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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

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)*

Summary

From 24 to 28 May 2010, the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation conducted a mission to Slovenia to assess the way in which the State is implementing its human rights obligations related to access to safe drinking water and sanitation. In the present report, she notes that, although overall the country enjoys very high levels of access to water and sanitation, certain members of the population do not enjoy equal levels of access or otherwise face challenges. She expresses particular concern about the enjoyment of the right to water and sanitation for the Roma population in Slovenia. The independent expert will present a full report on the mission to the Human Rights Council when she next reports.

* Late submission.

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I. Introduction

1. From 24 to 28 May 2010, the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, conducted a mission to Slovenia with the aim of assessing the way in which the State implemented its human rights obligations related to access to safe drinking water and sanitation.

2. The independent expert thanks the Government of Slovenia for the invitation to visit the country and the excellent cooperation demonstrated in the preparation of and during the mission. She expresses her appreciation for the work of the Ministry of Foreign Affairs in facilitating meetings with the actors that she requested to meet. She was honoured to be received by the President of the Republic, the Minister for Foreign Affairs, the Minister for the Environment, the Ombudsman and other senior officials. She also met with representatives of the Office of National Minorities, the Ministry of Health, the Ministry of the Environment and Spatial Planning, the Ministry of Labour, Family and Social Affairs and the Ministry of Foreign Affairs. Meetings were also held with non-governmental organizations, academics and individuals who had faced challenges in their access to drinking water and sanitation. The independent expert visited a water treatment plant in Koper, and a drinking water plant and wastewater treatment plant in Ljubljana. She also travelled to Dolenjska, where she visited Roma settlements in Ribnica, Trebnje, Novo Mesto and Škocjan. In Trebnje and Novo Mesto, she met with the mayors and other municipal officials. The independent expert expresses her gratitude to everyone who agreed to meet with her and who assisted her in achieving a better understanding of the situation of human rights, drinking water and sanitation in Slovenia. She was especially moved by the personal stories shared, and thanks the individuals concerned for agreeing to meet with her.

II. The human rights to water and sanitation at the national and international levels

3. The human rights to water and sanitation, protected under the International Covenant on Economic, Social and Cultural Rights, require that they are available, accessible, affordable and of good quality to all. These rights must be guaranteed in a non-discriminatory manner. Ensuring the rights to safe drinking water and to sanitation is closely related to the enjoyment of other human rights, including the rights to education, work, health, housing and food.

4. Although the rights to water and sanitation are not specifically mentioned in the Constitution of Slovenia, the interlocutors with whom the independent expert met indicated that the right to water enjoyed constitutional protection. Significantly, the Constitution specifies that international treaties shall be applied domestically. Furthermore, the independent expert was informed that a Constitutional Court decision interpreted the right to water through the right to private property protected under article 33 of the Constitution, which is understood broadly to cover also the basic needs for an adequate life.¹ The Constitution also refers to other entitlements closely related to water, such as the right to a healthy living environment,² the right to health care³ and the obligation of the State to

¹ Constitutional Court ruling No. 156/98, 11 February 1999, Official Gazette No. 17/99.

² Art. 72.

provide opportunities for citizens to obtain proper housing.⁴ Slovenia has consistently demonstrated its commitment to the rights to water and sanitation at the international level. This commitment was reiterated in meetings at the highest levels during the mission.

5. The responsibility for water and sanitation extends across several ministries, including the Ministry of the Environment and Spatial Planning, the Ministry of Health and the Government Office for Local Self-Government and Regional Policy. Numerous regulations govern the legal framework pertaining to water and sanitation, including the Water Act,⁵ the rules on criteria for determining a drinking water protection area,⁶ the Environmental Protection Act, the Spatial Planning Act⁷ and the Housing Act.⁸ Municipalities have the primary obligation to ensure the drinking water supply and the discharge and treatment of wastewater⁹ for all people within their jurisdiction. Furthermore, as a member of the European Union, Slovenia is also obliged to conform with standards regarding water and sanitation set at the European Union level, in particular with regard to water quality and wastewater treatment.

III. Access to safe drinking water and sanitation

6. Nearly 100 per cent of the population have access to safe drinking water, and 92 per cent are connected to the public water supply system. There is a thorough system of water-quality testing implemented at the national and municipal levels, and the tap water in Slovenia meets European Union standards. Furthermore, the Government's constant monitoring of groundwater resources available for current and future generations is an impressive achievement that allows the country to know exactly how much water it is using and to predict and avoid future situations of water scarcity. Slovenia also has a strict regime of water protection zones to prevent contamination of water sources by agriculture, industry and other activities, which restricts or prohibits certain activities in protected areas. Overall, the independent expert concludes that Slovenia has a good framework and system in place for ensuring the provision of safe drinking water to the general population.

7. With regard to sanitation, more than 50 per cent of the population are connected to a wastewater treatment facility, and this proportion is steadily increasing thanks to significant efforts made by the Government in this area. Those who do not have sewerage generally have cesspools, which also hygienically separate human excreta from human and animal contact, thus meeting some important dimensions of the human rights requirements concerning sanitation.

8. Generally speaking, pollution of groundwater is not a widespread problem. However, in certain areas, worrying levels of pollution were reported by both Government and non-governmental sources. Pesticides, nitrates and industrial contaminants are some of the pollutants found in the north-eastern region of the country, as well as in Celje. The independent expert received information about pollution in Celje reportedly having an impact on the health of the population. The Government has taken measures in these regions to ensure that the water used for drinking and other personal uses does not pose a

³ Art. 51.

⁴ Art. 78.

⁵ Official Gazette, No. 67/02, 57/08.

⁶ Op. cit., No. 64/04, 5/06.

⁷ Op. cit., No. 33/2007.

⁸ Op. cit., Nos. 18-I/1991 and 69/2003.

⁹ Environmental Protection Act, art. 149.

threat to human health. The independent expert encourages the Government to continue to guarantee access to safe drinking water in these regions, and to work with the communities concerned to find sustainable solutions to the pollution problems. She also encourages the Ministry of the Environment to continue its efforts, in cooperation with the Ministry of Agriculture, to change agricultural practices and eliminate the use of harmful substances that threaten the broader environment.

9. Concern was also expressed about the sustainability of cesspools and other older sanitation systems, namely because of seepage into the soil owing to deteriorating materials. The activities described by the Government indicate that it is making significant efforts to meet the requirements of the European Union Wastewater Directive, but these efforts will need to be maintained, and even strengthened, if they are to meet human rights standards. Inadequate wastewater treatment poses a serious threat to the environment, including to water resources. The independent expert encourages the Government to continue to pay priority attention to this issue.

10. While water resources in Slovenia are abundant, with the luxury of significant groundwater resources and a high precipitation rate, some areas of the country experience water stress during certain seasons. For example, in the coastal region, where tourism causes water consumption to almost double in the summer period, the only water source in the region is insufficient to meet demand. The water provider has arranged to buy water from other sources, including from abroad, to address this situation. A more sustainable solution is needed, however, since that source may not be available for purchase indefinitely. The Government will need to help local municipalities to find alternatives to address changing water availability.

IV. Access to water and sanitation for specific groups

A. People living in poverty

11. According to official statistics, about 240,000 people in Slovenia were at risk of poverty in 2008. The number of people registered to receive social benefits has been increasing steadily, with almost 14,000 new beneficiaries since 2002. The unemployed and one-member households experienced the highest levels of poverty.¹⁰ However, poverty levels may be much higher, since the manner by which poverty thresholds are established depends on seeking information from a sample of the population. Reportedly, those without an official address (because they live in an illegal building, in a shelter or are homeless), are not captured in these samples. Furthermore, the methodology, which is a standard European Union method, may set the poverty threshold at an artificially high level, depending on the distribution of wealth in society, since it establishes the threshold in relation to a median rather than to an average income.

12. People living in poverty in Slovenia face potential problems when paying for basic services, including water and sanitation. With social assistance amounts defined at the national level (currently set at € 227 per month; the recently adopted Financial Social Assistance Act is set to raise the amount to € 288 per month) and different water and sanitation prices being defined by the municipalities, these affordability issues may be worse in some regions than in others. For instance, experts have suggested that the cost of

¹⁰ See www.stat.si/eng/novica_prikazi.aspx?id=2032.

water and sanitation services should not exceed 3 per cent of a household's income.¹¹ In Ljubljana, the reported price of water is €1.21 (2009) per cubic metre (in 2010, €1.786 per cubic metre). A family of four on social assistance would require 12 cubic metres per month for basic needs (equal to about 100 litres per day per person), meaning that they would pay at least €14.5 per month, or more than 6 per cent, of their income for these services. Other regions have higher prices than Ljubljana for water and sanitation services, and may thus present even starker examples of the affordability problems that can arise. The Government must make sure that access to safe drinking water and sanitation does not jeopardize a person's ability to enjoy other basic rights, such as the rights to health, housing and food. In this context, the independent expert encourages the Government to establish an independent regulator for water and wastewater that would control pricing, quality and service performance in an independent manner. She notes with appreciation that plans for such a regulator are already under discussion.

B. "Erased" people

13. Immediately following independence, a law was passed in Slovenia determining that non-Slovene citizens from other republics of the Socialist Federal Republic of Yugoslavia would lose their permanent resident status unless they acquired Slovenian citizenship. Three requirements had to be met to that effect, including that the person applied for citizenship within six months of the Citizenship Act entering into force. According to official data, 171,132 citizens of the former Yugoslav republics living in Slovenia applied for and were granted citizenship of the new State under section 40 of the Citizenship Act. It is estimated that an additional 11,000 persons left Slovenia.¹²

14. Those who either failed to apply for Slovenian citizenship within the prescribed time limit or whose requests were not granted became subject to the Aliens Act and had their names deleted from the Register of Permanent Residents and transferred to the Register of Aliens without a Residence Permit. According to information obtained during the mission, persons whose names were removed from the Register received no official notification.¹³ They only later became aware that they had become aliens when, for example, they attempted to renew their personal documents (personal identification card, passport or driving licence). Without identification documents or residency permits, these "erased" persons became illegal residents in Slovenia, and their access to housing, work, basic services, health services and social security were limited, a serious violation of their economic, social and cultural rights. This situation also affected their ability to connect legally to the water and sewage networks.

15. Following a decision of the Constitutional Court in 2003,¹⁴ the Minister for the Interior made important efforts to issue retroactive residence permits to the above-mentioned persons, with effect from 1992. In June 2010, the Act on Changes and Amendments to the Act governing the Status of the Citizens from other Successor States to the former Socialist Federal Republic of Yugoslavia living in Slovenia was enacted,¹⁵ and the Act on arranging the Status of the Citizens from other Successor States to the former Socialist Federal Republic of Yugoslavia living in Slovenia was enacted in July 2010. The

¹¹ United Nations Development Programme, Human development report 2006, p. 97.

¹² See *Kuric and others v. Slovenia*, European Court of Human Rights, para. 37.

¹³ *Op. cit.*, para. 41.

¹⁴ Constitutional Court ruling No. U-I-246/02-28 of 3 April 2003.

¹⁵ Official Gazette No. 50, 24 June 2010.

Constitutional Court has indicated that the provisions of the latter Act would be in line with its decision from 2003;¹⁶ implementation of this Act is thus vital to resolving the outstanding issue of “erased” people. The independent expert welcomes these recent developments and encourages the Government to regularize the situation of the remaining members of this population group without delay, and to recognize the human rights violations that they have suffered as well.

C. Roma

16. Official statistics report that 3,000 Roma people live in Slovenia, although other estimates put the number as high as 10,000. There are approximately 105 Roma settlements in Slovenia, with the majority of Roma people living in Prekmurje and Dolenjska. According to the findings of an analysis on the theme “Territorial issues of Roma settlements in Slovenia” and prepared in 2007 by an expert group tasked to deal with the spatial problems of Roma settlements, about 10 per cent of settlements should be relocated because they are situated in a hazardous area. About 21 settlements have no access to water, and many of them also have no access to sanitation. Notably, in March 2010, the Government adopted a new integrated national programme of measures for Roma for the period 2010-2015, of which one of the main strategic goals is improving the living conditions of the Roma community.

17. The impact of the lack of access to water and sanitation on these communities is devastating. The individuals with whom the independent expert met explained that they were systematically ill with diarrhoea and other diseases. In one community with no access to water, the people drank from a polluted stream or had to walk for two hours to obtain safe water. They collected water in jerricans, which they hauled back to their homes. Moreover, with no other option, they were forced to defecate in the open. Such a situation is astonishing in a country where so much has been achieved for the vast majority of the population.

18. 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.

19. Although the situation of the Roma minority in Slovenia is a difficult and complex issue, the independent expert notes with appreciation that some municipalities have found positive ways to address it. For example, almost all settlements in the north-eastern part of the country have access to these most basic services and report higher levels of integration of the Roma community into the local population. In a settlement in Trebnje visited by the independent expert, important efforts had been made to ensure that the community was connected to water and sanitation. Furthermore, the community was working with the municipality to legalize the land and buildings where they lived, which will represent a longer-term solution to their situation. Less than 30 minutes away, however, other municipalities had failed to find similar solutions. Such discrepancies are unacceptable, and

¹⁶ Constitutional Court ruling No. U-II-1/10-19 of 10 June 2010.

the independent expert calls on the Government to take urgent action to ensure that all people in Slovenia have access to safe drinking water and sanitation. This could be achieved by earmarking some of the funds that municipalities receive to extend access to these communities, and by the exchange of good practices between municipalities and with other European countries with Roma communities. Furthermore, swift and decisive action must be taken against all forms of discrimination, including discrimination based on ethnicity.

V. Conclusion

20. In the present note, the independent expert has highlighted the main issues examined during her mission to Slovenia. Overall, she found that Slovenia 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 required to ensure access for certain Roma communities. Slovenia has the expertise, experience and resources to ensure that these communities enjoy the same human rights as the rest of the population.

21. The independent expert will present a full report to the Council when she next reports, and looks forward to continuing her dialogue with the Government of Slovenia.
