is inadequate in both the southeastern and Prekmurje regions. However the situation in the southeastern region is worst in terms of both conforming with building regulations and access to public infrastructure.

## THE RIGHT TO ADEQUATE HOUSING

The right to adequate housing is guaranteed under several international and regional human rights standards and treaties, which Slovenia is a party to.<sup>34</sup> The main provision in this regard is Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which provides that “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”. Article 31 of the Revised European Social Charter, which Slovenia is a party to,<sup>35</sup> also guarantees the right to adequate housing and requires states parties: 1. to promote access to housing of an adequate standard; 2. to prevent and reduce homelessness with a view to its gradual elimination; 3. to make the price of housing accessible to those without adequate resources.”

The UN Committee on Economic, Social and Cultural Rights has emphasized that “the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity.”<sup>36</sup>

The Committee has identified the following aspects which are crucial to determine whether any particular form of shelter can be considered to constitute adequate housing under Article 11(1) of the ICESCR:<sup>37</sup> Legal security of tenure; Availability of Services, Materials, Facilities and Infrastructure; Affordability; Habitability; Accessibility; Location and Cultural Adequacy.

Slovenia is obligated to respect, protect and fulfil the right to adequate housing. It has to take steps, to the maximum of its available resources and by all appropriate means, to achieve progressively the full realization of the right to adequate housing. The Committee on Economic, Social and Cultural Rights has clarified that states "must give due priority to those social groups living in unfavourable conditions by giving them particular consideration."<sup>38</sup> It is also under an immediate obligation to ensure that enjoyment of this right is not subject to discrimination of any kind.<sup>39</sup>

## LEGAL SECURITY OF TENURE

Most Roma settlements are located on state-owned land, but some are also located on privately owned land. The majority of these settlements have been established in an irregular manner on land that is not classified for residential use, but rather for agricultural or industrial use, and most homes in the settlements have been constructed without the required building permits. This leaves residents in a situation of insecurity of tenure and hinders their access to essential services, such as water and electricity, since legal title to the property and a building permit are pre-conditions for access to these public services. In many cases, municipalities present the irregular status of Roma settlements as a reason for not upgrading housing conditions in those settlements. Additionally, Amnesty International is concerned that in some municipalities the prejudices among the non-Romani population resulted in resistance by authorities to invest in improvements to infrastructure in Roma settlements. These issues are discussed in greater detail in the next chapter.

## LOCATION

*"Adequate housing must be in a location that allows access to employment options, health-care services, schools, child-care centres and other social facilities."*

Committee on Economic, Social and Cultural Rights<sup>40</sup>

Roma settlements in Slovenia are largely located in rural areas physically separated from other settlements and the non-Romani population. Three quarters of these - almost two thirds of Roma settlements overall - are isolated.<sup>41</sup> As noted by the Expert Group on Roma settlements, the location of the settlements aggravates problems in access to health-care services, schools, child-care centres and other social facilities. Most settlements visited by Amnesty International are far from food shops, which is an additional disadvantage to Romani communities that are without access to electricity and thus unable to refrigerate food. Many Romani women highlighted this problem in interviews with Amnesty International and said that the difficulties posed by the distance to shops and other amenities was compounded by the fact that they did not have a car or a driving license. Many settlements are kilometres away from the nearest bus station.<sup>42</sup>

## AVAILABILITY OF SERVICES, MATERIALS, FACILITIES AND INFRASTRUCTURE

*"An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services."*

Committee on Economic, Social and Cultural Rights<sup>43</sup>

Poor infrastructure in settlements limits the opportunities for the achievement of the basic functions of daily life, such as work, education, recreation and domestic responsibilities.

The 2007<sup>44</sup> and 2010<sup>45</sup> Expert Group on Roma settlements surveys established that the lack of access to drinking water and electricity was still a widespread problem. According to the 2010 survey, which was based on self-reporting by municipalities between 20 per cent and 30 per cent of Roma settlements in the southeastern region did not have access to public or other water supply.<sup>46</sup> The report stated that the actual situation regarding water supply was worse than reflected by this statistic.<sup>47</sup> According to the 2007 Survey 24 settlements (more than 40 per cent) in the southeastern region were without electricity.<sup>48</sup>

## HABITABILITY

*"Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors."*

Committee on Economic, Social and Cultural Rights<sup>49</sup>

Reportedly, only 39 per cent of Roma in Slovenia live in brick houses and 12 per cent of Roma live in apartment blocks. The rest live in cabins, caravans and similar dwellings, or makeshift shelters.<sup>50</sup>

Many Romani families live in one or two room houses in extremely overcrowded conditions. According to UN-HABITAT a dwelling is considered to provide a sufficient living area for the household members if three or fewer people share the same room.<sup>51</sup> More than three people per room is considered overcrowding. Amnesty International spoke to a number of families living in dwellings with less than 3m<sup>2</sup> per person and with far more than three people sharing a room. Some shacks were even smaller. For instance, Bojan Brajdič in Žabjak lives with his partner and eight children in a shack that is less than 16 m<sup>2</sup>.

Women specifically pointed out that such limited space and overcrowding meant their school-age children could not get their homework done with all their younger brother and sisters running around. Women also pointed to their lack of privacy, especially when taking care of personal hygiene. Many people Amnesty International spoke to complained that the poorly constructed wooden structures that they lived in could not protect them from vermin such as mice, rats, cockroaches and flies.





Romani family who lack security of tenure and access to services in Roma settlements Mestni log in Kočevje. ©Arne Hodalič

Many of the dwellings Amnesty International visited were damp and difficult to keep warm in winter since they are poorly insulated. The average winter temperature in Slovenia is around zero degrees Celsius. Since the dwellings lack access to electricity and gas people use stoves and firewood for heating. Amnesty International representatives saw many families using old barrels as stoves, and walls and ceilings which were blackened by the smoke due to the poor ventilation in homes.

## LIVING WITHOUT ELECTRICITY

While it is hard for most people in Slovenia to imagine living without electricity, according to the 2007 data more than 40 per cent of Roma settlements in the southeastern region of Slovenia lack access to electricity.<sup>52</sup> Many Roma from Krško, Kočevje, Grosuplje, Škocjan, Ribnica and Novo mesto told Amnesty International how the lack of electricity compromised their living conditions.

Mrs. Brajdič from Žabjak, Novo mesto told Amnesty International: “*Children don’t want to go to school because they are dirty. It is hard to wash the clothes, especially in the winter because the water is so cold. In the winter I have to wake up very early in the morning to set up a fire outside of the shack to heat the water for children to wash themselves a bit before going to school. In the winter it is also dark very soon and there is no light. We almost burned the whole house down once with a candle.*”

Marjan Hudorovič from Goriča vas in Ribnica told Amnesty International: “*The state says that children have to go to school but no one asks themselves if they can go there clean. No one asks themselves how they can do their homework in winter - it gets dark very early and we don’t have electricity.*”<sup>53</sup>

Silvana from Ponova Vas in Grosuplje talked about the difficulties of drying clothes for children in the

winter in front of the fire: *"Their clothes smell of smoke and other children in school complain that they smell."*

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) specifically requires that governments eliminate discrimination in the provision of electricity to rural women, but women living in rural Roma settlements continue to be denied access to electricity in a country where almost all others have access.<sup>54</sup>

To satisfy minimum energy needs, some residents of Roma settlements turn to small generators, but many cannot afford to buy them or to pay for the petrol. Those who have generators are only able to use them for a few hours and mostly do so for lighting after dark. The generators cannot support washing machines, which women in particular highlighted as a concern for them as they tried to wash clothes for their children. It also requires a significantly higher proportion of their income to get electricity through generators than if they had access to the electricity grid, which negatively affects their ability to provide for other basic needs such as food, shelter, clothing and housing. While the Average electricity price for households in Slovenia was 0.14 euro per kWh,<sup>55</sup> the cost of one kWh from the generator was approximately 1 euro. In order to use the generator for eight hours people need 3 – 4 litres of petrol, which costs approximately 3.6 - 4.8 euro (1.2 euro per litre).

No comprehensive research has so far been conducted in Slovenia on how the housing situation affects employment, education and health of Roma. Many individuals interviewed for this report highlighted to Amnesty International that their poor housing and living conditions had a significant and negative impact on their lives, particularly on children.

In her preliminary note after her mission to Slovenia in May 2010, the UN Independent Expert on human rights obligations related to safe drinking water and sanitation noted that<sup>56</sup>:

*The implications of the lack of access to water and sanitation for hygiene are particularly serious. Many people explained how their children went to school but eventually dropped out because they were ashamed of not being able to wash and were therefore teased by other schoolchildren about their odour. Similarly, adults faced difficulties in finding work when they had no way of maintaining minimum standards of hygiene. Women face particular issues when they are menstruating, and those interviewed expressed a feeling of shame for the conditions in which they had to practice their menstrual hygiene.*

In the National Report on Strategies for Social Protection and Social Inclusion, the government noted that among the vulnerable groups Roma potentially faced a higher risk of social exclusion and poverty due to, among other factors, their poor housing conditions.<sup>57</sup>

The right to adequate housing is of central importance to the enjoyment of other human rights.<sup>58</sup> The Revised European Social Charter emphasizes that the right to housing is a key component of the right to protection against poverty and social inclusion, as well as an independent right.<sup>59</sup>

During his visit to Žabjak in 2009 the Council of Europe Commissioner for Human Rights pointed out that children's education is affected when they lack appropriate space and other conditions for doing homework. He also added that the lack of water and electricity influences the healthy living environment and hygiene.<sup>60</sup> Ruža Brajdič, a 12-year-old girl living in the informal Roma settlement Žabjak in Novo mesto, without water, electricity and sanitation facilities told Amnesty

International:

*"I don't go to school because I'm dirty and I smell. Other children make fun of me because of that and call me names and that's why I hate going there."*

A paediatrician from Novo mesto municipality told Amnesty International that children from the Roma settlement Dobruška vas in Škocjan (an informal settlement without water and electricity), fall sick far more often than others. In particular they are prone to diarrhoea and rotavirus due to poor conditions of hygiene, and bronchitis due to excessive smoke caused from smoking and also from using stoves without chimneys inside the dwellings for heating and cooking.

*"In general, Roma families have difficulties socialising and integrating, as their poor living conditions prevent them from doing so. In many cases they have no legal residence, as many settlements are totally illegal. Such living conditions are the source of many other issues and problems faced by the Roma community, in particular attaining an adequate educational level, professional qualifications, information, access to health and social services, access to the labour market and participation in various facets of public life."*<sup>61</sup>

National Programme of measures for Roma for the period 2010 – 2015

While lack of access to adequate housing adversely affects Roma of both genders, as described earlier and also discussed in greater detail in the chapter on access to water and sanitation, Romani women experience particular problems related to inadequate housing conditions.

## NATIONAL HOUSING FRAMEWORK

Article 78 of the Slovenian Constitution, which states that Slovenia is a social state, requires that *"the state shall create opportunities for citizens to obtain proper housing"*.

Article 10 of the Housing Act defines adequate housing as that which must meet the needs of an owner or a tenant and the family members who live there as well as minimum requirements of space per person. Furthermore, living space has to be built in accordance with minimum technical standards for construction of homes, with the requisite building permits and with a separate sleeping and living area.

The main policy document adopted by the government is the National Housing Programme adopted in 2000.<sup>62</sup> It sets out the goal *"to enable everyone in the Republic of Slovenia to realise their basic right to suitable housing in a timely manner, combining the individual's effort and the support of the community."* The programme identifies Roma as a group whose housing situation should be specifically addressed and states that the efforts of municipalities in establishing permanent dwellings and improving living conditions for this group are to be supported.

The Roma Community in the Republic of Slovenia Act (Roma community Act), which entered into force in April 2007, stipulates that Slovenia creates the conditions for, and pays special attention to, among other actions, the resolution of spatial planning issues of Roma settlements and the improvement of housing conditions of the Romani community.<sup>63</sup>

## SEGREGATION AND DISCRIMINATION IN ACCESS TO HOUSING

### JOŽE AND VERA HUDOROVAC

Jože and Vera Hudorovac are Roma from Semič, a municipality in the Bela krajina region of Slovenia where they have been living for around 30 years. Until 2009 they had been squatting in a house in the centre of the town of Semič, but they had to leave when the landlord sold the property. Jože and Vera Hudorovac could not afford to buy a house, and no rental housing was available. The Roma Association of Slovenia offered to secure financing for the Semič municipality so that housing could be provided for the Hudorovac family.

According to Jože Hudorovac, a small house in the vineyard area in Semič was under consideration for purchase in order to house them there. However, to their disappointment the mayor later told them that they could not move to this part of the municipality due to the opposition from the local population, who did not want to have Roma as neighbours.<sup>64</sup>

The only option left to Jože and Vera Hudorovac was to move to Sovinek, a Roma-only settlement on the periphery of Semič.<sup>65</sup>

Jože Hudorovac said: *"The mayor told us that our place was in the Roma settlement. We did not want to come to live in Sovinek. We knew we would have problems with some other Roma families living here."*

When Amnesty International interviewed the mayor of Semič in August 2009, he stated that the local population *"does not accept Roma at all"* and that non-Roma *"would never sell or rent to Roma."* He told Amnesty International that when they were looking for alternative housing for Jože Hudorovac's family people did not want to sell to Roma and some of them told him that they would not allow Roma to live in their neighbourhood.

The municipal representatives affirmed again in October 2010 that refusal to sell or rent to Roma was a regular feature and that the only option they could find was for the family to live in the Roma settlement, Sovinek. The mayor also highlighted that it was very difficult for him to address such situations as he was elected by the local population and dependent on their support.

**Because of their ethnicity, the Hudorovac family were forced to live in a segregated Roma-only settlement.**

Amnesty International received reports of citizens refusing to sell to Romani individuals from Roma and municipal authorities in Grosuplje, Krško, Novo mesto, Ribnica, Semič, Šentjernej and Škocjan municipalities.

Ivan Kavčič, who lives in the Roma settlement Dobruška vas in Škocjan without access to water, sanitation and electricity, told Amnesty International that about three years ago he attempted to buy a house that was for sale outside of the Roma settlement in the same municipality. He believes that the owner did not want to sell to him because he is Roma.<sup>66</sup> Amnesty International has spoken to the owner who confirmed he had decided not to sell to Ivan Kavčič, because he thought the neighbours would not be pleased if he brought a Romani family into their neighbourhood.<sup>67</sup>

Marjan Hudorovac, who lives in the Roma settlement Goriča vas in Ribnica, also without access to water, sanitation and electricity, reported a similar story. He told Amnesty International that he had attempted to buy a house outside of the Roma settlement in Ribnica from a non-Roma and had come to an oral agreement with the owner. However, when the neighbours found out they reportedly collected signatures for a petition calling on the owner not to sell to Roma. He decided not to sell his house to Marjan Hudorovac.

Municipal officials confirmed cases of discrimination against Roma who tried to buy property outside of the Roma settlements. Responses received from Šentjernej and Novo mesto municipality to a questionnaire distributed to municipalities in 2009 affirmed their awareness of cases where Roma could not buy or rent because of the fact they are Roma. The Novo mesto municipality, in their response to the questionnaire, added, *"Private owners do not want to have anything to do with Roma and are therefore reluctant to rent to them."* When following up, Amnesty International was told by a Novo mesto municipality official that the response was in reference to the case of a Romani family who attempted to purchase an old house in the vicinity of one of the local communities of Novo mesto after their wooden shack in another local community in Novo mesto had burned down. However, when members of the respective local community found out about their attempt, they allegedly *"went into action, demonstrated and forced them away."* He added: *"If you knew Roma you wouldn't let them live in your village. They are known for ... stealing and people are afraid to have them as neighbours. Also their way of living is different – from hygiene to weapon issues."* According to the official this family is now living in the municipal apartment that Novo mesto municipality bought to house them.<sup>68</sup>

A representative of Krško municipality told Amnesty International, *"If people in the village found out that Roma were attempting to buy a property, someone else would buy it just so that Roma couldn't. However there are also many cases where Roma succeeded in buying."*<sup>69</sup>

In 2007 Slovenia's Human Rights Ombudsman recorded another case illustrative of the discrimination Roma are facing. The Novo mesto municipality was prepared to give financial assistance to a family that wanted to move out of the Roma-only settlement Brezje in Novo mesto.<sup>70</sup> However, according to the Ombudsman, the municipality made its assistance conditional on the family moving to another municipality. Subsequently, the family found a property they wished to buy in the Žužemberk municipality, but the Žužemberk municipality opposed the sale. The mayor of Žužemberk told the media: *"I would definitely prevent the sale of real estate to Roma because we already had too many problems with Roma in the past"*. He affirmed that the Žužemberk municipality had in the past and would in the future try to prevent Roma from buying real estate in its territory. He stated: *"If a Roma wanted to move to our municipality, our people would decide whether to accept him or not, probably by referendum."*<sup>71</sup>

According to the Human Rights Ombudsman, as a rule, Roma find it hard to move to areas where there is opposition from the local people. The Ombudsman stated that his office came across cases where Romani families were prevented from buying or selling properties by the seller of the property or the real estate agency involved and that cases of landlords refusing to rent to Roma have also been reported to the Ombudsman.<sup>72</sup> As discussed in detail in the fifth chapter, when it comes to housing the Ombudsman has pointed to critical gaps in the state's system for addressing discrimination. The Ombudsman and the Advocate of the Principle of Equality have both highlighted gaps in the Advocate's powers in this regard. The Advocate cannot enforce legal provisions against discrimination because his/her powers are limited to the submission of cases to

the Inspectorates. Both, the Housing and the Market Inspectorate claim to lack the competence to deal with acts of discrimination by individuals in the area of housing (the Market Inspectorate has stated that it can only deal with cases of companies).

Article 1 of the International Convention on the Elimination of Racial Discrimination defines racial discrimination as "*distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.*" To comply with its obligations under international and regional human rights treaties, Slovenia must protect individuals against all acts of discrimination, whether these are carried out by public officials or private actors.<sup>73</sup> The Committee on the Elimination of Racial Discrimination has emphasised the obligation of states to "*act firmly against any discriminatory practices affecting Roma, mainly by local authorities and private owners, with regard to taking up residence and access to housing; to act firmly against local measures denying residence to and unlawful expulsion of Roma, and to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities.*"<sup>74</sup> Article 3 of the International Convention on the Elimination of Racial Discrimination also requires states to condemn, prevent and eradicate racial segregation.

Municipal authorities were aware of the discrimination Roma face when trying to buy or rent a property outside of a Roma settlement and in some cases were even actively involved in preventing this happening in their municipal territory. Therefore, and as demonstrated in more detail in the fifth chapter of this report, Slovenia is in breach of its obligation to refrain from any act or practice of discrimination against Romani communities in their enjoyment of their rights to adequate housing, freedom of movement and residence, and its obligation to ensure that all public authorities and public institutions, national and local, act in conformity with this obligation. The government has failed to adequately monitor and enforce international human rights law as well as its own standards and to bring to an end, by all appropriate means, racial discrimination by any persons, group or organization.

## **BARRIERS IN ACCESS TO HOUSING SUBSIDIES**

Under international human rights law, states should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance that adequately reflect housing needs.<sup>75</sup>

The Housing Act stipulates that Slovenian citizens and EU nationals with permanent residence status whose income does not exceed a certain percentage of the average salary in Slovenia are entitled to apply for the non-profit rented apartments and housing units.

Housing units are designed as a temporary solution for the most vulnerable people.

The purpose of non-profit rented housing is to provide housing for those who are not able to acquire their own housing.<sup>76</sup> Under the Housing Act non-profit housing or housing with subsidised rent, can be accessed through public calls to apply for non-profit rented housing. Individuals or families renting non-profit housing are entitled to additional subsidy of the rent if their income is under a specified level.

Given the widespread poverty amongst Roma many of them would qualify for this assistance. However, due to the shortages in terms of non-profit housing, many smaller municipalities rarely issue public calls. Furthermore, as in the case of Novo mesto described below, municipalities can decide which groups and criteria they prioritize for allocation of housing, even if this excludes the most disadvantaged groups such as the Roma. As a consequence Roma find it hard to access non-profit housing.

If there is no public call to apply for non-profit housing in the municipality of permanent residence for more than a year, the resident can also apply for a subsidy to the rental fee if he/she is renting at market prices and would meet the criteria for non-profit housing.<sup>77</sup> In this case, the subsidy, which is a difference between the recognized market price for this area (which is not necessarily the actual market price the tenant has to pay) and the non-profit rent,<sup>78</sup> can be acquired from the municipality of the permanent residence.

This system, which is trying to correct the lack of non-profit housing, does not offer the same subsidy as when renting non-profit housing accessed through public calls. Firstly the state does not offer the full subsidy of the market rent above the amount which would be paid for a non-profit apartment, and secondly the state does not need to provide people or families with especially low incomes additional subsidy of the rent, which people renting non-profit housing are entitled to.

In the 2008 report the Ombudsman stated that: *"As regards the provisions on subsidising rentals for the apartments hired at non-profit prices, and for those hired at market prices, the Ombudsman considers that the income census is absolutely too low and that the tenants of the two types of apartments are not in equal positions."*<sup>79</sup>

#### **LACK OF NON-PROFIT APARTMENTS AND HOUSING UNITS AND INFORMATION ON HOW TO ACCESS THEM**

The Housing Act stipulates that the municipalities are obliged to provide non-profit rented housing and housing units.<sup>80</sup> Also the Local Self-Government Act obliges municipalities to create conditions to increase the availability of rentable social housing.<sup>81</sup>

The Ministry for Environment and Spatial Planning confirmed that the municipalities are obliged to provide housing units, which should be available as a temporary solution for the most vulnerable people, but it is up to them to decide how many. However Amnesty International found out that none of the municipalities in the southeastern region with Romani population are providing any housing units.<sup>82</sup>

Also in some municipalities public calls to apply for non-profit housing have not been published for several years. The information gathered from responses to the questionnaires sent to municipalities asking about the time of the last call to apply for non-profit rented housing shows that the municipalities of Šentjernej, Črenšovci and Dobrovnik do not provide non-profit housing at all. In Grosuplje the last public call for non-profit rented housing was issued in 1994<sup>83</sup> and in Ribnica in 1999.<sup>84</sup>

With regard to the provision of non-profit housing, the general situation in the country is unfavourable. There is a shortage of housing, particularly those for non-profit rent<sup>85</sup> Municipality Novo mesto, with 35.000 residents, around 800 of which are Roma, has only 27 non-profit apartments. Last public call was published in 2007.

The frequency of publishing public calls to apply for non-profit rented housing is not defined.<sup>86</sup> The Ombudsman has highlighted concerns in this regard and has repeatedly called for the Housing Act to clearly state the obligations of municipalities to publish a call for non-profit housing at regular intervals (e.g. once in a year).<sup>87</sup>

Due to the limitations of available non-profit housing described, in many municipalities subsidized housing can only be accessed through applications for subsidies for market priced rentals. This constitutes a problem in smaller municipalities with a scarce rental market, especially for Roma due to the discrimination described above.

According to the Ministry of Environment and Spatial Planning only around 300 people applied for this subsidy in 2009. The representative of the Ministry told Amnesty International that this is probably due to the fact that not many people know about this possibility.<sup>88</sup>

None of the residents of the Roma settlements Amnesty International spoke to were aware that they could access social housing through this scheme. Many of them also expressed disbelief that anyone would want to rent to them.

Also a high percentage of Romani individuals interviewed by Amnesty International did not appear to be aware of the possibility of applying for non-profit rented housing at their municipality. While some stated that they did not want to move to apartments, others expressed their wish to do so. Many reported that they had requested information at their municipality on how to apply for non-profit housing but received little or no details, or were simply told that they could not apply.



Nevenka Brajdič in her abandoned kiosk in Žabjak, Novo mesto. ©Arne Hodalič



*"Conditions are very poor, they couldn't be worse. I just want to go away from here and never come back".*

Nevenka Brajdič is 35 years old and has lived in the Roma settlement of Žabjak, near Novo mesto, for approximately four years. She lives in an abandoned kiosk (a small structure which was previously used to sell newspapers) without electricity, heating and sanitation and limited access to drinking water. She has three children aged six, nine and 12, of whom two live with her. The eldest child lives with her sister, as Nevenka Brajdič's kiosk is too small to accommodate the whole family. She explained to Amnesty International how difficult it is for her to buy food, as there are no shops close to the settlement and she has no car. The size of the kiosk they live in is approximately 6m<sup>2</sup>. Nevenka Brajdič and her children have to sleep on the floor.

She reported that in February 2009, she went to the Novo mesto municipality to apply for non-profit housing. *"They told me I can't apply and that was it,"* she told Amnesty International. She went to the municipality again in autumn 2009 and was told by an official that her interest in applying would be noted down. According to Nevenka Brajdič, no one ever told her she could apply for subsidized rent if she was renting in an open market.

Amnesty International asked the officials in Novo mesto and Krško municipalities how they reacted when Roma asked about the possibility of renting a non-profit apartment. They answered that they advised them to wait for the next public call to apply for non-profit housing and made a note of their expressed interest.

Many Roma to whom Amnesty International spoke did not know when public calls to apply for non-profit rented housing were issued or how to apply. Novo mesto and Krško municipalities confirmed that they used regular channels of communication such as the municipality internet site and newspapers to inform the public about calls to apply. This disadvantages Romani communities who are not formally literate and the majority of whom do not have access to the internet. Furthermore, as stated above, none of the Roma to whom Amnesty International spoke to were aware that it was possible to apply for rent subsidies for flats rented in the private sector.<sup>89</sup>

#### DISCRIMINATORY PRACTICE OF NOVO MESTO MUNICIPALITY

*"States must give due priority to those social groups living in unfavourable conditions. Disadvantaged groups should be guaranteed some degree of priority consideration in the housing sphere."*

Committee on Economic, Social and Cultural Rights<sup>90</sup>

Slovenia's National Housing Programme states that priority in accessing social housing will be given to families with most children and fewest employed members, young families and people with disabilities. This set of priorities is reaffirmed in the Rules on renting non-profit apartments<sup>91</sup> adopted by the Ministry of Environment and Spatial Planning, which specifies that priority should be given to young families, families with more than three children, families where only one or no family member is employed, individuals who have been employed for a long time (13 years for men, 12 for women), people with disabilities, victims of domestic violence and victims of war. However, the rules allow for municipalities to determine additional priority criteria and to decide on the weighting of each of them in forming the priority waiting list.

In the case of the public call to apply for non-profit rented housing issued in Novo mesto in 2007, rather than prioritizing the most disadvantaged groups, the municipality's ranking criteria gave

significant advantage to those permanently employed and those with higher education. The ranking system awarded the following points to existing priority categories: 50 points for young families, 50 points for families with more than three children, 50 – 70 points for persons with disabilities, 50 points for families where only one or no family members is employed, 50 points for victims of domestic violence, 50 points for victims of war, and 150 points for applicants with longer length of employment (13 years for men, 12 years for women). However, two categories with high points were introduced as priority criteria: higher education with 70 – 85 points and regular employment in the last six months with 130 -150 points. These two criteria particularly disadvantage Romani individuals who, as discussed earlier, largely lack higher education and regular employment.

These criteria are inconsistent with Slovenia's obligation to ensure that housing programmes and policies prioritize disadvantaged groups. It also creates a situation of indirect discrimination<sup>92</sup> against Roma, since the effect of the requirement is to disadvantage them disproportionately. The European Committee of Social Rights in its finding on a collective complaints, *European Roma Rights Centre (ERRC) v. Italy*, has also stated that the "failure to take into consideration the different situation of Roma or to introduce measures specifically aimed at improving their housing conditions, including the possibility for an effective access to social housing" amounts to a violation of Article 31 taken together with Article E.<sup>93</sup> ERRC had alleged that Roma were largely denied access to social housing because access was regulated by a points system using criteria - such as the nature and length of the residence permit or the type of previous dwelling - that were hard for Roma to meet.<sup>94</sup>

In a response to a query by Amnesty International the Ministry of Environment and Spatial Planning confirmed that within the Rules on renting non-profit apartments municipalities have an autonomous right to decide on prioritization of groups and on the weighting of criteria (points awarded between 50 and 150). Furthermore, the municipalities can set new criteria introducing new points.<sup>95</sup> However, as the above-mentioned example illustrates, municipalities fail to apply the existing national framework in conformity with Slovenia's obligations under international human rights law. As a consequence, the government has failed to ensure that municipal actors implement Slovenia's obligations under international law by giving due priority to social groups living in unfavourable conditions and by preventing discrimination against any particular group of people on the basis of their ethnicity.

### 3. LACK OF SECURITY OF TENURE

#### BOJAN BRAJDIČ

*"I am willing to live anywhere as long as we can be safe. I asked the municipality if I could build a small house or put a kiosk here, but they said no."<sup>96</sup>*

Bojan Brajdič and his family live in a wooden hut in the informal Roma-only settlement of Žabjak in Novo mesto municipality. A family of 10 people live in a structure which is less 4 x 4 metres in size. The family has no access to water, sanitation and electricity. Six of Bojan Brajdič's eight children attend school.

Bojan Brajdič told Amnesty International that he built this temporary structure a year ago, when the family had to move out of a similar one in the same settlement. He had asked the municipality whether he could build a house but was told that he could not so he built a small hut. Soon after he built it some people came, took photos and measured the structure. He did not know where they were from. He was told that he did not need to demolish the hut but that he should not enlarge it – which he did not. Bojan Brajdič told Amnesty International that he had heard rumours that all people living in Žabjak would have to leave and move somewhere else but he does not know more about it. He said he hopes to someday build a bigger home for his family or to move to an apartment.<sup>97</sup>

Žabjak is one of the biggest Roma settlements in the Dolenjska region, largely built on land belonging to the Ministry of Defence. Most of Žabjak's approximately 200 residents live in temporary wooden structures without access to electricity and using pit latrines or bushes as toilets. Some of them have access to water through a public water supply network while others, without access, have to collect water from a stream a few kilometres away or other sources. Roma settled on this land, near to a refuse dump, in the 1950s when it was socially owned.<sup>98</sup> According to a census of Roma conducted in Dolenjska in 1964, 64 Roma lived in Žabjak at that time.<sup>99</sup> In 1971, the census recorded that 37 families with 200 individuals lived in Žabjak.<sup>100</sup>

Although the settlement was established approximately 60 years ago, it has not been regularized, leaving its residents insecure about their future and unable to improve their housing. Duška Balažek, a municipal counsellor, told Amnesty International that in the past 60 years no one ever forced Roma to leave this land, but until a few years ago there were also no efforts to regularize the settlement. Many residents want to know if and when they will be able to purchase the land so they could improve their dwellings or build new ones. Duška Balažek told Amnesty International that she advises them to wait for now and not to build anything new in order not to provoke anyone. She is optimistic that the municipality will regularize the settlement in the near future.<sup>101</sup>

One of the residents told Amnesty International: *"Every year we expect to be moved elsewhere and that's why we don't make any improvements."* Another one said: *"If I build anything they will come and destroy it. They destroyed my neighbour's house and his family had to live in a tent for some time."* In the last two years Novo mesto municipal authorities have given contradictory statements about

the future of the settlement. Initially they stated in the media that the settlement would be regularized and the Roma could stay there. However at a later date they announced the community would have to move to a different location, and on a third occasion that they would try to regularize the settlement. In 2008, Novo mesto municipal administration presented a proposed municipal spatial plan which would change the purpose of the land to residential building land. The proposal was not adopted due to the opposition from the local community and Municipal council.<sup>102</sup> In February 2009 the mayor of Novo mesto presented to the local community and the media his plan which was: "Žabjak will be "cancelled", its residents will be moved to other municipalities or especially young families will be moved to apartments in Novo mesto, where they could easier be socialized."<sup>103</sup> In May 2009, in accordance with the decision of the Municipal council, the municipality attempted to change the purpose of the land to a business building, however the Ministry of Defence, as an owner, opposed this.<sup>104</sup> In January 2011 the Municipal council adopted a decision to regularize the settlement, but under certain conditions which must be ensured by the Ministry of Defence.<sup>105</sup> The representative of the local "Civil Initiative for solving Romani issues" already stated that they will oppose the regularization of the settlement.<sup>106</sup>

Žabjak is just one of the many Roma settlements that are still not regularized and where residents have not been provided with even a minimum degree of security of tenure despite the fact that Romani communities have lived there for decades. This leaves the residents in a situation where they cannot control what happens to their homes and therefore find it hard or impossible to improve their housing conditions. Many of them do not live there out of their own choice, but simply because they do not have any other option.

The difficulties experienced by Romani communities in obtaining regular housing over the last two centuries (described below) forced them to settle in locations where they did not expect much opposition. In the majority of cases the land they have settled on did not belong to them and was not designated as residential. The dwellings on this land could therefore only be built irregularly. The 2007 Survey documented that in 25 per cent of the settlements Roma owned the land on which their dwellings were built.<sup>107</sup> However, even where communities owned the land on which their dwellings were built, in most cases the land was not designated as residential and therefore any home built on the land would be deemed an illegal structure.

As ownership of the land and its designation as an area for residential use are conditions to obtain a building permit, most of the buildings in the settlements have been built without building permits. According to official data, only 17 out of 107 settlements across the country have no or only a few buildings built without building permits. In 43 settlements all the buildings are not regularized, in 20 most buildings are not in line with regulations and in 23 settlements some of the buildings are not regularized.<sup>108</sup>

## SECURITY OF TENURE

According to the Committee on Economic, Social and Cultural Rights "legal security of tenure takes various forms, including, rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. *Notwithstanding the type of tenure*, all persons should possess a degree of security of tenure, which guarantees legal protection against forced eviction, harassment and other threats. *States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.*" (emphasis added).<sup>109</sup>

## A HISTORY OF INACTION

Roma have been present on the land that makes up the Slovenia of today at least since the 14<sup>th</sup> century. In the course of the last decades - due to forced settlement and other reasons, mostly connected with modernization – Roma developed a number of informal Roma-only settlements, where most of the Romani population lives today.<sup>110</sup>

In the 18<sup>th</sup> and 19<sup>th</sup> centuries various attempts were made to prevent the Roma from living like nomads. Efforts were made to coerce Romani communities to settle down, including with violent measures, but without success. In 1928 mayors and police stations received instructions from Belgrade, the capital of Yugoslavia, on the settlement of "Gypsies" in particular locations. Later circulars instructed authorities to settle "Gypsies" in groups, but to prevent houses from being built in woods or other hidden places. It was forbidden to "camp in the open".<sup>111</sup> During the Second World War Roma were persecuted by the occupying forces, particularly in the Gorenjska and Prekmurje regions. After the Second World War, the Romani population quickly increased.

Romani dwellings that were built in the 19<sup>th</sup> century were mostly small hamlets or individual homes. They were built apart from other settlements and were usually limited to one family.<sup>112</sup> Later the family was extended due to marriages, high birth-rates and the arrival of other relatives.<sup>113</sup> Many Roma settlements were built on the places where, in the time of nomad life, Roma had set up temporary camps.<sup>114</sup> Roma were rarely able to buy land in the settlements or near them, because of lack of resources but also because of the resistance from the local population who did not want Roma nearby. Roma were therefore left to settle in locations where they did not expect much opposition.<sup>115</sup> In some cases the authorities were the ones who directed Roma to settle on less attractive locations where there was not much resistance of the owners of the land.<sup>116</sup>

According to the report of the Expert group on Roma settlements, permanent settlement of Roma in Slovenia mostly succeeded in the seventies, in the times of modernization processes, which changed the life of the rural population.

According to a report prepared by a Centre for welfare studies at the University of Ljubljana, before 1991, the Roma lived on land that was in public ownership. In 1991, with the Denationalisation Act, the ownership title of the land was given back to private persons and their heirs – the original owners prior to 1945. As a result Roma settlements today remain frequently illegal and in many cases since 1991 Roma were forcibly removed from the land and/or moved into new areas.<sup>117</sup> In the process of restitution of nationalised property (denationalization) the fact that Roma were living on this land for many years or even many decades was not taken into consideration. The government did not carry out any assessment of the potential impact of these processes on Romani communities, they were not provided with any information or consulted on the plans nor were any attempts made to address their insecure tenure status, despite the fact that they would be heavily impacted by the denationalisation and in some instances, the restitution process. The authorities failed to confer a minimum degree of security of tenure on Romani communities, in particular protections against forced evictions. They failed to regularize their situation or provide them with alternatives in terms of resettlement.

For decades Roma have lived in informal settlements, with no alternative housing options and no real efforts made by authorities to regularize these settlements. According to the National Programme of Measures for Roma:

*"Roma settlements have never been subject to ongoing arrangement or controlled development. The absence of comprehensive measures and lack of investment funds, as well as the absence of a development vision, has resulted in sub-standard construction, poor public utilities, unsuitable architectural patrimony and continuous problems with people living in their neighbourhood."*<sup>118</sup>

In the last few years, important progress was made in Slovenia regarding the regularization of informal Roma settlements. A number of Roma settlements were regularized or steps were taken towards regularization. However, according to the data collected by an Expert group on Roma settlements in 2010, one third of Slovenia's Roma settlements are still irregular and no plans are envisaged for regularization.<sup>119</sup>

In 1963, the Novo mesto municipality settled the first Romani family on the land that is now the informal Roma-only settlement Dobruška vas, in an old railway carriage.<sup>120</sup> In the 1970s the Agricultural Association Krka, which owned the land at the time, moved another Romani family to the same location. Later on other families moved there. By 1984 there were 23 families, and in 1986 the Institute for Social Planning Novo mesto prepared a plan to regularize the settlement. However, the Agricultural Association Krka and the local community of Škocjan prevented this step, arguing that the land was for agricultural purposes. The plan was never adopted and Roma still live in an unregularized settlement.

In 2011, the Agricultural Association Krka still owned most of the land on which the Roma settlement Dobruška vas is located. Other parts were in the ownership of the Škocjan municipality<sup>121</sup> and Romani families. In January 2011, the mayor of Škocjan stated that in 2001 by governmental decision the plot of land had been designated for business purposes, namely the building of a technological centre. He further conceded that the municipality lacked a plan to address the situation, claiming that no plot of land was available to allocate to the Romani community. He stated that the municipality had turned to ministries to seek solutions from the state in those cases where the municipality could not ensure an adequate place to solve housing issues of Roma.<sup>122</sup>

Milan Novak, resident of the Roma settlement Dobruška vas, told Amnesty International: *"We never know when they will come and tell us we have to leave our homes."*<sup>123</sup>

Another Roma settlement, Loke in Krško municipality, was initially built on socially owned land, which was later returned to its previous private owners in the process of denationalization. Today, around 60 Roma live on this plot in brick houses. In 2007, the Krško municipality applied within the public call issued by the Government's Office for Local Self-Government and Regional Policy<sup>124</sup> for funds to buy the land for the purpose of legalizing this Roma settlement. The application was denied due to the lack of funds.<sup>125</sup> Representatives of the Krško municipality told Amnesty International about the local authorities' attempt to buy the plot of land to regularize the settlement. According to them the owner was willing to sell the land – but only as part of the deal that included other land, which the municipality was not able to afford.<sup>126</sup> In 2009 this land was sold to a company for the construction of residential buildings. Roma living in this settlement told Amnesty International that they were afraid of what would happen to them.

Moran Jurkovič from Roma settlement Loke told Amnesty International: *"I'm thinking about this every day, wondering what will they do with us now. They told us in the past that we could stay here. A few years ago we built houses. Will we have to leave them now and go live in tents?"*<sup>127</sup>

## BARRIERS TO SECURITY OF TENURE

People living in informal settlements, lacking security of tenure, are unable to improve their housing conditions and are vulnerable to evictions. Since the regularization of the settlements is also a necessary precondition for legal access to public utilities, this measure tends to be the most pressing issue faced by the respective communities. The irregularity of Roma settlements is raised at two levels: on the level of existing local spatial documents and regulations (e.g. the dwellings are built on land which is not designated for residential use), and on the level of administrative permits, where residential buildings have been erected on building land, but without a construction permit.

The authority to improve the living conditions in Roma settlements is with both the state and municipalities but principally lies with municipalities. The main role of the state is to assist the municipalities with strategies, plans and financial programmes, while the onus is on the municipality to apply for funds, ensure the legalisation of settlements and the improvement of the communal infrastructure. For that purpose, the municipalities are eligible to obtain resources within public calls, however, it is up to them whether they take advantage of them or not.

The description of the relationship between the state and municipalities is also included in Article 5 of the Roma Community Act. This provision stipulates that state bodies and bodies of self-governing local communities must ensure that conditions are in place for regulating the spatial problems of Roma settlements and to improve the living conditions of members of the Romani community. The regulation of such spatial issues is realised by designing appropriate spatial plans. Spatial plans can constitute spatial plans of local importance or spatial plans of state importance if the city or municipal council delegates the initiative to the government or if the government adopts a spatial designation at state level.

Conditions and proceedings for construction are regulated in the Construction Act, which stipulates that the construction of a building can only begin on the basis of a final building permit.<sup>128</sup> In the case of irregular construction,<sup>129</sup> the competent construction inspector orders that the construction is immediately stopped and that the already built structure or parts of it are removed within a certain time limit at the cost of the offender.<sup>130</sup> If the offender does not comply with the decision of the Spatial Inspectorate, the Inspectorate can initiate forced removal (demolition) of the building. However it is not within the Inspectorate's competency to remove wooden huts according to a ruling of the Supreme Court due to the lack of a legal basis in such cases.<sup>131</sup>

## PONOVA VAS

The Roma settlement in Ponava vas in Grosuplje was established around 10 years ago after many Romani families were forcibly evicted from the land where they had been living for almost two decades.<sup>132</sup> Today new apartment blocks called "Sunny courts" have been built on this land. The land was given back to the original owner in a denationalisation process and he decided to sell it. The municipality announced a plan to relocate Roma living there to Smrekec, a location on the outskirts of the town, and to purchase containers for their accommodation. The authorities planned to place them there together with another Romani group, which had to leave their previous location as well. Roma firmly rejected the municipality's plan on the account of conflicts and tense relations between the two Romani groups. In 2000, an eviction was ordered by the Municipal Communal Inspectorate based on the Decree on Public Order in the Municipality of Grosuplje. The eviction took place with the assistance of the police in November 2000; the

huts of the community were removed.

The majority of Roma fled into the woods where they spent the next month. After some children got sick because of the cold some of them decided to move to Smrekec, where the two Romani groups lived divided by a canal for many years without water and electricity. One family did not want to move to Smrekec due to conflicts with families living there. They bought a plot of land in Ponova vas on which they built wooden huts. However, the land was designated for agricultural use and therefore the huts were built illegally. Because of the irregularity they also could not get access to water and electricity. They filed an application to the municipality in 2002 to change the status of the land from agricultural to residential, but the municipality rejected the request. In December 2008, the community turned to the Ministry of Labour, Family and Social Affairs who asked the Office for National Minorities to organize a meeting on this subject. In this meeting, in February 2009, the mayor of Grosuplje stated that the municipality opposed the legalization of the huts at its current location and moreover, that legalization would not be possible since existing legislation would not allow for the status of the land being changed. He also explained that since the dwellings were illegal the Inspectorate had already issued several orders for demolition, and that the municipality was not competent to deal with the situation of the family who lived on an agricultural land. The municipality proposed to the family to move to the Roma settlement Smrekec, knowing that the family did not want to move. The representative of the Ministry of Environment and Spatial Planning explained that it was not within the ministry's competence to change the spatial use of the land, but that this lay rather within the competency of the municipality. She also explained that the current legislation did not allow for the legalization of new dispersed buildings. She proposed that an adequate location should be found for the family inside existing settlements in Grosuplje.<sup>133</sup> As of February 2011, the housing situation of this family remained unchanged.

## LEFT IN OVERCROWDED HUTS – UNABLE TO IMPROVE

Because of the lack of funds and also the fact that small wooden huts are not considered buildings and therefore cannot be demolished based on an Inspector's decision, many Roma build small wooden huts which do not provide them with sufficient protection from the cold, damp etc. To avoid demolitions, they also often construct very small structures, which result in families living in very overcrowded conditions. At the same time, however, the authorities do not provide support to people living in all informal settlements by regularizing their situation, by improving their housing or by providing them with non-profit or other housing solutions.

The lack of ownership and the irregularity of dwellings result in the lack of security of tenure for its residents. They are vulnerable to eviction and demolition of their property, which instils in them a permanent fear about their future. At the same time, it negatively affects the quality of their housing due to the reluctance to enlarge or upgrade their homes, knowing that their investment could be in vain.<sup>134</sup>

Residents of Žabjak told Amnesty International that the Spatial Inspector constantly monitors whether anything new is built in the settlement and then gives orders to demolish it. Matija Brajdič told Amnesty International that he could not make any improvements to his inadequate housing because if he did, the authorities would demolish it.<sup>135</sup> Bojan Brajdič explained: *"I've been living here for my whole life, for 39 years. My mother lived here even before that. If they were to demolish it I don't know where my family would go. They don't tell us anything about what will happen with the*



*settlement only that they will demolish if we build something. I built this hut years ago and no one said anything then. When I now ask the Social Work Centre for help to buy some planking, they say that this is not sensible, since I will have to demolish the hut anyway.*<sup>136</sup>

In Dobruška vas, Milan Novak told Amnesty International: *"I no longer have any enthusiasm to make our home better. They can come tomorrow and say that we have to leave. They don't give you any chance to improve things."*<sup>137</sup>

In the informal Roma settlement of Trata pri betonarni in Kočevje municipality, Albin Lah told Amnesty International: *"The mayor told me that I can't even change one brick. From 1976 they've been saying to me that I should wait one year, two years, because we'll have to move out of Trata. We are still here, our hut is falling apart and they say we can't build anything. I wish they would finally make up their minds and either give us permission to stay here and build proper dwellings or tell us that we have to leave."*<sup>138</sup> Other Roma from this settlement told Amnesty International similar stories.

A resident of the informal Roma settlement of Pri Nikotu in Grosuplje municipality told Amnesty International: *"If our shack was ruined I wouldn't be allowed to repair it. I'm afraid that since it is so poorly built, it could fall apart very soon."*

Polonca Plut, from the Roma settlement of Kanižarica in Črnomelj municipality, told Amnesty International that the community asked municipal officials whether they could build a bathroom but were refused permission because they could not be issued a building permit and it would be against the law without one.<sup>139</sup> The settlement is still not regularized although it has existed for many years. The first Romani family settled there in 1895, in an abandoned farmhouse that was given to them. In 1928, there were seven houses and 20 families in the settlement.<sup>140</sup>

## REGULARIZATION OF ROMA SETTLEMENTS

The regularization of a settlement paves the way for a considerable improvement in terms of access to public infrastructure for the Romani communities. The housing conditions of Roma settlements tend to be worse when they develop on land that is not designated for buildings and without plans by the respective municipalities for their inclusion in the relevant spatial planning regulations as residential areas. Examples include some settlements in the municipalities of Črnomelj, Grosuplje, Kočevje, Novo mesto, Ribnica and Škocjan, where the Roma have little or no access to basic amenities.

### SPATIAL PLANS

Municipal spatial plans are a legal basis for regularization of Roma settlements. For the years 2007 and 2008, the Ministry of Environment and Spatial Planning issued a public call offering financing for four pilot projects to prepare a spatial documentation for regularization of Roma settlements. According to the government's report "because of the uninterestedness [sic] of the municipalities to solve the spatial issue of Roma settlements in their territories only half of the offered 40,000 euro was used, since only two municipalities applied for funds."<sup>141</sup>

The Ministry of Environment and Spatial Planning plans to issue another public call with the same content in 2011. However, only municipalities with "autochthonous" Romani community will be

eligible to apply.<sup>142</sup> This excludes settlements in municipalities such as Škocjan though Romani communities have been living there for the last 40 years at least.

One of the basic strategic goals of the National Programme of Measures for Roma for the period 2010 - 2015 is to *"improve the living conditions of the Romani community and rearrange Roma settlements in an orderly manner."*<sup>143</sup> The Programme *"encourage[s] municipalities to include Roma settlements in municipal spatial plans (OPNs) and to plan the rehabilitation of such settlements, which are the result of haphazard construction without professional support and totally illegal. As part of such OPNs, municipalities must set up programmes for remediating the existing situation in which they define the method for tackling specific problems (such as: land use and property, accessibility, public utilities, a timetable for carrying out individual phases of the programme, financial means, etc.)."* The Programme also gives the following guidance on solving the situation of Roma settlements: *"settlements should be kept in the current location when there are no formal or functional obstacles and Roma should be actively involved and consulted in the process of spatial planning."* The timeframe for the adoption of *"programmes for remediating the existing situation"* was six months after the adoption of the Programme, which was adopted in March 2010. As of December 2010 according to the Ministry of Environment and Spatial Planning none of the municipalities had adopted such a programme.

In December 2010 the Ministry of Environment and Spatial Planning informed Amnesty International that *"most of the municipalities in Slovenia are currently conducting procedures to prepare and adopt new spatial plans, however, the Ministry is unable to deduce from them whether they include Roma settlements."*<sup>144</sup> When Amnesty International asked the Ministry of Environment and Spatial Planning about the state's measures should municipalities not comply with provisions of the National Programme, the Ministry official responded that nothing could be done to force municipalities to abide by the Programme since the spatial planning was within the competency of the municipalities and the state authorities could only give recommendations.<sup>145</sup>

According to Article 5 of the Roma Community Act, the government may adopt necessary measures for regulation on its own initiative if the lack of legal and infrastructural regulation of Roma settlements in a municipality leads to a serious threat to health, long-lasting disturbance of public order or a permanent threat to the environment. In such a case the government may intervene with a state spatial act in the territory of any municipality. However conversations with state officials indicated a very strong reluctance to use this provision. Amnesty International was told by the officials from the Ministry of Environment and Spatial Planning that it was very unlikely that the state would actually forcibly take over municipal competencies and that this provision only served to put pressure on municipalities.

No other mechanism is available for the government to force municipalities to comply with the provisions of the Programme of Measures for Roma, since spatial measures need to be implemented by municipalities directly. The Programme therefore only serves as a guide.

#### OPTIONS FOR REGULARIZATION

The regularization of Kerinov Grm, the largest Roma settlement in the Krško municipality with 172 inhabitants, is considered to be an example of good practice. In 2002, the municipality amended its long-term spatial plan as a first step towards the regularization of the settlement. In order to legalise the settlement, an agreement was reached with the 35 owners of the land to sell it to the municipality. In cooperation with the state, the status of the area was changed from agricultural to

residential area. The land was then parcelled out in accordance with the spatial plan, which foresaw 34 parcels for the existing houses and an additional 14 parcels for new construction. Space was reserved for public areas, including a main square with a multi-functional building, sports and recreational areas, children's playground, green areas and a bus station. Running water and electricity were delivered to the settlement. In 2006, the municipal council adopted a decision to sell the land to the Roma at the price of 6 euro per square meter.

According to the municipality, as of October 2010 seven families had bought the parcels. Others were offered the option to pay monthly amounts of 150 euro to buy the land. Moran Jurkovič who managed to buy the land and also get building permit told Amnesty International: *"this is good if you have the money. If you own the land no one can force you to leave. However if you are dependant just on social benefits, as most of the residents are, you are not able to pay. Everything (the land, fee I had to pay for building illegally, communal fee, building permit) cost me around 13,000 euro. Not many other Roma in Kerinov grm could afford that."*<sup>146</sup>

A different approach was taken in the municipality Semič. The municipality started regularizing the Roma settlement of Sovinek which is a home to around 70 Roma in 1995 when it adopted a building plan for the settlement. The municipality also bought the land from private owners who owned parts of the land that the settlement was built on. The Romani families and the municipality signed a tenancy contract (lease) for a 99 year period, under which the families can live in the homes but not sell them. The families were not charged for the lease itself but are expected to pay for water and services. In 2002 the residents got electricity and in 2008 the municipality connected the settlement to the public water network and built a sewage system, with the help of funding acquired through state public call. In an interview with Amnesty International, the mayor explained that the option of a lease was chosen as most families would not be able to afford to buy the property. He highlighted that most people relied on social benefits.

The Expert Group on Roma settlements is studying various options for regularization of settlements and is expected to submit its recommendations to the Ministry by the middle of 2011. Dr. Jernej Zupančič, who leads the Expert Group, told Amnesty International that he saw this as a four step process with conversion of the land to residential use, development of a spatial plan for the settlement, conversion of ownership to facilitate individual property ownership (including negotiations with private owners of land that the settlement may be built on) and provision of infrastructures and services. He highlighted that approximately 10 per cent of settlements were located in areas that, because of their location or other factors, would make it difficult to convert the land for residential use. He also emphasised that the legalisation process was essential to ensure the inclusion of Romani communities into Slovenian society and also mentioned that once the area was 'legalised', the area should also be opened up for non-Roma individuals to purchase property.

Dr. Jernej Zupančič, also told Amnesty international that in his view, individual property ownership was the best model as it was the most common in the Slovenian context and models used in other countries such as long leases, with modest rents or other solutions to increase tenure security that did not rely on individual titles or property ownership may not be appropriate. The Expert Group was looking into possible schemes for financial assistance to enable Roma to buy property but had not developed any model in this regard yet. When asked about consultation with Romani communities on possible options, he mentioned that Roma Councillors had been consulted but there had been no formal consultation process with Romani communities.<sup>147</sup>

The contrasting experiences of regularization of settlements in Semič and Kerinov Grm also reveal that though individual property ownership may work for some Romani individuals, options such as long leases may be more affordable for others. This is also in line with research and findings from various experts who have studied models for increasing tenure security and concluded that individual property ownership may not always be the most effective way of increasing tenure security and may in a number of instances be unaffordable for people living in poverty, increase property values and lead to the displacement of people living in settlements particularly the poorest groups. Amnesty International believes that the government should develop a mixture of options for increasing security of tenure and to improve housing conditions, consult affected communities on these options, ensure that any programme meets the criteria for adequacy of housing discussed above and to comply with the prohibition on forced evictions.

#### RELUCTANCE OF SOME MUNICIPALITIES TO REGULARIZE ROMA SETTLEMENTS

A number of municipalities have regularized Roma settlements in recent years and according to the 2010 Survey, some plan to regularize them in the near future, starting with the adoption of new municipal spatial plans,<sup>148</sup> through which the land plots will be re-designated as a building area - an essential step towards the regularization. The Expert Group on Roma settlements noted in its 2010 report that an important step forward in terms of regularization had been made in recent years, with estimates - based on self reporting by municipalities - showing that 55 per cent of Roma settlements had been regularized (as opposed to 2007 when information showed only one third of settlements were regularized) and 5 per cent were planned to be regularized. According to the same data set more than 30 per cent of settlements were still informal and there was no data for 10 per cent of the settlements.<sup>149</sup> Unfortunately, some municipalities were either reluctant to regularize existing Roma settlements or regularization was not possible.

The European Committee of Social Rights in the case of *ERRC v. Bulgaria*, considered a similar situation in which the ERRC alleged that *"the majority of Roma dwellings are illegally built outside the zoning map in force and their inhabitants have no or only partial documentation attesting authorisation to build... As a consequence of their location, they do not benefit from public services such as garbage collection, public transport and electricity at all or, alternatively, at a substantially lesser level than other areas. This implies that they do not meet the security and hygiene standards required for legalisation. Finally, Roma dwellings are often built on state or municipal property. All these elements make the current legal framework affect the Roma disproportionately in comparison with the rest of the Bulgarian population with respect to security of tenure."*<sup>150</sup> The Committee found that *"the current legislation on the legalisation of dwellings affects Roma families in a disproportionate manner. By strictly applying the rules on legalisation to Roma, whose situation also differs as a consequence of the state non-intervention over a certain period (regarding property documents, or the respect of construction safety and hygiene rules), Bulgaria has discriminated against Roma families by failing to take due consideration of the specificity of their living conditions."*<sup>151</sup>

## INTERNATIONAL STANDARDS ON EVICTIONS

The Committee on Economic, Social and Cultural Rights defines a forced eviction as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of and access to, appropriate forms of legal or other protection.”<sup>152</sup> Slovenia is obliged under a range of international human rights treaties, including the ICCPR, ICESCR and the Revised European Social Charter to refrain from and prevent forced evictions.

The Committee on Economic, Social and Cultural Rights emphasized in its General Comment 7 that evictions may be carried out only as a last resort, once all other feasible alternatives have been explored in consultation with the affected communities.<sup>153</sup> It clarified that evictions can only be carried out when appropriate procedural protections are in place. These include<sup>154</sup>:

- an opportunity for genuine consultation with those affected;
- adequate and reasonable notice for affected people prior to the eviction;
- information on the proposed evictions and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- government officials or their representatives to be present during an eviction;
- everyone involved in carrying out the eviction to be properly identified;
- evictions not to take place in particularly bad weather or at night unless the affected people consent otherwise;
- provision of legal remedies;
- provision, where possible, of legal aid to people who are in need of it to seek redress from the courts.

Adequate alternative housing and compensation for all losses must be made available to those affected, regardless of whether they rent, own, occupy or lease the land or housing in question. Evictions must not “render individuals homeless or vulnerable to the violation of other human rights”<sup>155</sup>

The prohibition on forced evictions does not apply to evictions carried out in accordance with the law and in conformity with the provisions of the international human rights covenants.

## LACK OF INFORMATION AND CONSULTATION

Amnesty International documented a number of situations in which residents have not been provided with information on or consulted about the municipalities’ plans in relation to their settlements.

Various municipal and other officials confirmed to Amnesty International that no procedures have been put in place to ensure that a consultation is undertaken with the affected communities. Roma councillors are consulted, where such posts exist.

Around 70 residents of Goriča vas, a Roma-only settlement in Ribnica on agricultural land belonging to the Ministry of Defence and private owners, were told by the municipality that they would be evicted sometime in the future because it would be impossible to regularize the settlement due to the high voltage electric wires situated near to the houses.<sup>156</sup>

Branko Hudorovič, a resident of Goriča vas told Amnesty International that the settlement's residents had been living there for approximately 30 years. *"First we were living in tents, then in shacks and when we saw that no one was chasing them away, some also built brick dwellings."*<sup>157</sup> All dwellings were constructed without building permits.

Residents of Goriča vas told Amnesty International that they had heard of the plans for their eviction but that was all they knew. They did not know when they would have to move nor where to.<sup>158</sup>

Residents of the settlement also told Amnesty International that they were afraid of what would happen to them if they had to leave their houses and that they did not want to live in tents. They also said they were afraid to invest in any improvements of their homes since they did not know when they would have to leave them.

In November 2009 Amnesty International asked the mayor of Ribnica about the municipality's plans regarding the eviction. The mayor responded that the municipality had already allocated an alternative plot of land to relocate the residents from the Roma settlement. However, he refused to disclose the location, saying that the municipality wanted to keep it a secret.<sup>159</sup> He gave the same answer again later on in a meeting held with the Ministry of Environment and Spatial Planning, Office for National Minorities and Amnesty International in November 2009.

In January 2011, in response to a further question from Amnesty International regarding plans for the Goriča vas Roma settlement and its relocation, the Ribnica municipality answered that *"the new municipal spatial plan does not envisage locations where residents of this settlement could move to... It is not a duty of the municipality to search for alternative locations for those who built without required permits."*<sup>160</sup> At the time this report was finalized at the beginning of 2011, the residents of Goriča vas reported that they still did not know the timing of the planned eviction or the new location.

People are also left in the dark in the Roma settlements of Dobruška vas in Škocjan municipality. As the plot of land is meant to become a business centre, the majority of Romani residents are at risk of being evicted. Not all residents Amnesty International has talked to seemed to be aware of the situation. Some residents knew that the municipality did not plan to regularize the settlement; others had no information about the status of their dwellings and said they did not know what would happen to them. Many of the residents of the settlement stated that all they knew was that the mayor wanted to get rid of them.<sup>161</sup> According to the previous mayor their future depended on the landowners.<sup>162</sup>

## RISK OF FORCED EVICTIONS

The Housing Act regulates evictions from rented apartments and state provided housing.<sup>163</sup> However, as the majority of homes in Roma settlements have been built irregularly, different legal procedures apply. According to the Law of Property Code, eviction of individuals from land, which is

not owned by them can only be undertaken on the basis of a court decision. In case of an eviction, which is not based on a court decision, the resident has the right to file a lawsuit on grounds of trespass.<sup>164</sup> This provides affected persons with a certain degree of protection from forced evictions.

As described above, buildings that have been constructed irregularly can be demolished by an administrative decision of the Spatial Inspectorate. However, wooden huts are not considered buildings and fall outside this provision. The Inspectorate can demolish the dwelling but cannot evict people from the land without a court decision.

Slovenian legislation does not include a prohibition on forced eviction and does not require many of the procedural requirements outlined above, which are mandatory under international law for all situations of evictions such as prior and genuine consultation, safeguards during the eviction process and provision of adequate alternative housing

In 2009 and 2010 Amnesty International identified several cases where evictions from Roma settlement land were planned or appeared likely to happen. These include settlements Trata pri betonarni, Mestni log, Loke and Dobruška vas.

Amnesty International's research indicated that no consultation was taking place with affected communities. As noted above, Ribnica municipality has apparently already decided where residents of Goriča vas would be offered for relocation when evicted but deliberately has not shared this information with the community. Kočevje municipality has also identified new locations for Roma from Trata pri betonarni but no consultation has taken place to date and the location remains a secret even though changes to the respective spatial plans have already been proposed. Residents of Dobruška vas are at risk of eviction due to plans to build a business technological centre, however the mayor of Škocjan stated explicitly that no alternative housing would be provided for them in the Škocjan municipality.

The Slovenian authorities are required to undertake genuine consultations with affected communities to identify all feasible alternatives to evictions, which should only be undertaken as a last resort. Even in situations where evictions may be considered justified, they can only be carried out once all the procedural protections required under international and regional human rights standards are in place. However, in all the cases documented by Amnesty International, communities have not been consulted, they have limited or no information on the authorities' plans and have not been consulted on resettlement options. Amnesty International is concerned that if the evictions proceed without mandatory protections such as genuine consultation, information, notice, provisions of legal remedies, compensation and adequate alternative housing, they would amount to forced evictions.

## **FAILURE TO MONITOR SEGREGATION AND IDENTIFY OPTIONS FOR DE-SEGREGATION**

The Committee on the Elimination of Racial Discrimination has clarified the obligation of states to develop and implement policies and projects aimed at avoiding segregation of Romani communities in housing.<sup>165</sup> In order to meet their obligations under Article 3 of the International Convention on the Elimination of Racial Discrimination to prevent, prohibit and eradicate all practices of racial segregation, governments are required to monitor all trends which can give rise

to racial segregation and to work for the eradication of any negative consequences that ensue. The Committee has noted *"while conditions of complete or partial racial segregation may in some countries have been created by governmental policies, a condition of partial segregation may also arise as an unintended by-product of the actions of private persons. In many cities residential patterns are influenced by group differences in income, which are sometimes combined with differences of race, colour, descent and national or ethnic origin, so that inhabitants can be stigmatized and individuals suffer a form of discrimination in which racial grounds are mixed with other grounds."*<sup>166</sup>

Amnesty International however found that no processes have been put into place to monitor patterns of housing and residence or even spatial plans that are being developed by municipalities in order to identify and address racial segregation. On the contrary, Amnesty International found in a number of cases that the only options for resettlement being considered by municipalities were isolated and segregated areas.

The example of Draškovec, a Roma-only settlement with around 25 inhabitants built on agricultural land in Šentjernej municipality, is illustrative in this regard. The municipality did not initiate regularization of this settlement since the owner refused to sell his land, either to the Romani community or to the municipality.<sup>167</sup> The alternative location designated by the municipality in case of eviction of this community, which is not far away from the current settlement, is isolated from the rest of the population and, according to Roma, located on land that is frequently flooded.<sup>168</sup> The municipality explicitly stated *"the new location is optimal among other reasons because it is hidden in the wood"*.<sup>169</sup> Amnesty International was told by the municipality that residents had been consulted and that they agreed to be moved to the new location if they had to be relocated. However when Amnesty International visited the Draškovec settlement, where municipal officials were also present, residents said that they only agreed because they had understood that alternative adequate housing would be provided for them, and they now realised this was not being offered.

As most Roma settlements are isolated and segregated and Romani individuals are often prevented from moving to non-Roma areas because of discrimination by public and private actors, it is essential that the government scrutinise all municipal plans to ensure that they are not leading to further segregation and that they include options to promote desegregation. As discussed in chapter five, the government has also failed to set up or identify a monitoring body which has responsibility for monitoring residential and housing patterns to identify plans and activities which could lead to racial segregation, and take appropriate preventive action. The authorities should consult communities and regularize existing settlements when this is the preferred option of the communities and wherever this is possible. However, in order to ensure desegregation, the authorities also need to identify and make available housing options for any individuals and families who wish to settle in other areas to access such options. They also need to investigate and enforce legal protections against discrimination by private and public actors which are leading to a situation of racial segregation in housing. The authorities should also ensure that any prospective resettlement sites do not lead to further racial segregation and promote desegregation.

## REGULARIZATION PROGRAMMES SHOULD COMPLY WITH INTERNATIONAL STANDARDS

Any regularization or other housing programme undertaken by the authorities needs to comply with international standards, including requirements in terms of participation of and consultation with affected communities, criteria for adequacy of housing and the prohibition on forced evictions.



The Committee on Economic, Social and Cultural Rights has emphasized that the full enjoyment of other human rights, such as the right to participate in public decision-making *"is indispensable if the right to adequate housing is to be realized and maintained by all groups in society."*<sup>170</sup> Similarly, in relation to security of tenure, the Committee has noted that states should take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection "in genuine consultation with affected persons and groups."<sup>171</sup>

In relation to the development of national housing strategies, the Committee has also stated: *"Both for reasons of relevance and effectiveness, as well as in order to ensure respect for other human rights, such a strategy should reflect extensive genuine consultation with, and participation by, all of those affected, including the homeless, the inadequately housed and their representatives"*.<sup>172</sup>

Regularization and other housing programmes should also comply with the seven criteria for adequacy of housing identified by the Committee:<sup>173</sup> legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location and cultural adequacy. One of the particular concerns that emerged during Amnesty International's research in this regard is the overemphasis on individual property title as the main way to ensure regularization, considering that this may not be affordable for many communities.

## 4. LACK OF ACCESS TO WATER AND SANITATION

### SILVANA HUDOROVAC

Silvana Hudorovac and her family live in the informal Roma-only settlement of Ponova vas in Grosuplje municipality. Twenty-three people live at Ponova vas Roma settlement, which has no water, electricity or sanitation. They moved to this settlement about 10 years ago after they had been evicted from the land where they were previously living.

Silvana Hudorovac told Amnesty International: *"We have to use the water from the stream which is very dirty. Children vomit and get diarrhoea very often. They don't allow us to take water from the pipe at the cemetery and at the petrol station - they say that Gypsies should go away"* The mayor of Grosuplje said that the municipality could not provide the settlement with water since their dwelling is built illegally on agricultural land.<sup>174</sup> They also have no sanitation facilities. *"My boy who is 11 is ashamed to be washed in a plastic basin in front of everyone. I cannot wash myself in front of my husband or my sons. If men are not home we women wash ourselves in the stream. In the winter we can only wash our hair and face. We cannot be naked in front of our children. We go to the toilet behind the house - as far away from the house as possible, to the trench. Children go nearer, especially in the dark, because I'm afraid they would fall into one of the trenches. When we had floods we couldn't go anywhere since water was all around. In the dark I must take the torchlight to go to the toilet, in the daylight we have to check all the time that there is no one around who could see us."*<sup>175</sup>

Four houses are built on the land, which is owned by one of the family members. The status of the land is agricultural, so these dwellings could only be built illegally.

Ponova vas is not the only Roma settlement where residents do not have adequate access to water and sanitation. Since the majority of Roma settlements have been established outside of planned settlements and without the required building permits, many Roma in Slovenia live in unregulated settlements. As a result they lack security of tenure and often have limited or no access to basic services, such as water and sanitation, since a building permit is a pre-condition for access to public utilities.

### ACCESS TO SAFE DRINKING WATER

While nearly 100 per cent of the Slovenian population has access to safe drinking water, mostly through the public water system, many Romani communities do not have access to sufficient and safe water.

Amnesty International visited several Roma settlements with inadequate access to water. In addition to Ponova vas in Grosuplje municipality, no water was supplied to the Roma settlement of Goriča vas in Ribnica municipality, which has approximately 70 inhabitants, or to the Roma settlement of Beličnik in Črnomelj with 15 – 30 inhabitants. In the Roma settlement of Dobruška vas

with 250 inhabitants in Škocjan municipality, some households were connected to the public water supply network. Some got water from their neighbours, but some families had no safe water supply in the vicinity of the settlement. In Žabjak in Novo mesto some Romani families have connections to the public water network while others have to go to the nearest petrol stations or streams to get water.

As already mentioned the 2007<sup>176</sup> and 2010<sup>177</sup> Expert Group on Roma settlements surveys (which were based on self-reporting by municipalities) established that the lack of access to drinking water and electricity was still a widespread problem. According to the 2007 survey 18 out of 57 Roma settlements (or 32 per cent) in the southeastern region and three out of the 38 Roma settlements in Prekmurje had no water supply.<sup>178</sup> According to the 2010 survey 20 to 30 per cent of Roma settlements in the southeastern region did not have access to public or other water supply.<sup>179</sup> The report stated that the actual situation regarding water supply was worse than reflected by this statistic, because the quality of water connection varied significantly in different areas. In addition, the water connection was often built only close to the settlement, rather than inside it.<sup>180</sup>

In the 2010 report's foreword, the Expert group on Roma settlements noted that not all municipalities had provided them with satisfactory information. As the survey is based on self-reporting by municipalities and is not independently verified, it is not likely to fully illustrate the lack of access to water. For example, the survey's table on sources of water by settlements indicates a private water connection for the Roma settlement Ponova vas (in the table entitled Benat). However, in the course of its visits to the settlement (most recently in January 2011), Amnesty International found that Roma living there had no access to water at all. As for the Roma settlement of Beličnik in Črnomelj, the report indicates the settlement has connection to public water network plumbing, although Amnesty International established through a visit in January 2011 that families living there had no access to water at all. The survey notes a public water connection for the Roma settlements of Žabjak in Novo mesto and Mestni log in Kočevje. However, does not state whether water is piped into dwellings or available only from an external water point, nor whether the community has to share one pipe or several pipes; consequently the survey does not reflect the actual situation. The table also fails to include all Roma settlements. For instance it does not include the Roma settlement of Goriča vas in Ribnica municipality which is without any access to water.

No other comprehensive survey is available regarding the access to water in Roma settlements in Slovenia.

Amnesty International is extremely concerned by the continuing lack of access to essential levels of water for people living in Roma settlements, as a result of the denial of access to the municipal water supply network.

Following her mission to Slovenia, on 28 May 2010, the UN Independent Expert on human rights obligations related to safe drinking water and sanitation issued a statement which noted that: *"Slovenia has demonstrated its commitment to the rights to water and sanitation consistently at the international level. This commitment was reiterated in my meetings at the highest levels. Nearly 100 percent of the population has access to safe drinking water and 92 percent of the population is connected to the public water supply system. Overall, Slovenia has ensured the enjoyment of the rights to water and sanitation for the vast majority of the population. However, special attention is needed for the most vulnerable groups, and immediate steps are needed to ensure access for certain Roma*

*communities.* "During her mission to Slovenia, the Independent Expert visited four Roma settlements, three of which did not have adequate access to water. She further stated: "The consequences of this lack of access to water and sanitation are devastating for these communities. The individuals I met explained that they are systematically ill with diarrhoea among other diseases. In one community with no access to water, the people drink from a polluted stream, or have to walk for 2 hours to obtain safe water. They collect the water in jerry cans to haul back to their homes. Moreover, with no other option, they are forced to defecate in the open. The situation is reminiscent of situations I have witnessed in much poorer countries and astonishing to observe in a country where so much has been achieved for the vast majority of the population."<sup>181</sup>

## THE HUMAN RIGHT TO WATER

*"The human right to water is indispensable for leading a life in human dignity."*

UN Committee on Economic, Social and Cultural Rights, General Comment No. 15, para 1<sup>182</sup>

Access to a regular supply of safe water is a human right. It entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.<sup>183</sup>

The right to water has been recognized as a right deriving from the right to an adequate standard of living contained in under Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Slovenia is a State party.<sup>184</sup> The Committee on Economic, Social and Cultural Rights has clarified that Article 11, paragraph 1, of the Covenant specifies a number of rights emanating from, and indispensable for the realization of the right to an adequate standard of living "including adequate food, clothing and housing". The use of the word "including" means that this catalogue of rights was not intended to be exhaustive. The Committee has clarified that the right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival.<sup>185</sup> In September 2010, the Human Rights Council adopted by consensus a resolution, co-sponsored by several countries, including Slovenia, which "[a]ffirms that the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity."<sup>186</sup>

## THE RIGHT TO WATER

General Comment 15 on the right to water, adopted in November 2002 by the UN Committee on Economic, Social and Cultural Rights, sets the following criteria for the full enjoyment of the right to water.<sup>187</sup>

(a) Availability. The water supply for each person must be sufficient and continuous for personal and domestic uses.

(b) Quality. The water required for each individual's personal and domestic use must be safe, therefore free from microorganisms, chemical substances and radiological hazards that constitute a threat to a person's health.

(c) Accessibility. Water and water facilities and services have to be accessible to everyone without discrimination, within the jurisdiction of the state party. Accessibility has four overlapping dimensions:

- (i) Physical accessibility: water, and adequate water facilities and services, must be within safe physical reach for all sections of the population. Sufficient, safe and acceptable water must be accessible within, or

in the immediate vicinity of each household, which includes a permanent or semi-permanent dwelling, or a temporary halting site.

- (ii) Economic accessibility: water, and water facilities and services, must be affordable for all. The direct and indirect costs and charges associated with securing water must be affordable.
- (iii) Non-discrimination: water and water facilities and services must be accessible to all, including the most vulnerable or marginalized sections of the population, in law and in practice, without discrimination on any of the prohibited grounds; and
- (iv) Information accessibility: accessibility includes the right to seek, receive and impart information concerning water issues.

International human rights standards require states to take active steps to ensure that everyone can enjoy the right to water as soon as possible. State parties have to adopt the necessary measures directed towards the full realization of the right to water, including by taking positive measures to assist individuals and communities to enjoy the right.<sup>188</sup> States are under an obligation to move as expeditiously and effectively as possible towards securing the right to water.

#### LACK OF ACCESS TO SUFFICIENT WATER

Lili Grm and her husband Milan Novak have to drive to the water spring a few kilometres away from their house to fill their cans with water. Lili told Amnesty International: *"Water means more than anything to me. I spend most of the day fetching water, keeping our hut clean, washing clothes for my children. When we go visit my mother in Krško, I put my two sons in her bathroom and I just can't get them away from the water. My heart breaks when I see that. We are lucky to have a car so we can drive to get water. But when Milan gets his severe migraine attack, I have to walk more than two kilometres to get 25 litres of water. On those days I don't cook, I don't wash. Sometimes we are without water for the whole day."*<sup>189</sup>

In October 2010, Lili told Amnesty International that the situation had deteriorated further: *"My husband will have major back surgery in few months. I don't know what I will do. He will have to rest for two months and I don't have a driving licence so I won't be able to drive to the place where we can get water. What will I do? I will have to take a pushcart and walk for 20 minutes one way to get the water. I wish we could get water plumbing. We would pay for everything, but the municipality won't allow it. They say that here will be an industrial zone and that they will move us away. My only wish is to get the water for my children."*

Where Roma have no access to water supply in or near their homes, they have to walk or drive to the nearest water spring, petrol station, cemetery or other location with a water source where they collect the water in jerry cans to haul back to their homes. As a result, they are unable to access sufficient quantities of water for personal and domestic use. Amnesty International was told by many residents of Roma settlements, particularly women, that on a daily basis they do not have enough water to cover all their needs – drinking, cooking, personal hygiene, washing clothes. Lili Grm, who lives in the Roma settlement of Dobruška vas in Škocjan, told Amnesty International how many times she has to plan how she will use the water that is available to her family of four per day. Sometimes it is only 20 litres for four of them. In contrast, the average use of water per person per day in Slovenia is 150 litres, rising to as high as 250 – 300 litres per day in urban centres.<sup>190</sup>

Silva in Zvonimir Hudorovac who lives in the Roma settlement of Beličnik without water, sanitation or electricity, told Amnesty International that firemen used to bring them the water. They do not do this anymore so now people have to get water from the cemetery which is a 5 kilometre walk away. In the winter the water pipe at the cemetery is temporarily shut off because of the cold. When there is snow they melt some to get water.<sup>191</sup>

In practice, the amount of water collected every day by households is largely determined by how far the source of water is from the home. According to World Health Organization (WHO) when the water source requires a walk of between 100 metres and 1,000 metres from the home or five to 30 minutes total collection time, the quantities of water collected are unlikely to exceed 20 litres per person daily and hygiene practice may be compromised, resulting in a high risk to public health from poor hygiene.<sup>192</sup> When the water source is more than one kilometre away from the home or requires more than 30 minutes collection time, the likely volumes of water collected are very low, typically less than 5 litres per person per day; basic consumption and hygiene practice are compromised to an extent that the risk to public health from poor hygiene is very high.<sup>193</sup> In contrast, where water is supplied through a single tap within the home or yard, the water used is approximately 50 litres per person per day and there is a low public health risk.<sup>194</sup> It is estimated that households with a water source in the home use up to 30 times more water for child hygiene compared to those who have to collect water from a communal source. Moreover, households that do not have to travel to collect water have more time for economic activity, food preparation, childcare and education.<sup>195</sup>

The negative implications of lack of access to water and sanitation are evident in Roma settlements without access to water. Many Roma told Amnesty International that their children do not go to school because they are ashamed of not being able to wash and are teased by the other school children about their smell. Similarly, adults complained they face difficulties in finding work, as they have no opportunity to maintain minimum standards of hygiene.

Marjan Hudorovič, a resident of the Roma settlement of Goriča vas in Ribnica municipality, told Amnesty International:

*"We have no water. Every day we have to go fetch water from the nearest gas station, from the cemetery or from the water spring which is three and a half kilometres away. Since it is far away we end up paying more for the petrol than we would pay for the water itself. By the time we get home the water is already too warm to drink. In the summer we go to wash ourselves in the local stream; however the police chase us away. In the winter we don't wash ourselves, except the face. The stream is frozen and the water we bring from the cemetery or spring has to be saved for drinking and cooking. It is normal that we smell and that people avoid us. How do you think our children feel when they make fun of them in school because they smell?"<sup>196</sup>*

The residents of the Roma settlement of Goriča vas told Amnesty International that they have repeatedly asked the authorities to provide them with a water connection near to their settlement. In April 2008, they held a demonstration over several days in front of municipal building and the mayor of Ribnica municipality promised to provide them with piped water within two months. However, since nothing happened they demonstrated again in June 2008. In April 2009, during a meeting with the municipality's mayor, at which Amnesty International was also present, the community again requested that a water pipe to be provided near the settlement and in June 2009 organized another demonstration in front of municipal building asking for the same.

Marjan Hudorovič told Amnesty International: *"We are not asking that they bring us water to the settlement. They can set the pipe a few metres away on municipal land if they can't do it elsewhere. We just ask for one pipe, nothing more. I can see that the cattle on the meadows here have water. And what are we? Are we worse than cattle? For my whole life I have had to steal water. I would really like to start paying for it."*<sup>197</sup>

The mayor of Ribnica municipality told Amnesty International in November 2009 that he could not provide the Roma settlement with piped water since there was no legal basis to do so. In February 2011, the community still had no access to water.

#### LACK OF ACCESS TO WATER OF ADEQUATE QUALITY

Due to lack of access to safe drinking water, people in Roma settlements also turn to use unsafe water resources.

Contaminated water, whether drunk or used to cook food, is a cause of serious illnesses such as diarrhoea.<sup>198</sup> A number of studies across the world have established that diarrhoea prevalence is 40 per cent higher in households without access to a clean water source and sewerage system, compared with households that have water supply in or near their homes and a sewerage system in place.<sup>199</sup>

### DOBRUŠKA VAS

Ivan Kavčič and his partner Vanja Hočevar from the Roma settlement of Dobruška vas in Škocjan told Amnesty International that they use water from a polluted local stream for drinking, cooking and washing. Their neighbour Ljubo Novak, who lives in a shack next to the stream with his partner Dunja Hočevar and their 11 children, told Amnesty International that sewage from other houses flows into the stream as well as waste from the animal slaughterhouse. He took an Amnesty International delegate to the stream and showed the delegate what looked like part of an animal's gut. Dunja Hočevar told Amnesty International that her children get rashes on their skin and diarrhoea when they use this water.<sup>200</sup>

"We use the water from the stream for everything, for drinking, washing... We also go to fetch water one kilometre away from a pipe but people who live nearby chase us away. If we can, we bring 200 litres for drinking and cooking. I have four children who drink from baby bottles."

In the summer she said they wash themselves in the stream.<sup>201</sup> A paediatrician from Novo mesto confirmed to Amnesty International that children from the Roma settlement of Dobruška vas fall sick with diarrhoea and Rotavirus far more than children from other settlements due to bad hygiene conditions.



Romani family in Dobruška vas, Škocjan uses the water from the polluted stream nearby for washing, cooking, bathing and drinking. ©Arne Hodalič

Residents of the Roma settlement of Ponova vas in Grosuplje municipality also have no connection to the water supply. Those who can afford it buy bottled water for drinking, but otherwise they use as their main water source the nearby stream, which looked polluted at the time an Amnesty International representative visited the site. Residents told Amnesty International that water was particularly polluted when it rained heavily. A Romani woman described how at those times the children vomited and were sick with diarrhoea after they drank this water. Amnesty International was also shown a medical record by a Romani woman indicating that her baby daughter had been admitted to the hospital because of severe diarrhoea and dehydration. The mother had fed her daughter powdered milk mixed with water from the stream.<sup>202</sup>

#### **BARRIERS TO ACCESS TO WATER**

The most significant barrier to access to water is the lack of tenure in informal settlements. In Slovenia access to piped network connection is conditional upon having a building permit, which can be only acquired for a land which is designated for building. As shown in the previous chapters, many Roma are facing difficulties accessing housing and therefore their only option is to live in informal settlements, where they cannot obtain a building permit.

According to Slovenian legislation the competency for the provision of water lies with municipalities. Public utility companies distribute water and households have to apply for a connection to piped water through the public water company responsible for providing water in the respective area. An application requires the following documents: the building permit, proof of



ownership of the land, a plan of the plot showing the position of the building on the plot and a plan for grid connection to the water and sewage network (which may be prepared by the utility or other company).

Most municipalities have waived the obligatory requirements and have provided access to piped water for informal settlements. However, the municipalities mentioned above have not. The Roma living in informal settlements in these municipalities are therefore denied access to piped water because of their housing or land status. The municipalities do not provide access to alternative sources of water.

As a conclusion of her mission to Slovenia, the UN Independent Expert on human rights obligations related to safe drinking water and sanitation stated that: *"The situation of the Romani minority in Slovenia is a difficult and complex issue and I note with appreciation that some municipalities have found positive solutions. For example, I learned that settlements in the northeastern part of the country almost all have access to these most basic services. I also visited a settlement in Trebnje where important efforts have been made to ensure that the community is connected to water and sanitation. Furthermore, the community is working with the municipality to legalize the land and buildings where they live, which will represent a longer-term solution to their situation. However, less than 30 minutes away, other municipalities fail to find similar solutions. I find these discrepancies unacceptable, and I call on the central Government to take urgent action to ensure that all people in Slovenia have access to safe drinking water and sanitation. This could be achieved through earmarking part of the funds that municipalities receive to extend access to these communities, as well as through exchange of good practices between municipalities, as well as with other European countries with Roma communities."*<sup>203</sup>

In their responses to the questionnaire distributed to municipalities by Amnesty International, the Novo mesto municipality stated that 72 households out of 202 (living in eight Roma settlements) were connected to a piped network. Accordingly, the other residents were not connected as they do not own the land and / or their buildings were built without building permits. In response to a query about whether the municipality has taken any steps to provide those families with water, the municipality responded that it had built two communal water connections (one of them serves more than 200 inhabitants in the Roma settlement of Žabjak), but since the residents were not paying the water bill regularly, they were frequently disconnected. In February 2011 according to the public utility company providing water services in Novo mesto, they had no records of any water connections in the Roma settlement of Žabjak.<sup>204</sup>

The Committee on Economic, Social and Cultural Rights has identified the procedural and substantive protections that must be in place before any action to interfere with a person's right to water is undertaken by the authorities: *"Where such action is based on a person's failure to pay for water their capacity to pay must be taken into account. Under no circumstances shall an individual be deprived of the minimum essential level of water."*<sup>205</sup> As a result, a municipality may not disconnect water if there is no alternative supply of clean and accessible water. In addition, disconnecting a communal water supply would appear to unreasonably require that each individual in the Žabjak settlement not only pays for the cost of their own water, but also ensures that other members of the settlement pay for their share of the water.

The Constitutional Court of Slovenia, in a judgment in 1999, held that in cases where the consumption of water is not measured individually, people should not suffer suspension of water supply because others failed to pay for it. According to the Court, where individual measurement is

possible, the suspension of water supply due to non-payment is in line with the Constitution.<sup>206</sup> However, General Comment 15 on the right to water clearly states that any suspension of supply must not result in the denial of the minimum essential level of water.

While the public utility company of Novo mesto stated that it had no records of any water connections in the Roma settlement of Žabjak, Amnesty International found out that some Romani families did have access to water. However people's access to water varied significantly. For instance, Berta Brajdič told Amnesty International that they have had water for more than 10 years. Jana Brajdič on the other hand told Amnesty International that she asked the public utility company in 2009 whether they could get a connection to the water network, but was told that this was impossible because the settlement was illegal. She said she gets water from her neighbours in the same settlement. Bojan Brajdič told Amnesty International that he gets water from the stream 5 to 6 kilometres away. He brings approximately 100 litres per day, for a family of 10, but that sometimes he does not have the petrol to go for water. He said that his children have problems in school because they cannot bathe. *"Some children come to school tidy, we don't have the conditions for this."* Anita Brajdič told Amnesty International that the neighbours who have water do not want to give it to them and that they go to get water from the petrol station or from the stream three or four kilometres away. If she is washing they use 40 litres per day for family of six. *"We cannot live like that. The state only cares if our children go to school, but they don't help so that this could be easier. They are dirty. Sometimes we run out of water so we don't wash ourselves. I wash clothes when it's raining, but the water is not clean."* Anita Brajdič also told Amnesty International: *"When I was pregnant I was carrying heavy jerry cans of water from the stream and my baby was born dead."*<sup>207</sup>

The Novo mesto municipality acknowledged that it has repeatedly received requests for connection to water supply from residents of Žabjak, however claimed that new connections were impossible due to the conditionality of building permits.<sup>208</sup>

## INITIATIVES TAKEN BY THE STATE

In 2005, the Slovenian government adopted the Implementation Programme of Assistance to Municipalities in Solving Urgent Communal Infrastructure in Roma Settlements. The programme was meant to co-finance projects to construct basic communal infrastructure in Roma settlements. It succeeded a public call issued in 2002 by the government for the same purpose. Only municipalities inhabited by autochthonous Roma were eligible to apply for funds. In the years 2002 to 2010, 7,347,479 euro was allocated for projects, and 5,606,599 euro were utilised.<sup>209</sup>

Though this was a positive and welcome initiative, the exclusion of municipalities with non-autochthonous Roma remains a concern. Additionally, as with other governmental initiatives, it is dependent on the willingness of municipalities to engage in such a programme. The government has not put into place provisions to ensure that municipal authorities take all necessary measures to ensure access to at least minimum essential levels of water for personal and domestic use for all persons, including the Roma, in their municipalities. This contravenes Slovenia's obligations under Article 11 of the International Covenant on Economic, Social and Cultural Rights.

The Committee on Economic, Social and Cultural Rights has also emphasised that state parties should give special attention to those individuals and groups who have traditionally faced difficulties in exercising the right to water, including minority groups. It has highlighted that states should take steps to ensure that deprived urban areas, including informal human settlements,

should have access to properly maintained water facilities. No household should be denied the right to water on the grounds of their housing or land status.<sup>210</sup> State parties are obliged to provide the right when individuals or a group are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal.<sup>211</sup>

Furthermore, the Committee on Economic, social and Cultural Rights has made clear that the right to water must be ensured without discrimination, stating that states must refrain from any discrimination that has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to water.<sup>212</sup> The Committee on Economic, Social and Cultural Rights has emphasised that the "the exercise of Covenant rights should not be conditional on, or determined by, a person's current or former place of residence; e.g., whether an individual lives or is registered in an urban or a rural area, in a formal or an informal settlement, is internally displaced or leads a nomadic lifestyle".<sup>213</sup> The Committee has also noted in its General Comment on non-discrimination that "Property status, as a prohibited ground of discrimination, is a broad concept and includes real property (e.g., land ownership or tenure) and personal property (e.g., intellectual property, goods and chattels, and income), or the lack of it".<sup>214</sup> The denial of access to water to informal settlements constitutes a failure to take measures required under the international law to ensure that no person is denied the right to water on the basis of their housing or land status; moreover, it breaches the prohibition on non-discrimination on the basis of tenure (property) status or place of residence.

The UN Independent Expert on human rights obligations related to safe drinking water and sanitation also stated after her mission to Slovenia that *"swift and decisive action must be taken against any form of discrimination, including based on ethnicity. Overall, Slovenia has ensured the enjoyment of the rights to water and sanitation for the vast majority of the population. However, special attention is needed for the most vulnerable groups, and immediate steps are needed to ensure access for certain Romani communities. Slovenia has the expertise, experience and resources to ensure that these communities enjoy the same human rights as the rest of the Slovenian population."*<sup>215</sup>

The Slovenian authorities should as swiftly as possible, take all necessary steps, to the maximum of its available resources, to provide water in Roma settlements that lack access. In cases where regularization of the settlement is planned, the households should be connected to the water supply network as soon as possible.

In cases where the regularization of the settlement is not planned, the authorities must provide the residents with clean water accessible in or within the immediate vicinity of their homes until an adequate alternative housing solution is found.

## ACCESS TO SANITATION

The majority of Roma settlements that Amnesty International visited lacked adequate sanitation. While some residents use poorly constructed pit latrines sheltered by basic wooden structures, many use holes in the ground as toilets. Many people told Amnesty International that they relieve themselves in the bushes or the wood. Even in settlements where they do have a source of water inside the settlement (for instance a communal pipe) water for washing hands is not near the toilet. Wooden huts do not have bathrooms. Many Roma told Amnesty International that they would like to build one, but they were told that they cannot make any improvements or additions to the existing buildings, and they fear the authorities would demolish these buildings if they built bathrooms. The municipalities do not provide any assistance to the communities regarding

sanitation facilities.

According to the National programme for Roma only few Roma settlements in Slovenia<sup>216</sup> are linked to sewer systems and sewage constitutes a major problem, as it pollutes the local environment and is a health hazard to the residents and the neighbouring population.<sup>217</sup>

Tatjana Brajdič from the Roma settlement of Trata pri betonarni in Kočevje told Amnesty International: *"I have to go to the toilet in the woods. It is not easy, especially in the winter when it's cold and there is snow. But what can I do."*<sup>218</sup>

Women and girls living in these informal settlements are particularly affected by the lack of adequate access to facilities for toilets and bathing.

A Romani woman from Žabjak told Amnesty International: *"I go to the toilet in the forest, children go behind the barrack. I'm afraid in the dark and I don't feel comfortable. I have to go out even if it's raining and if it snows."* During menstruation, she said that she cleans herself with a cloth in the hut.<sup>219</sup> A Romani woman from Trata pri betonarni in Kočevje who lives in 4x5 metres one-room hut with her husband and four children told Amnesty International that they have to wash themselves in the same room. They go to the toilet just outside the hut. *"Children fall sick because they are going to the toilet outside in the cold."* She told Amnesty International that when she has her period she sometimes just goes outside, but it is hard because the neighbours' huts are not far. Sometimes she just sends her children out so she can quickly wash herself with water.<sup>220</sup>

## THE RIGHT TO SANITATION

The right to sanitation is an integral part of the right to an adequate standard of living in Article 11 (1) of the ICESCR. The Committee on Economic, Social and Cultural Rights has stated that "... since sanitation is fundamental for human survival and for leading a life in dignity, the right to sanitation is an essential component of the right to an adequate standard of living, enshrined in Article 11 of the International Covenant on Economic, Social and Cultural Rights. The right to sanitation is also integrally related, among other Covenant rights, to the right to health, as laid down in Article 12 paragraphs 1 and 2 (a), (b) and (c), the right to housing, in Article 11, as well as the right to water, which the Committee recognized in its General Comment No. 15."<sup>221</sup>

As stated above the Human Rights Council adopted by consensus a resolution, co-sponsored by several countries including Slovenia, which affirmed that the right to safe drinking water and sanitation is derived from the right to an adequate standard of living. Furthermore, the UN Convention on the Rights of the Child (CRC) recognizes the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development, including access to sanitation.

The Committee on Economic, Social and Cultural Rights indicated that States must ensure that everyone, without discrimination, has physical and affordable access to sanitation, "in all spheres of life, which is safe, hygienic, secure, socially and culturally acceptable, provides privacy and ensures dignity." (CESCR Statement, para8)

The UN Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation has stated with regard to the availability and accessibility of sanitation services:

"There must be a sufficient number of sanitation facilities (with associated services) within, or in the immediate vicinity, of each household, health or educational institution, public institutions and places, and the workplace... Physical accessibility must be reliable, including access at all times of day and night. The location of sanitation facilities must ensure minimal risks to the physical security of users... Moreover, sanitation facilities should be constructed in a way that minimizes the risk of attack from animals or people, particularly for women and children."<sup>222</sup>

With respect to the quality of sanitation facilities, the Independent Expert has stated:

*"Sanitation facilities must be hygienically safe to use, which means that they must effectively prevent human, animal and insect contact with human excreta. Sanitation facilities must further ensure access to safe water for hand washing as well as menstrual hygiene, and anal and genital cleansing, as well as mechanisms for the hygienic disposal of menstrual products. Regular cleaning, emptying of pits or other places that collect human excreta, and maintenance are essential for ensuring the sustainability of sanitation facilities and continued access. Sanitation facilities must also be technically safe to use, which means that the superstructure is stable and the floor is designed in a way that reduces the risk of accidents (e.g. by slipping). People must be enabled to use them safely at night, whether through lighted paths, flashlights, or other measures. Furthermore, special attention should be paid to the safety needs of persons with disabilities, as well as the safety needs of children. Maintenance is crucial to guarantee technical safety. Ensuring safe sanitation requires adequate hygiene promotion and education to encourage individuals to use toilets in a hygienic manner that respects the safety of others. Manual emptying of pit latrines is considered to be unsafe (as well as culturally unacceptable in many places, leading to stigmatization of those burdened with this task), meaning that mechanized alternatives that effectively prevent direct contact with human excreta should be used."*<sup>223</sup>

The World Health Organization (WHO) and UNICEF's Joint Monitoring Programme (JMP) have defined standards for "improved sanitation". Latrines and toilets are not considered "improved" when they are public or shared between two or more households. Pit latrines are considered as "improved sanitation facilities" when they contain features likely to ensure hygienic separation of human excreta from human contact; for example a slab or platform over the latrine that is firmly supported on all sides, easy to clean, is raised above the surrounding ground level to prevent surface water from entering the pit and has a squatting hole, or is fitted with a seat.<sup>224</sup> The JMP standard on "improved sanitation" is the official standard used for monitoring progress towards the Millennium Development Goal of reducing by half the proportion of people globally who do not have access to sanitation.

## 5. LEFT WITHOUT A REMEDY – WEAKNESSES IN THE ANTI- DISCRIMINATION FRAMEWORK

Amnesty International is concerned that the Slovenian authorities have failed to establish an effective legal and institutional framework that would enable victims of discrimination and other human rights violations to access an effective remedy. Under article 6 of the International Convention on the Elimination of Racial Discrimination, state parties are required to "*assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination*". To be effective, all remedies must be accessible, affordable and timely. The Committee on Economic, Social and Cultural Rights has highlighted that provision of some form of judicial remedies would be indispensable for cases of discrimination.<sup>225</sup>

The failure to ensure access to effective remedies is particularly relevant to the rights of the most disadvantage groups in Slovenia, such as Roma. As documented in this chapter it also affects this group's ability to enjoy the right to housing (including security of tenure) and the right to water.

Without access to an effective remedy Roma and other vulnerable groups remain marginalized. Discrimination persists as persons affected are not able to challenge the discriminatory practises against them.

### STROJAN FAMILY

In October 2006, members of a Romani family composed of approximately 30 people, including children, living in the village of Ambrus were forcibly evicted from their homes after they were targeted in an ethnically motivated attack by 300 non-Roma inhabitants of the village. The attack on the Romani family followed an incident in which a non-Roma inhabitant of the village was reportedly attacked by an unspecified number of Roma. As a result of the attack the man required emergency medical treatment. Following the incident, the entire Roma community fled their homes into the forest where they spent several nights. They were hiding in fear of retribution from non-Roma who reportedly threatened them, including with death. The Human Rights Ombudsman reported that the local citizens' assembly of Ambrus adopted a decision whereby the Romani family could never return home and addressed a request to state bodies for the removal of the family to a "safer and more ecologically appropriate location". They also "threatened" that the residents would otherwise not vote at the elections until further notice (right before the second round of elections for mayor) and that otherwise the people would take the "law into their own hands".<sup>226</sup>

The homes of the Strojan family were demolished in December 2006 on the grounds that they had been built illegally and that they had posed a threat to the water system. The Human Rights Ombudsman noted that several other buildings in the same situation were not demolished and described the authorities'

actions as discriminatory. He also noted the failure of the police to protect the family and that the Minister for Interior had promised demonstrators that the family would never return home. The family was moved with the agreement of the state to an abandoned military barracks 60 km away, which had no water or electricity. The Human Rights Ombudsman also documented that four municipalities had adopted illegal decisions prohibiting the placement of Roma people in their municipalities. The Advocate of the Principle of Equality (see below), however, took the view that the removal of the family from their home, including preventing them from returning to their land, was not discriminatory.<sup>227</sup>

## LEGAL AND INSTITUTIONAL FRAMEWORK AGAINST DISCRIMINATION IN SLOVENIA

The responsibility for anti-discrimination is spread between several institutions, which lack clarity in their mandates. The coordination between them is missing and the gaps in the definition of their responsibilities result in the lack of access to adequate remedy for victims of human rights violations.

Equality before the law is guaranteed by Article 14 of the Constitution of the Republic of Slovenia which reads:

*"In Slovenia everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political, or other conviction, material standing, birth, education, social status, disability, or any other personal circumstance.*

*All are equal before the law."*

The following institutions are responsible for providing victims of discrimination with access to a remedy:

- Human Rights Ombudsman
- Advocate of the Principle of Equality

In addition to the above, in relation to discrimination in the area of housing the following two Inspectorates should, under the legal framework, also take actions when instances of discrimination by individuals or companies in the housing sector are reported:

- Market Inspectorate
- Housing Inspectorate

As will be explained in detail in this chapter none of these institutions is responsible for overall coordination of anti-discrimination policy; collecting statistics; monitoring the situation and proposing systemic solutions.

Victims of discrimination can also seek judicial remedies before Slovenian administrative, civil and criminal courts as well as before the Constitutional Courts. However, these proceedings are slow and legal aid is not commonly available (legal aid is dependent on the likelihood of a successful outcome). Various experts told Amnesty International that it was difficult for victims of

discrimination, such as Romani communities, to afford the costs of judicial proceedings, especially before civil courts, if they were not able to access legal aid.

## THE RIGHT TO REMEDY AND REPARATION

International law entitles all victims of human rights violations to access to effective remedies and reparation. Reparation requires that, as far as possible, the consequences of the violation are corrected. The body providing a remedy should award the measures necessary to repair the specific harm suffered by victims, including some or all of the following:

- restitution, for example by restoring homes that were taken away during a forced eviction;
- compensation;
- rehabilitation, through services to address physical or psychological harm;
- satisfaction, by imposing additional or alternative remedies that are satisfactory to the victim; for example, a public apology and;
- a legally binding guarantee of non-repetition.

## HUMAN RIGHTS OMBUDSMAN

The institution of the Human Rights Ombudsman is the main human rights body envisaged by the Slovenian Constitution. As such the scope of the mandate of the Human Rights Ombudsman is broad, covering a range of issues including but also beyond that of discrimination.

According to Article 159 of the Constitution of the Republic of Slovenia the role of the Human Rights Ombudsman (full name the Ombudsman for Human Rights and Fundamental Freedoms) is to:

*"[...] protect human rights and fundamental freedoms in relation to state authorities, local self-government authorities, and bearers of public authority [...]."*

The Ombudsman may receive individual complaints related to alleged human rights violations by state organs provided that the applicants have exhausted all available legal remedies.<sup>228</sup> In the past, the Human Rights Ombudsman, in existence since 1995, also dealt with cases of discrimination by private actors. With the establishment of the Advocate of the Principle of Equality, with a mandate to receive and review alleged cases of discrimination both in private and public sector, in 2005, the Human Rights Ombudsman took the view that the Ombudsman would no longer deal with alleged case of discrimination by private actors, as these cases would be dealt with by the Advocate.

If the Human Rights Ombudsman establishes that a violation of human rights has occurred he or she shall recommend the way to remedy the violation. If the subject of the complaint falls outside of the scope of the Human Rights Ombudsman's mandate, he or she can transfer the case to a relevant Inspectorate or other public body.

If the public bodies in question do not submit a report on adhering to the Human Rights Ombudsman's recommendations within 30 days, or if these are adhered to only partially, the Human Rights Ombudsman may report this lack of compliance to a superior body of the violator or



a respective ministry. He or she can also submit a special report to the Parliament or publicize the facts related to the violation.

One of the most serious weaknesses of the Human Rights Ombudsman remedy process is the fact that recommendations made by the Human Rights Ombudsman to remedy human rights violations are not legally binding. If the recommendations are not acted on by the public body to which they are directed, the Human Rights Ombudsman cannot impose sanctions and can only make recommendations to Parliament or forward cases to a prosecutor or inspectorate requesting them to take action.

### **NO MONITORING FUNCTIONS**

Amnesty International notes that the Human Rights Ombudsman is mandated only to take action when he or she receives an individual complaint. Reporting in the annual report is also limited only to the analysis of individual cases brought to her/his attention. It is not possible for the Ombudsman to act on his/her own initiative in analysing the situation of discrimination in Slovenia. The Ombudsman does not collect specific statistics related to discrimination – other than the ones related to the individual complaints received – and the institution is also not mandated to monitor the overall situation in the area of discrimination in the country.

Amnesty International is concerned that this gap is not filled by other institutions because, as analysed later in this chapter, other institutions are not mandated to take this responsibility.

### **CASES RELATED TO ROMA HOUSING HANDLED BY THE OMBUDSMAN**

Since 2006 the Ombudsman has dealt with several cases related to discrimination against Roma in access to housing, in addition to the case of the Strojan family described above.

In the 2007 annual report the Ombudsman dedicated specific attention to the situation regarding access to goods and services, including housing, and reported on a case of direct discrimination when a landlord refused to rent an apartment to a Romani individual on the grounds of his ethnic origin.

As the refusal to sell the property occurred in the private sector, and thus fell outside of his competencies, the Ombudsman transferred the case to the Housing Inspectorate and the Market Inspectorate (please see below for details of the competences of these institutions). According to the Ombudsman's report both agencies have failed to act.

In the Ombudsman's opinion the state therefore had not provided for the effective handling of cases of discrimination in relation to housing.<sup>229</sup>

### **THE ADVOCATE OF THE PRINCIPLE OF EQUAL TREATMENT**

In 2004, in order to implement the relevant anti-discrimination legislation of the European Union (EU) the Slovenian authorities adopted the Act Implementing the Principle of Equal Treatment.<sup>230</sup>

The Act established a government body – the Advocate of the Principle of Equality (hereinafter the Advocate) - which is mandated to receive and review alleged cases of discrimination on prohibited

grounds both in the private and public sector.

However, Amnesty International is concerned that the Slovenian authorities have failed to ensure that the office of the Advocate has sufficient powers and resources to provide assistance and adequate remedy to victims of discrimination.

#### **DEFINITION OF DISCRIMINATION**

The 2004 Act Implementing the Principle of Equal Treatment defines direct and indirect discrimination.

The Act in Article 4.2 defines direct discrimination as an act which: *"occurs when a person has been, is or could be treated less favourably than another person in an equal or comparable situation [...]."*

Indirect discrimination is defined as a situation which happens: *"when in equal or comparable situations and under alike conditions an apparently neutral provision, criterion or practice has put, puts or could put a person with a certain personal circumstance in a less favourable position compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate objective and the means of achieving this objective are appropriate and necessary."*

#### **MANDATE OF THE ADVOCATE**

The Advocate is mandated by the 2004 Act to receive and review alleged cases of discrimination both in the private and public sector.

However, Amnesty International is concerned that at the moment the powers of the Advocate are very limited and ineffective. Due to a limited mandate the Advocate is not able to offer any meaningful redress to victims of discrimination.

The procedure before the Advocate takes place in writing. It is also not formal in the sense that the opinions issued by the Advocate upon consideration of claims are not legally binding. Consideration of a case is concluded by a written opinion by the Advocate, in which he or she states the findings and an assessment of the circumstances of the case. If the Advocate establishes that the principle of equal treatment was indeed violated he or she may point out the violations and may issue a recommendation on how these should be rectified.

If the relevant institution fails to implement the recommendations of the Advocate in a particular case, the Advocate can refer the case to one of the competent government inspectorates for further consideration. Other than that, the Advocate cannot take further action in relation to any institutions which fail to comply with his/her recommendations. As discussed below, this is a significant concern in relation to discrimination in housing as the Housing Inspectorate has taken the view that it does not have the competence to act on cases of discrimination by private individuals in the housing sector.

#### **NO MONITORING FUNCTIONS**

Like the Ombudsman, the Advocate is not mandated to collect specific statistics related to discrimination – other than the ones related to the individual complaints received. The Advocate

also does not monitor the overall situation in the area of discrimination in the country, nor coordinate the state policy against discrimination.

As a result there is a clear absence of such a monitoring body in the Slovenian institutional framework.

### INADEQUATE RESOURCES TO CONDUCT ITS MANDATE

While conducting its research for this report, representatives of Amnesty International met with the current Advocate in November 2010. The Advocate told the organization that his office was understaffed with only one employee working in the office, being the Advocate himself.

As a result the Advocate, apart from his tasks such as investigating individual cases and providing advice and information in alleged discrimination cases, had to deal with administrative tasks such as collecting mail, filing, maintaining correspondence and updating his website. This left him with very little time to conduct his primary tasks as envisaged by the Act Implementing the Principle of Equal Treatment.

### INSPECTORATES

Both the Ombudsman and the Advocate can issue only non-binding opinions. If they establish that discrimination has occurred they can refer a case to specific inspectorates. Article 21 of the Act Implementing the Principle of Equal Treatment provides that if the Advocate *"should also consider that all the indications of discrimination under Articles 4 and 5 of this act can be established, the inspector shall be obliged to deal with the opinion of the Advocate and to propose to the competent body the introduction of a procedure due to a misdemeanour."* However, the Ombudsman and the Advocate do not have any powers to enforce their recommendations in case the relevant inspectorates fail to act on those recommendations.

Two inspectorates have responsibilities in the area of housing; the Market Inspectorate and the Housing Inspectorate. While conducting its research for this report Amnesty International asked both whether they could deal with cases of alleged discrimination by either a public or private actor when someone was trying to buy or rent a house, including when such cases were referred to them by monitoring bodies.

In a letter received by Amnesty International in September 2010 the Housing Inspectorate answered that such cases would not fall under its jurisdiction.<sup>231</sup>

The response received from the Market Inspectorate, also in September 2010, explained that the mandate of the Inspectorate was to supervise the implementation of the provision of the Consumer Protection Act<sup>232</sup> which demands that companies should sell goods to all consumers under equal conditions.<sup>233</sup> Both Inspectorates answered that to date they have not received any complaints from individuals related to discrimination while buying or renting a house.

From the answers received it appears that only the Market Inspectorate could theoretically act and only if the actor allegedly responsible for discrimination was a company; but not a private person. This leaves a major gap in the implementation of the Act Implementing the Principle of Equal

Treatment and has resulted in a situation where people who have experienced discrimination from private individuals (such as the cases highlighted earlier of individuals refusing to sell or rent property or obstructing such transactions) have no effective remedy in such a situation.

Amnesty international is concerned that the current anti-discrimination framework in Slovenia leaves many victims of discrimination in housing without access to an adequate remedy. As it was shown in this chapter cases related to alleged discrimination in housing are dealt with by either Ombudsman or the Advocate but the implementation of their recommendations is left to the relevant Inspectorates which fail to act.

## **NON-DISCRIMINATION IN EUROPEAN UNION LAW**

The EU has strong competences in the field of non-discrimination by virtue of Article 13 of the Treaty establishing the European Community (TEC), which empowers the EU's institutions to: "take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation." The EU has adopted Directive 2000/43 on the "equal treatment between persons irrespective of racial or ethnic origin", sometimes referred to as the "Race Directive".

EU directives require member states to ensure that judicial or administrative procedures are available for the enforcement of the rights and obligations that they cover. Once implemented therefore, individuals should be able to seek a remedy for their breach before national courts.

The implementation of directives at the national level is also monitored directly by the European Commission. The failure to transpose directives into national law may result in infringement proceedings being brought against the non-complying member state.

## **FAILURE TO MONITOR DISCRIMINATION**

Amnesty International is concerned that the Slovenian authorities have failed to establish an independent body responsible for monitoring discrimination, collecting relevant statistics and co-ordinating anti-discrimination policies in the country.

## **FAILURE TO COLLECT DISAGGREGATED DATA**

Data on housing that is disaggregated by ethnicity and other indicators, such as gender, are essential for any assessment of discrimination or racial segregation in housing. Under the International Covenant on Economic, Social and Cultural Rights, to measure the impact of housing policies and plans, governments are obliged to collect data disaggregated by the prohibited grounds of discrimination – including "race and colour". It is only through the availability of such data that the authorities would be able to identify and take measures to redress any de facto discrimination. Several international human rights bodies have identified the failure of the Slovenian authorities to collect disaggregated data which would also enable them to monitor the overall situation in relation to discrimination in the country.

Very specific recommendations in this regard were made by the European Commission against Racism and Intolerance (ECRI) which already in 2006 recommended that:

*"the Slovenian authorities improve their systems for monitoring the situation of minority groups in different areas of life by collecting relevant information broken down according to categories such as religion, language, nationality and national or ethnic origin."*

ECRI further asked the authorities to ensure that such monitoring was:

*"done in all cases with due respect to the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group. These systems should be elaborated in close co-operation with all the relevant actors, including civil society organisations and take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination."*

Amnesty International is concerned that the authorities of Slovenia have failed to act on the above recommendations.

In Slovenia, the processing of personal data is governed by the Personal Data Protection Act, which provides that data on racial, national or ethnic origin or religious beliefs are considered sensitive and can only be collected in accordance with the Act. The Slovenian authorities however do not collect data disaggregated on ethnic lines.

The Slovenian authorities rejected the recommendations made by ECRI with regard to data collection. They continue to take the position that data collection to monitor the situation of ethnic minorities might be discriminatory in itself and could contravene provisions of the Data Protection Act and certain Constitutional Provisions.

However, the position by the Slovenian authorities was recently addressed by the UN Committee on the Elimination of Racial Discrimination (CERD). In August 2010 the CERD urged the Slovenian authorities to: *"[...]engage in a data-gathering exercise to ensure that special measures in favour of Roma in the fields of education, housing, health and employment are designed and implemented on the basis of need, and that their implementation is monitored and their effectiveness is regularly assessed."*

Amnesty International urges the Slovenian authorities to implement those recommendations.

## NO MONITORING BODY

Amnesty International is concerned that the authorities have failed to establish a central body responsible for human rights and anti-discrimination policy. As a result the competencies in this field are spread around several institutions (such as the Ombudsman, the Advocate and the relevant Inspectorates) but there is no institution to coordinate their work and to ensure that all victims of human rights violations, including discrimination have access to remedies.

The authorities also do not undertake systemic steps to analyse trends in discrimination and to challenge discriminatory practices as no government institution is responsible for such action.

In June 2010, the government appointed an interdepartmental Working group to review the institutional framework of the area of equality promotion and protection from discrimination. In December 2010, the Advocate of the Principle of Equality issued his assessment of the existing anti-discrimination legal and institutional framework to the Working Group.<sup>234</sup> The Advocate concluded

that the Slovenian legal framework is not fully in line with international standards. In particular he pointed that the current system does not provide for effective protection against discrimination. He expressed his concern about the gaps in the support for victims of discrimination. He further observed that several laws remain unimplemented, which results in the lack of enforcement of adequate sanctions against perpetrators of discrimination. He pointed to several gaps in the existing policies and to the inefficiencies in the existing institutional framework. According to the Advocate the problem was underpinned by the lack of political will to effectively tackle discrimination in line with international standards.

The Advocate suggested a reform of the current system which would result in the creation of two institutions which would replace a wide-range of existing institutions with weak mandates. The proposal of the Advocate envisaged the creation of one governmental policy body tasked with the development, monitoring, coordination, and implementation of effective anti-discrimination policies. The second body proposed by the Advocate would be an independent body with a strong mandate to deal with protection against discrimination and monitoring. The discussion about the proposal is supposed to continue in the government and eventually in the Parliament in 2011.

In 2006 ECRI recommended that: *"the Slovenian authorities take steps to investigate possible patterns of racial discrimination in housing and devote more attention to this issue in policy making and in the implementation of the legal provisions in force."*

Amnesty International urges the authorities of Slovenia to establish an independent body tasked with monitoring of discrimination and human rights in order to enable implementation of this recommendation.

A wide range of competencies for anti-discrimination institutions was also defined by ECRI in its General Policy Recommendation No 2.

## **BASIC PRINCIPLES FOR ANTI-DISCRIMINATION SPECIALISED BODIES**

The ECRI General Policy Recommendation No 2 in its pertinent part reads the following in relation to the functions and responsibilities of specialised bodies:

Subject to national circumstances, law and practice, specialised bodies should possess as many as possible of the following functions and responsibilities:

- a. to work towards the elimination of the various forms of discrimination set out in the preamble and to promote equality of opportunity and good relations between persons belonging to all the different groups in society;
- b. to monitor the content and effect of legislation and executive acts with respect to their relevance to the aim of combating racism, xenophobia, "anti-Semitism" and intolerance and to make proposals, if

necessary, for possible modifications to such legislation;

c. to advise the legislative and executive authorities with a view to improving regulations and practice in the relevant fields;

d. to provide aid and assistance to victims, including legal aid, in order to secure their rights before institutions and the courts;

e. subject to the legal framework of the country concerned, to have recourse to the courts or other judicial authorities as appropriate if and when necessary;

f. to hear and consider complaints and petitions concerning specific cases and to seek settlements either through amicable conciliation or, within the limits prescribed by the law, through binding and enforceable decisions;

g. to have appropriate powers to obtain evidence and information in pursuance of its functions under f. above;

h. to provide information and advice to relevant bodies and institutions, including State bodies and institutions;

i. to issue advice on standards of anti-discriminatory practice in specific areas which might either have the force of law or be voluntary in their application;

j. to promote and contribute to the training of certain key groups without prejudice to the primary training role of the professional organisations involved;

k. to promote the awareness of the general public to issues of discrimination and to produce and publish pertinent information and documents;

l. to support and encourage organisations with similar objectives to those of the specialised body;

m. to take account of and reflect as appropriate the concerns of such organisations.”

## 6. CONCLUSIONS AND RECOMMENDATIONS

Amnesty International welcomes the government's commitment, in the National Programme of Measures for Roma, 2010 – 2015, to improving the living conditions of Romani communities and to encourage municipalities to regularize informal settlements. Amnesty International also welcomes and acknowledges the efforts made by some municipalities to improve the housing and living conditions of Romani communities and to provide them with access to water. It is essential that other municipalities follow their example.

The research undertaken for this report has however highlighted the failure of the government to put in place adequate monitoring and regulatory frameworks to ensure that all municipalities take measures to confer security of tenure on communities who lack it and to ensure that all persons have access, at the very least, to minimum essential levels of water and sanitation. This is contrary to Slovenia's obligations under international and regional human rights treaties and the government must take immediate measures to correct this situation. The government must monitor all spatial planning processes to ensure that they include protection against forced evictions and that a clear time-frame is developed under which all municipalities start processes to regularize informal settlements where possible or provide communities with adequate alternative resettlement options. Any such plans must be undertaken in genuine consultation with affected communities. Programmes for regularization and resettlement must also comply with requirements for adequacy of housing under international law, including by identifying options for increasing security of tenure, which are affordable for the communities. The government and concerned municipalities must take immediate measures to provide access to minimum essential levels of water and sanitation to all communities who lack it. While processes to regularize settlements or to provide access to piped water within settlements are pending, the authorities must provide the residents with access to clean water within the immediate vicinity of their homes.

The government should also monitor all spatial plans to ensure that they are not contributing to or entrenching racial discrimination and segregation. The authorities should identify housing options outside of Roma settlements that are accessible to Romani communities, including by prioritising Romani communities living in informal settlements along with other disadvantaged groups in schemes for low-income housing and housing subsidies. Amnesty International has also documented the broader failure of the government to put in place adequate monitoring mechanisms and provide effective remedies for acts of discrimination by private and public actors. The current review of the anti-discrimination framework by the government offers important opportunities for the government to address these gaps.

Slovenia has the expertise, experience and resources to ensure that Romani communities enjoy their human rights – all that is required now is concrete actions to translate the government's political and legal commitments into a reality.



## RECOMMENDATIONS

### **Amnesty International calls on the Slovenian government:**

- To address discrimination against Roma by public and private actors, strengthen mechanisms for monitoring discrimination and provide the victims with effective redress.
- To review and monitor all spatial plans and housing programmes to ensure that they do not discriminate against the Roma or further entrench segregation.
- To confer security of tenure on all people living in informal settlements who currently lack it. All persons must be provided with protection against forced evictions; settlements should be regularized where possible or adequate alternative resettlement options made available. The government should undertake a genuine consultation with all affected communities on its plans and ensure that all regularization and resettlement programmes comply with criteria for adequate housing under international law.
- Enact and enforce a clear prohibition on forced evictions. Ensure that evictions are only carried out as the last resort after all feasible alternatives to eviction have been explored. Procedural protections required under international human rights law should be in place before any evictions are carried out, in particular the requirements on genuine consultation, due process safeguards, provision of legal remedies, compensation and adequate alternative housing.
- To improve the inadequate housing conditions in Roma settlements through modification of regulatory frameworks to enable people to regularize construction where possible, and provide support for upgrading and improving buildings.
- To prioritise Romani communities living in informal settlements and other disadvantaged groups in all housing policies and programmes, including schemes for low-income housing and housing subsidies.
- To provide guidance to municipalities on criteria for allocating non-profit housing and housing subsidies, to ensure that they do not indirectly discriminate against any groups and adequately prioritise the most disadvantaged groups.
- To immediately ensure at least the minimum essential levels of safe water for personal and domestic use and sanitation in all Roma settlements; including through provision of safe and clean water which is accessible and available in sufficient quantities in the vicinity of homes while processes to regularize settlements or to provide access to piped water within settlements are pending.
- To amend or adopt relevant regulations to provide an exemption for municipalities to be able to provide access to water and sewage systems in informal settlements, where homes lack the requisite building permissions.
- To amend the Housing Act to specify the obligations of municipalities to publish a public call to apply for non-profit rented housing at regular intervals.

- To allocate additional and adequate resources to municipalities to support them in regularizing settlements, improving housing conditions and providing access to services and infrastructure within settlements where adequate housing conditions are not met. No distinction should be made between the municipalities which are listed as the ones with "autochthonous" Romani population and the ones which are not listed among these.
- To establish an independent body tasked with monitoring of discrimination, which is capable of providing effective remedies to victims of discrimination.
- To implement the recommendations made by ECRI and the Committee on the Elimination of Racial Discrimination by collecting data disaggregated by the prohibited grounds of discrimination – including 'race and colour' – in relation to access to housing, water and sanitation and in order to monitor and ensure that there is no segregation in housing in practice. Any collection of data should comply with requirements under international human rights standards, including European standards concerning the protection of personal data.
- To ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights without delay.

**Amnesty International calls on the municipalities:**

- To abstain from discriminatory practices and collaborate with the Advocate and Ombudsman to put in place measures to prevent and react to discrimination against Romani communities by private and public actors.
- To confer security of tenure on all people living in informal settlements who currently lack it. Settlements should be regularized where possible or adequate alternative resettlement options made available. Municipalities should undertake a genuine consultation with all affected communities on their plans and ensure that all regularization and resettlement programmes comply with criteria for adequacy of housing under international law.
- Ensure that evictions are only carried out as the last resort after all feasible alternatives to eviction have been explored. Procedural protections required under international human rights law should be in place before any evictions are carried out, in particular the requirements on genuine consultation, due process safeguards, provision of legal remedies, compensation and adequate alternative housing.
- To immediately ensure at least the minimum essential level of safe water for personal and domestic use and sanitation in all Roma settlements; including through provision of safe and clean water which is accessible and available in sufficient quantities in the vicinity of homes while processes to regularize settlements or to provide access to piped water within settlements are pending.
- To provide support to Romani individuals to regularize construction where possible, and to upgrade and improve buildings within settlements.

- To ensure that housing units are available as a temporary solution for the most vulnerable groups or individuals who face homelessness or live in extremely difficult housing conditions.
- To issue a public call to apply for non-profit housing as regularly as possible. To take steps to increase the non-profit housing stock where there is need.
- Review criteria for allocating non-profit housing and housing subsidies, to ensure that they do not indirectly discriminate against any groups and adequately prioritise the most disadvantaged groups.
- To designate social workers or other officials to assist Roma in applying for social housing, by informing them fully of the possibilities to access social housing and assisting them with completing applications and obtaining relevant documentation.
- To identify housing options outside of Roma settlements accessible to Romani communities.

# ENDNOTES

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<sup>1</sup> Amnesty International interview with Ljubo Novak in February 2011.

<sup>2</sup> Amnesty International interview with Vanja Hočevar in September 2010.

<sup>3</sup> So called "social ownership" introduced by the former Yugoslavia embraced the idea that neither the state nor its individual citizens but the society as a whole should be owner of the production means and its results. Social ownership existed over urban and agricultural land, the production means (such as machines) in socially-owned enterprises, and use/occupancy rights over socially-owned apartments. Thus, social ownership was introduced as something similar to "the common good" of all Yugoslav citizens with the results of production belonging to the society as a whole.

<sup>4</sup> Statement by the UN Expert on Human Rights, Water and Sanitation Catarina de Albuquerque, UNIS/OUS/030, 1 June 2010, <http://www.unis.unvienna.org/unis/en/pressrels/2010/unisous030.html>.

<sup>5</sup> Zakon o romski skupnosti v Republiki Sloveniji (ZRomS-1), Ur.l. RS, št. 33/2007. The Act defines the role of state authorities and authorities of the self-governing local communities in exercising the special rights of the Roma community, and it regulates the organization of the Roma community at the national and local levels, including financing.

<sup>6</sup> <http://www.amnesty.org/en/library/info/EUR05/002/2006>.

<sup>7</sup> See Amnesty International's Briefing to the UN Committee on Economic, Social and Cultural Rights, 35th Session, November 2005, <http://www.amnesty.org/en/library/info/EUR68/002/2005>.

<sup>8</sup> National Programme of measures for Roma of the Government of the Republic of Slovenia for the period 2010 – 2015, page 7, [http://www.uvn.gov.si/fileadmin/uvn.gov.si/pageuploads/pdf\\_datoteke/NPUR\\_2010-2015-en-18.3.2010.pdf](http://www.uvn.gov.si/fileadmin/uvn.gov.si/pageuploads/pdf_datoteke/NPUR_2010-2015-en-18.3.2010.pdf).

<sup>9</sup> UNDP, Human Development Report 2010: The Real Wealth of Nations – Pathways to Human Development, see tables.

<sup>10</sup> Statistical Office of the republic of Slovenia, Income and poverty indicators, Slovenia 2009 – provisional data, [http://www.stat.si/novica\\_prikazi.aspx?id=3528](http://www.stat.si/novica_prikazi.aspx?id=3528).

<sup>11</sup> Republic of Slovenia Office for National Minorities, General information on Roma community in Slovenia, 4th December 2006, page 3, <http://www.uem.gov.si/fileadmin/uem.gov.si/pageuploads/IzrednaGradivo3.pdf>.

<sup>12</sup> Governmental Report on the situation of Romani community in Slovenia, October 2010 (Poročilo o položaju Romske skupnosti v Sloveniji), p6.

<sup>13</sup> Strategy of Education for Roma in the Republic of Slovenia (Strategija vzgoje in izobraževanja Romov v Republiki Sloveniji), 2004, p43.

<sup>14</sup> Governmental Report on the situation of Romani community in Slovenia, October 2010, p6.

<sup>15</sup> Letter to Amnesty International from Primary School Leskovec pri Krškem, 20 August 2010.

<sup>16</sup> Data received from Primary School Bršljin, Novo mesto, 27 August 2009.

<sup>17</sup> National Programme of measures for Roma, page 6. In compliance with the legislation in force on the protection of personal data, ministries and other government bodies may not keep special records of persons based on national or ethnic affiliation.

<sup>18</sup> Elaborat: Spatial problems of Roma settlements in Slovenia, Expert Group for Roma settlements, Ministry of Environment and Spatial Planning, 2010, [http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/publikacije/drugo/prostorski\\_problemi\\_romskih\\_naselij\\_elaborat.pdf](http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/publikacije/drugo/prostorski_problemi_romskih_naselij_elaborat.pdf), p98.

<sup>19</sup> Ibid, p17.

<sup>20</sup> Ibid, p27.

<sup>21</sup> Constitutional Court of the Republic of Slovenia, Decision in case no. U-I-416/98, 22 March 2001.

<sup>22</sup> From a newsarticle in Mladina, [http://www.mladina.si/tednik/200928/tudi\\_to\\_je\\_slovenija](http://www.mladina.si/tednik/200928/tudi_to_je_slovenija).

<sup>23</sup> Local community (krajevna skupnost) is a part of a municipality, a form of self-government with competencies that are agreed with the municipality.

<sup>24</sup> Press statement of the mayor of Trebnje municipality, 1 February 2010, [http://www.dolenjskolist.si/media/objave/dokumenti/2010/02/1/izjava\\_za\\_javnost\\_1\\_2\\_2010.pdf](http://www.dolenjskolist.si/media/objave/dokumenti/2010/02/1/izjava_za_javnost_1_2_2010.pdf). The mayor states that the boycott was organized by the vice president of the local community Račje selo. It also states that while the vice president was president of this local community in the previous mandate, Roma children received half smaller gifts than other children and the gifts were distributed in the Roma settlement and without any event.

<sup>25</sup> Amnesty International was present when two Roma women tried to access the warehouse at the time of its opening hours on 21 April 2010 and were chased away. On the same day Amnesty International met with the Secretary of the Novo mesto Red Cross branch, who confirmed that Roma are not allowed to collect clothes from the Red Cross warehouse. The Secretary confirmed that also in the letter sent to Secretary General of the Red Cross Slovenia on 6th of June 2010 in response to concerns about the discriminatory practice expressed by Amnesty International. Amnesty International has no knowledge of any action taken by the Red Cross Slovenia to address this violation.

<sup>26</sup> National Programme of Measures for Roma, p6.

<sup>27</sup> The Expert group was established in December 2006 by the Ministry of Environment and Spatial Planning and consisted of three representatives of the Ministry for Environment, the Head of the Office for minorities, Mayor of Škocjan municipality, two representatives from the Roma association and head of the group Dr. Jernej Zupančič, geography professor in Faculty of Arts in Ljubljana. The first action of the expert group was to update records on Roma settlements in Slovenia. This was done by means of a questionnaire sent by the Ministry of Public Administration to all municipalities and administrative units with Roma communities. The aim of the questionnaire was to gather and update data on Roma settlements and collect information on aspects of the housing situation of the Roma in Slovenia. The questionnaires were analysed and, although the level of accuracy left something to be desired (numerous cases of incomplete or simply false data), according to the National Programme for Roma it is possible to obtain a relatively good picture of the present status of Roma settlements and the relevant territorial problems in Slovenia.

<sup>28</sup> Governmental Report on the situation of Romani community in Slovenia, October 2010, p14.

<sup>29</sup> Peace Institute, Institute for Contemporary Social and Political Studies, *Housing Conditions of Roma and Travellers*, Slovenia RAXEN National Focal Point Thematic Study, March 2009, commissioned by the EU Agency for Fundamental Rights.

<sup>30</sup> UN-HABITAT (UN Human Settlements Programme). In *Enabling shelter strategies: Review of experience from two decades of implementation*, UN\_HABITAT, 2006, p4.

<sup>31</sup> Municipality Ribnica hadn't had a public call to apply for non-profit rented housing for more than 10 years.

However in the meantime it sold a number of apartments that were in a non-profit housing fund, 2 of them in November 2009, despite their obligation to create conditions increasing the availability of rentable social housing.

<sup>32</sup> Amnesty International interviews with Danilo Hudorovič, July 2009 - March 2010.

<sup>33</sup> The Housing Fund of Slovenia, answer to a question from a journalist, 10 July 2010, <http://www.stanovanjskisklad-rs.si/si/588/aktualno/odgovori-na-vpra%C5%A1anja.html?o=c096928b757f8684cce89696d0d2b9a5b690a3ab98bec6a58890e06b798754556a6684ab645598a66b7878466379>.

<sup>34</sup> On the universal level, housing rights are besides the International Covenant on Economic, Social and Cultural Rights also enshrined and protected within: Universal Declaration of Human Rights<sup>34</sup>, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, the Convention Relating to the Status of Refugees, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In Europe they are guaranteed by the European Convention on Human Rights and Fundamental Freedoms, the European Social Charter and the European Community Charter of Fundamental Social Rights.

<sup>35</sup> Slovenia ratified the Revised European Social Charter on 07/05/1999 accepting 95 of the Revised Charter's 98 paragraphs, including Articles 31 and 16. Slovenia ratified the Additional Protocol providing for a system of collective complaints on 07/05/1999, but it has not yet made a declaration enabling national NGOs to submit complaints. For further details on provisions accepted by Slovenia see [http://www.coe.int/t/dghl/monitoring/socialcharter/CountryFactsheets/Slovenia\\_en.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/CountryFactsheets/Slovenia_en.asp) (last accessed on 20 February 2011).

<sup>36</sup> CESCR, General Comment 4, The Right to Adequate Housing, UN Doc.E/1992/23, para7.

<sup>37</sup> Ibid, para8.

<sup>38</sup> Ibid, para11.

<sup>39</sup> See Article 2.1 and 2.2 of the ICESCR, CESCR General Comment no. 3, The nature of States' Parties Obligations, UN Doc.E/1991/23, and CESCR, General Comment 4, para6.

<sup>40</sup> CESCR, General Comment 4, para8 (f).

<sup>41</sup> Elaborat: Spatial problems of Roma settlements in Slovenia, 2010, p28.

<sup>42</sup> Roma and Roma settlements in Slovenia, Short report on results of the survey done by the Expert Group for solving Spatial issues of Roma settlements in Slovenia (Romi in romska naselja v Sloveniji, Kratko poročilo o rezultatih raziskave v okviru dela Strokovne skupine za reševanje prostorske problematike romskih naselij v Sloveniji), November 2010, see table on page 12 -13.

<sup>43</sup> CESCR, General Comment 4, para8 (b).

<sup>44</sup> Elaborat: Spatial problems of Roma settlements in Slovenia, 2010, p36.

<sup>45</sup> Short report on results of the survey done by the Expert Group on Roma settlements in Slovenia, 2010, p14.

<sup>46</sup> Two data sets showing different percentages. Ibid, see grafikon on the page 16 and on the page18.

<sup>47</sup> Ibid, p14.

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- <sup>48</sup> Elaborat: Spatial problems of Roma settlements in Slovenia, 2010, p37.
- <sup>49</sup> CESCR, General Comment 4, para8 (d).
- <sup>50</sup> See the internet site of the Office for National Minorities, <http://www.uvn.gov.si>.
- <sup>51</sup> UN-HABITAT, *Urban Indicators Guidelines: "Better Information, Better Cities" – Monitoring the Habitat Agenda and the Millennium Development Goals – Slum Target*, July 2009, UN-HABITAT, p9.
- <sup>52</sup> Elaborat: Spatial problems of Roma settlements in Slovenia, 2010, p37.
- <sup>53</sup> Amnesty International interview with Marjan Hudorovič, September 2009.
- <sup>54</sup> Article 14.2 (h) states that: "*States Parties shall undertake all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right ... (h) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.*"
- <sup>55</sup> Statistical Office of the Republic of Slovenia, Prices of Energy Sources, first half of 2010, [http://www.stat.si/eng/novica\\_prikazi.aspx?id=3379](http://www.stat.si/eng/novica_prikazi.aspx?id=3379).
- <sup>56</sup> *Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, Addendum Preliminary note on the mission to Slovenia (24-28 May 2010)*, UN Doc. A/HRC/15/31/Add.2, 3 September 2010, para18.
- <sup>57</sup> National Report on Strategies for Social Protection and Social Inclusion 2006-2008, p8, [http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti\\_\\_pdf/npsszsv\\_o6\\_o8\\_an\\_vsebina.pdf](http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti__pdf/npsszsv_o6_o8_an_vsebina.pdf).
- <sup>58</sup> CESCR, General Comment 4, paras1 and 9.
- <sup>59</sup> Article 30 and 31 of the Revised European Social Charter.
- <sup>60</sup> <http://www.dnevnik.si/novice/slovenija/1042304965>
- <sup>61</sup> National Programme of measures for Roma, pp 7-8.
- <sup>62</sup> Official Gazette RS 43/2000, (Nacionalni stanovanjski program).
- <sup>63</sup> Zakon o romski skupnosti v Republiki Sloveniji (ZRoms-1), Ur.l. RS, št. 33/2007. The Act regulates the status of the Roma community in Slovenia; it defines the role of state authorities and authorities of the self-governing local communities in exercising the special rights of the Roma community, and it regulates the organization of the Roma community at the national and local levels.
- <sup>64</sup> Interview with Jože and Vera Hudorovac, August 2009 and March 2010.
- <sup>65</sup> This was confirmed to Amnesty International also by the Office for National Minorities.
- <sup>66</sup> Amnesty International interview with Ivan Kavčič, May 2010.
- <sup>67</sup> Amnesty International interview with the owner, July 2010.
- <sup>68</sup> Amnesty International interview with Novo mesto official, April 2010.
- <sup>69</sup> Amnesty International meeting with the representatives of Krško municipality, October 2010.
- <sup>70</sup> Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for the Year 2008, p59.

<sup>71</sup> From a newsarticle in Mladina, [http://www.mladina.si/tehdnik/200928/tudi\\_to\\_je\\_slovenija](http://www.mladina.si/tehdnik/200928/tudi_to_je_slovenija).

<sup>72</sup> Letter from the Human Rights Ombudsman to Slavko Hudorovac, 28th August 2009.

<sup>73</sup> See Human Rights Committee, General Comment No. 31, para8 and CERD, General Recommendation No. 20, para5.

<sup>74</sup> CERD, General Recommendation No. 27: Discrimination against Roma, adopted on 16 August 2000, fiftieth session, para31.

<sup>75</sup> CDESCR, General Comment 4, para6.

<sup>76</sup> Ministry of Environment and Spatial Planning in the letter to Amnesty International, 20 May 2010.

<sup>77</sup> Article 121 of the Housing Act. According to Ministry of Environment and Spatial Planning data the number of social flats available is decreasing. Because of the fact that municipalities are not active in providing enough apartments for non-profit rent regardless of the fact that they are obliged to do so, the Housing Act stipulates that from 1.1. 2009 the municipalities have to subsidize the rent to those who would be entitled to non-profit housing. <http://www.mop.gov.si/nc/si/splosno/cns/novica/article//7308/>.

<sup>78</sup> Recognized market rent price for a square metre in southeastern region is 5 euro, non-profit rent price for a square metre is 3 euro.

<sup>79</sup> Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for the Year 2008 – Abbreviated Version, [http://www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp/Varuh\\_-\\_LP\\_2008\\_-\\_ANG.pdf](http://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/Varuh_-_LP_2008_-_ANG.pdf), p90.

<sup>80</sup> Article 154 of the Housing Act.

<sup>81</sup> Article 21 of the Act Determining the Principles for the Regulation of Self-governing Local Communities.

<sup>82</sup> According to telephone interviews with the municipalities of Črnomelj, Grosuplje, Kočevje, Krško, Metlika, Novo mesto, Semič, Šentjernej, Škocjan in March 2011 and a meeting with mayor of Ribnica in November 2009.

<sup>83</sup> From the questionnaires answered by municipality Črenšovci, Dobrovnik, Grosuplje and Šentjernej.

<sup>84</sup> Amnesty International interview with municipality Ribnica authorities.

<sup>85</sup> Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for the Year 2008 – Abbreviated Version, p117.

<sup>86</sup> Ministry of Environment and Spatial Planning in the letter to Amnesty International, 20 May 2010.

<sup>87</sup> Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for the Year 2008 - Abbreviated Version, p90.

<sup>88</sup> Amnesty International telephone interview, 16 January 2011.

<sup>89</sup> Amnesty International interviews with Roma in Krško, Novo mesto, Škocjan, and Ribnica.

<sup>90</sup> CDESCR, General Comment 4, paras8 and 11.

<sup>91</sup> Pravilnik o dodeljevanju neprofitnih stanovanj v najem, <http://www.uradni-list.si/1/objava.jsp?urlid=200414&stevilka=570>.

<sup>92</sup> Indirect discrimination occurs when an apparently neutral law, rule, procedure or practice results in a disproportionate disadvantage for, or disparate impact on, a particular group which has no objective or reasonable justification. See CDESCR, *General Comment No. 20: Non-discrimination in economic, social and*



*cultural rights (art. 2, para 2)*, UN. Doc. E/C.12/GC/20, 10 June 2009, paras 10 (b) and 13. See also Amnesty International, *Dealing with difference: A framework to combat discrimination in Europe*, AI Index: EUR 001/003/2009.

<sup>93</sup> Complaint No. 27/2004, decision on merits, 7 December 2005, para 46, [http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints\\_en.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints_en.asp).

<sup>94</sup> Ibid, para 43.

<sup>95</sup> Ministry of Environment and Spatial Planning letter to Amnesty International, 20 May 2010.

<sup>96</sup> Amnesty International interview with Bojan Brajdič, October 2010.

<sup>97</sup> Amnesty International interview with Bojan Brajdič, October 2010.

<sup>98</sup> Pavla Štrukelj, *Romi na Slovenskem*, 1980, p109.

<sup>99</sup> Pavla Štrukelj, *Tisočletne podobe nemirnih nomadov: Zgodovina in kultura Romov v Sloveniji (History and culture of Roma in Slovenia)*, 2004, p58.

<sup>100</sup> Ibid, p100.

<sup>101</sup> Amnesty International interview with Duška Balažek, December 2010.

<sup>102</sup> Municipality Novo mesto, Document to the Municipal Council: Proposals of possible spatial solutions for Roma settlement Žabjak (Predlog možnih rešitev prostorskega urejanja romskega naselja Žabjak), 18 January 2011, <http://www.novomesto.si/media/doc/svet/seje/2011/4.%20seja/14.%20Naselje%20Zabjak.pdf>, p16.

<sup>103</sup> [http://www.dolenjskilist.si/2009/02/24/12578/novice/obcine/Muhic\\_Razselitev\\_Zabjaka\\_\\_Brezje\\_v\\_sedanjem\\_obsegu/?sort=ASC](http://www.dolenjskilist.si/2009/02/24/12578/novice/obcine/Muhic_Razselitev_Zabjaka__Brezje_v_sedanjem_obsegu/?sort=ASC).

<sup>104</sup> Municipality Novo mesto, Document to the Municipal Council: Proposals of possible spatial solutions for Roma settlement Žabjak (Predlog možnih rešitev prostorskega urejanja romskega naselja Žabjak), p16.

<sup>105</sup> News article on municipality of Novo mesto internet site, <http://www.novomesto.si/si/obcina/novice/?id=5927>.

<sup>106</sup> See [http://www.siol.net/slovenija/lokalne\\_novice/dolenjska\\_in\\_posavje/2011/02/miklic\\_mesojedec.aspx](http://www.siol.net/slovenija/lokalne_novice/dolenjska_in_posavje/2011/02/miklic_mesojedec.aspx).

<sup>107</sup> In the Prekmurje region, in 18 out of 38 settlements Romani communities own most of the land and part of the land in one settlement. In six other settlements the state or municipality owns the land, and in only two settlements was the land privately owned. In contrast, in Dolenjska, only in five out of 57 settlements did Romani communities own most of the land and part of the land in 13 settlements. The municipality or state owns the land of 14 settlements and the land of 25 settlements was under private ownership. Elaborat: Spatial problems of Roma settlements in Slovenia, 2010, page 50.

<sup>108</sup> Ibid, p48.

<sup>109</sup> CESCR, General Comment 4, para 8(a).

<sup>110</sup> Elaborat: Spatial problems of Roma settlements in Slovenia, 2010, p15.

<sup>111</sup> Pavla Štrukelj, *Romi na Slovenskem*, pp94-96.

<sup>112</sup> Pavla Štrukelj, *Zgodovina in kultura Romov v Sloveniji*, p327.

<sup>113</sup> Elaborat: Spatial problems of Roma settlements in Slovenia, 2010, p16.

<sup>114</sup> Ibid, p24.

<sup>115</sup> Jernej Zupančič, Prostorski problemi romskih naselij na Dolenjskem in v Sloveniji, Rast, št. 5, oktober 2004, p514.

<sup>116</sup> Elabarat: Spatial problems of Roma settlements in Slovenia, 2010, p20.

<sup>117</sup> Policy measures to ensure access to decent housing for migrants and ethnic minorities, Slovenian National Report, University of Ljubljana, Faculty of Social Sciences, Centre for Welfare Studies, October 2004, p66.

<sup>118</sup> National Programme of measures for Roma, p10.

<sup>119</sup> Short report on results of the survey done by the Expert Group on Roma settlements in Slovenia, 2010, pp29-30.

<sup>120</sup> At that time this land was a part of Novo mesto municipality.

<sup>121</sup> Roma settlement Dobruška vas became a part of the new Škocjan municipality which was formed in 1995.

<sup>122</sup> The mayor speech in the »meeting on the subject of Roma issue« organized by municipality Škocjan, 12 January 2011.

<sup>123</sup> Amnesty International interview with Milan Novak, April 2010.

<sup>124</sup> Which foresaw the allocation of approximately 2,725,000 euro to projects between 2007 and 2009.

<sup>125</sup> [http://www.svlr.gov.si/fileadmin/svlr.gov.si/pageuploads/Novice/aktualno/porocilo-razpisa-2007\\_1.pdf](http://www.svlr.gov.si/fileadmin/svlr.gov.si/pageuploads/Novice/aktualno/porocilo-razpisa-2007_1.pdf)

<sup>126</sup> Amnesty International meeting with Krško municipality, October 2010.

<sup>127</sup> Amnesty International interview with Moran Jurkovič, October 2010.

<sup>128</sup> Article 3, para1.

<sup>129</sup> Buildings erected before 1967 are considered legal, even if they were built irregularly.

<sup>130</sup> Article 152.

<sup>131</sup> In judgement No I Up 233/2003 of 23 February 2006 the Supreme Court confirmed the judgement of the Administrative Court, which ruled that the measure issued by the communal inspectorate which led to the destruction of wooden huts and the removal of a Roma camp from the property of a municipality did not have any basis in law.

<sup>132</sup> The case of the forced removal of Roma was brought before the Human Rights Ombudsman and the Administrative Court. Both institutions noted that a decree is not a sufficient legal basis for an eviction, and that the eviction of the Roma was unlawful. This decision was reaffirmed by the Supreme Court claiming that the Communal Inspectorate was not competent to remove the barracks since there was no legal basis for that. The Court also noted that such a measure represented an interference with property rights.

<sup>133</sup> Record from a meeting on housing situation of the Hudorovac family, Office for National Minorities, February 2009.

<sup>134</sup> See UN- Habitat, *Enabling shelter strategies*, 2006, p161.

<sup>135</sup> Amnesty International interview with Matija Brajdič, August 2009.

<sup>136</sup> Amnesty International interview with Bojan Brajdič, October 2010.

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- <sup>137</sup> Amnesty International interview with Milan Novak, October 2010.
- <sup>138</sup> Amnesty International interview with Albin Lah, January 2011.
- <sup>139</sup> Amnesty International interview with Polonca Plut, October 2010.
- <sup>140</sup> Pavla Štrukelj, *Zgodovina in kultura Romov v Sloveniji*, p104.
- <sup>141</sup> Governmental Report on the situation of Romani community in Slovenija, October 2010, p14.
- <sup>142</sup> Ministry of Environment and Spatial Planning letter to Amnesty International, December 2010.
- <sup>143</sup> National Programme of measures for Roma, p7.
- <sup>144</sup> Ministry of Environment and Spatial Planning letter to Amnesty International, December 2010.
- <sup>145</sup> Amnesty International interview with Ministry of Environment and Spatial Planning official, April 2010.
- <sup>146</sup> Amnesty International interview with Moran Jurkovič, February 2011.
- <sup>147</sup> Amnesty International interview with Dr. Jernej Zupančič, October 2010.
- <sup>148</sup> Under the Spatial Planning Act (ZPNačrt), municipalities must prepare municipal spatial plans (OPNs).
- <sup>149</sup> Short report on results of the survey done by the Expert Group on Roma settlements in Slovenia, 2010, p29.
- <sup>150</sup> Complaint No. 31/2005, decision on merits, 18 October 2006, para46.
- <sup>151</sup> Ibid, para55.
- <sup>152</sup> CESCR, General Comment No.7, *The Right to Adequate Housing*, 20 May 1997, Sixteenth session, para3 available at: <http://www2.ohchr.org/english/bodies/cescr/comments.htm>.
- <sup>153</sup> Ibid, para13.
- <sup>154</sup> Ibid, para15.
- <sup>155</sup> Ibid, paras13 and 16.
- <sup>156</sup> Amnesty International meeting with the mayor of Ribnica, April 2009. This decision regarding the impossibility to regularize the settlement was said to be taken in consultation with the Ministry of Environment and Spatial Planning.
- <sup>157</sup> Amnesty International interview with Branko Hudorovič, September 2009.
- <sup>158</sup> Amnesty International interviews in July and October 2009.
- <sup>159</sup> In phone conversation with Amnesty International, November 2009 and confirmed again on a meeting with the mayor of Ribnica municipality, Office for National Minorities and representatives of the Ministry for Spatial Planning and Environment.
- <sup>160</sup> Email from Ribnica municipality to Amnesty International, 11 January 2011.
- <sup>161</sup> Amnesty International interviews with the residents of Dobruška vas, August 2009.
- <sup>162</sup> Amnesty International interview with the mayor of Škocjan municipality, February 2010.
- <sup>163</sup> Articles 103 and 104.
- <sup>164</sup> In accordance with Article 32 of the Law of Property Code (Stvarnopravni zakonik). This legal protection has

its basis in the notion of 'possession' which is a 'direct actual authority over an item or land'. In this procedure court offers protection taking into account the last possession situation.

<sup>165</sup> CERD, General Recommendation No. 27, para30.

<sup>166</sup> CERD, General Recommendation No. 19: Racial segregation and apartheid (article 3), 18 August 1995, Forty-seventh session, paras4 and 5, available at: <http://www2.ohchr.org/english/bodies/cerd/comments.htm>.

<sup>167</sup> Amnesty International interview with municipality officials, April 2009.

<sup>168</sup> Amnesty International interview with residents of Roma settlement Draškovec, April 2009.

<sup>169</sup> In the document titled Municipal Spatial plan of the Šentjernej municipality (Občinski prostorski načrt občine Šentjernej, Predlog stališč do pripomb iz tretje javne razgrnitve dopolnjenega osnutka akta), signed by the mayor.

<sup>170</sup> CESCR, General Comment 4, parag.

<sup>171</sup> Ibid, para 8(a).

<sup>172</sup> Ibid, para12.

<sup>173</sup> Ibid, para8.

<sup>174</sup> Record from a meeting on housing situation of the Hudorovac family, Office for National Minorities, February 2009.

<sup>175</sup> Amnesty International interview with Silvana Hudorovac, October 2010.

<sup>176</sup> Elaborat: Spatial problems of Roma settlements in Slovenia, 2010, pp36-37.

<sup>177</sup> Short report on results of the survey done by the Expert Group on Roma settlements in Slovenia, 2010, p14.

<sup>178</sup> Elaborat: Spatial problems of Roma settlements in Slovenia, 2010, p37.

<sup>179</sup> Two data sets showing different percentages. Short report on results of the survey done by the Expert Group on Roma settlements in Slovenia, 2010, see data sets on the page 16 and on the p18.

<sup>180</sup> Short report on results of the survey done by the Expert Group on Roma settlements in Slovenia, 2010, p14.

<sup>181</sup> Statement by the UN Expert on Human Rights, Water and Sanitation Catarina de Albuquerque, 1 June 2010.

<sup>182</sup> CESCR, General Comment No. 15: The Right to Water, UN Doc. E/C.12/2002/11, 20 January 2003, para 1.

<sup>183</sup> Ibid, para2.

<sup>184</sup> The right to water is also protected under other international treaties, to which Slovenia is a state party, including the UN Convention on the Rights of the Child (CRC), and the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Article 14, paragraph 2, of the CEDAW stipulates that States parties shall ensure to women the right to "enjoy adequate living conditions, particularly in relation to [...] water supply". Article 27 of the CRC recognizes the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. This Article has consistently been interpreted by the Committee on the Rights of the Child, the treaty body in charge of monitoring and interpreting the CRC, to include access to clean drinking water and sanitation. Article 24, paragraph 2, of the CRC requires States parties to combat disease and malnutrition "through the provision of adequate nutritious foods and clean drinking-water".

<sup>185</sup> CESCR, General Comment No. 15, para3.

<sup>186</sup> A/HRC/RES/15/9, para3.

<sup>187</sup> CESCR, General Comment No. 15, para3, para12.

<sup>188</sup> Ibid, para3, para25.

<sup>189</sup> Amnesty International interview with Lili Grm, May 2010.

<sup>190</sup> Zveza potrošnikov Slovenije, Pitna voda, 2008. Slovenia Consumer Association, Drinking water, 2008.

<sup>191</sup> Amnesty International interview with Silva and Zvonimir Hudorovac, January 2011.

<sup>192</sup> World Health Organization, *Guidelines for Drinking Water Quality*, 3<sup>rd</sup> ed, incorporating first and second addenda (Geneva: WHO, 2008), p91

<sup>193</sup> Ibid.

<sup>194</sup> Ibid.

<sup>195</sup> WHO, The right to water, p14, [http://www.who.int/water\\_sanitation\\_health/rightwater/en/](http://www.who.int/water_sanitation_health/rightwater/en/).

<sup>196</sup> Amnesty International interview with Marjan Hudorovič, September 2009.

<sup>197</sup> Ibid.

<sup>198</sup> WHO, The right to water, p6.

<sup>199</sup> COHRE, AAAS, SDC and UN-HABITAT, Manual on the Right to Water and Sanitation, 2007, p112.

<sup>200</sup> Amnesty International visit to the settlement, September 2010.

<sup>201</sup> Amnesty International interview with Dunja Kočevar, September 2010.

<sup>202</sup> Amnesty International interview with residents of Roma settlement Ponova vas, July 2010.

<sup>203</sup> Statement by the UN Expert on Human Rights, Water and Sanitation Catarina de Albuquerque, 1 June 2010.

<sup>204</sup> Amnesty International telephone interview with Public utility company Novo mesto representative, February 2011.

<sup>205</sup> CESCR, General Comment No. 15, para56.

<sup>206</sup> <http://odlocitve.us-rs.si/usrs/us-odl.nsf/0/23FoC293D2395279C1257172002A2A8D>

<sup>207</sup> Amnesty International interviews with residents of Žabjak, October 2010.

<sup>208</sup> <http://www.novomesto.si/media/doc/svet/seje/2011/4.%20seja/14.%20Naselje%20Zabjak.pdf>, p9.

<sup>209</sup> Governmental Report on the situation of Romani community in Slovenija, October 2010, p15.

<sup>210</sup> CESCR, General Comment No. 15, para16.

<sup>211</sup> Ibid, para25.

<sup>212</sup> Ibid, para13.

<sup>213</sup> CESCR, General Comment No. 20, para34.

<sup>214</sup> Ibid, para25.

<sup>215</sup> Statement by the UN Expert on Human Rights, Water and Sanitation Catarina de Albuquerque, 1 June 2010.

<sup>216</sup> The 2010 survey of the Expert group on Roma settlements estimates that less than 20 per cent of Roma settlements in Slovenia are linked to sewer systems. See Short report on results of the survey done by the Expert Group on Roma settlements, 2010, p23.

<sup>217</sup> National Programme of Measures for Roma, p8.

<sup>218</sup> Amnesty International interview with Tatjana Brajdič, January 2011.

<sup>219</sup> Amnesty International interview, September 2010.

<sup>220</sup> Amnesty International interview, January 2011.

<sup>221</sup> CESCR, "Statement on the Right to Sanitation" on 19 November 2010, UN Doc. E/C.12/45/CRP.1, para7.

<sup>222</sup> *Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation*, para75.

<sup>223</sup> *Ibid*, paras72,73.

<sup>224</sup> World Health Organization and UN Children's Fund Joint Monitoring Programme for Water Supply and Sanitation, Progress on Sanitation and Drinking-water: 2010 Update, WHO and UNICEF, 2010, p12 and 'Types of drinking-water sources and sanitation', <http://www.wssinfo.org/definitions/infrastructure.html>.

<sup>225</sup> CESCR, General Comment No. 9: The domestic application of the Covenant.

<sup>226</sup> Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for the Year 2006, p15.

<sup>227</sup> Peace Institute, *Housing Conditions of Roma and Travellers*, Slovenia RAXEN National Focal Point Thematic Study, p104.

<sup>228</sup> The condition of the exhaustion of all available remedies can be lifted by the Ombudsman if she/he assesses that the remedies are ineffective or if the applicants would otherwise suffer irreparable damage in the meantime.

<sup>229</sup> Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for the Year 2007.

<sup>230</sup> Zakon o uresničevanju načela enakega obravnavanja - ZUNEO (Uradni list RS, št. 50/04 z dne 6.5.2004).

<sup>231</sup> Mail to Amnesty International, 2 September 2010.

<sup>232</sup> Article 25 of the Consumer Protection Act (Zakon o varstvu potrošnikov, UL RS št. 98/04-UPB2, 126/07 in 86/09).

<sup>233</sup> Letter to Amnesty International, 6 September 2010.

<sup>234</sup> State obligations for prevention and elimination of discrimination, Assessment of mechanisms for protection, Advocate of the Principle of Equality (Obveznosti države pri preprečevanju in odpravljanju diskriminacije. Ocena varstvenih mehanizmov. Zagovornik načela enakosti), December 2010.



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## PARALLEL LIVES

### ROMA DENIED RIGHTS TO HOUSING AND WATER IN SLOVENIA

Almost 100 per cent of the population in Slovenia has access to safe drinking water, but some Romani communities have to fetch their water – for drinking, cooking and personal hygiene – from polluted streams, or from the public taps at petrol stations and cemeteries, sometimes kilometres away from their homes.

The lack of access to water and sanitation, however, is only part of the grossly inadequate housing conditions for many Romani communities in Slovenia at large. Most Roma live in isolated and segregated Roma-only settlements or slums and they lack security of tenure. The very poor living conditions in many settlements adversely affect other human rights. People are frequently ill. Children do not go to school, afraid of being teased about their smell. Similarly, adults face difficulties in finding work.

Yet, many Romani families have no option but to live in such conditions. Other communities and local authorities block their attempts to buy or rent housing, making it more difficult to move to houses or flats outside Roma-only settlements.

The Slovenian government still falls short of fulfilling its human rights obligations. Slovenia has the expertise, experience and resources to ensure that Romani communities enjoy the same human rights as the rest of the Slovenian population.

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