

# **From raw ideology to cooked legality: Nation and citizenry in post-socialist Slovenia**

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## **Abstract**

The problem this text sets out to examine can be described as the social consequences of the legal encoding of the Slovenian nation and its membership versus citizenry in the Slovenian post-independence constitution and laws, illustrated by two cases in which the conflict between the two came into full play. What is the nation, what is its relationship to the state, who are its members, what is the relationship between belonging to the nation, and being a citizen; and finally, what are the possible relationships between the members of the nation that live outside the Slovenian state, and the said state? These seemingly legalistic questions that every modern state defines on the basis of empirical and practical insights into its population have, in their application, entirely practical consequences for the lives of the people. In Slovenia, the people who are deemed members of the Slovenian nation, whether living in Slovenia or not, are privileged in both the constitution and legislation and are given a status that is, in fact, equal or higher than that of a citizen. The article presents two cases where the tension between these two ascriptions played out in full, with catastrophic consequences to the lives of the people: the case of Slovenian re-patriates from the warring Bosnia and Herzegovina in the early 1990s; and the case of the so-called Erased, residents of Slovenia and citizens of other ex-Yugoslav republics in the early time of Slovenian independence who were stripped of their status of permanent residents in an unconstitutional and illegal way. The article brings a detailed analysis of the underlying ideology of ethnicity vs. citizenship in Slovenia that is representative of this type of ideologisation in Mitteleuropa.

**KEYWORDS:** nationality, citizenship, ideological creationism, postcolony, postsocialism

*Nous ne prétendons donc pas montrer comment les hommes pensent dans les mythes, mais comment les mythes se pensent dans les hommes, et à leur insu (Claude Lévi-Strauss).*

## Prologue

The problem this text sets out to examine can initially be described as the social consequences of the legal encoding of the Slovenian nation and its membership versus citizenry in the Slovenian post-independence constitution and laws, illustrated by two concrete cases in which the conflict between the two came into full play. What is the nation, what is its relationship to the state, who are its members, what is the relationship between belonging to the nation, and being a citizen; and finally, what are the possible relationships between the members of the nation that live outside the Slovenian state, and the said state? These seemingly legalistic questions that every modern state defines on the basis of empirical and practical insights into its population have, in their application, entirely practical consequences for the lives of the people. In Slovenia, the people who are deemed members of the Slovenian nation, whether living in Slovenia or not, are privileged in both the constitution and legislation and are given a status that is, in fact, equal or higher than that of a citizen.

It should be noted at this point that in Slovenia, as well as in the entire space of Central Europe (the so-called *Mitteleuropa*), being a citizen and belonging to the nation are not the same. The ideology of belonging to the Slovenian nation that has little to do with being a Slovenian citizen is instilled in the Slovenian legal doctrine, professional discourse, and lay imaginaries as self-evident much like our modern notion of human rights is based in the self-evident: they belong to people as part of their human nature, or because of the nature of human nature. Human rights are not bestowed upon people by, say, a deity or a superhuman authority, nor by any kind of human authority (Hunt 2008; Šumi 2013). In a like manner, the ideology of the Slovenian nation assumes that being a Slovenian is a given, an inborn property of the people that are Slovenians: an ideological figment that we have elsewhere described as ‘pseudo-biologist’ (Šumi & Janko-Spreizer 2011: 119; Šumi, in Trampuš 2016).

According to this ideological principle, the Slovenian constitution’s wording of the national vs. the citizenry corps, in an upgrade to its *ius sanguinis* principle, introduces the doctrine of autochthony as a constitutional category. It describes the pseudo-biological, self-evident property of Slovenianness in every Slovenian. As a legal doctrine, it is fully developed in the Act Regulating Relations between the Republic of Slovenia and Slovenians Abroad.<sup>1</sup> The doctrine of autochthony allows for no relativizing along the lines of the notion that belonging to any kind of cultural community is a historic and a continuously self-reproducing social construct. While autochthony does not deny the historic and social continuity of Slovenianness, it posits, contrary to the analytic perspective, that both historicity and sociocultural continuity are products of biological Slovenianness, not vice versa. Moreover, it presupposes that Slovenianness as the property of the people that are Slovenians existed before there was anything like Slovenian history, society, or the political programmes of Slovenian autonomy, and even

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<sup>1</sup> Access to Slovenian text of the act at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4387>. Authorised English translation does not yet exist.

before the people, bearers of Slovenianness, were fully conscious of possessing it (Šumi 2000, 2004).<sup>2</sup> This aspect of the ideology of autochthony we described as ‘creationist’ (Šumi & Janko-Spreizer 2011: 119; Šumi, in Trampuš 2016).

Accordingly, the Slovenian autochthony also maintains that the attributes of Slovenianness are inalienable to Slovenians in such a manner that the bearer cannot give it up, shed it or affect it in any way. This, in turn, means that non-Slovenians who appropriate the Slovenian cultural repertoires cannot become Slovenians because they lack the inborn Slovenianness; people of Slovenian origin, however, are Slovenians even if they do not speak Slovenian, and have no knowledge of Slovenian history or Slovenian cultural repertoires. They are Slovenians and remain so even in case they do not want to be Slovenian, or are indifferent to the matter. Let us add that any criticism of the Slovenian autochthonous ideology is understood as parading hostile anti-Slovenianness or non-Slovenianness (Šumi 2000, 2011, 2015; Šumi & Janko-Spreizer 2011). An important and seemingly inexhaustible source of the Slovenian autochthony historically was, and remains, the local Catholicism and the role of the Roman Catholic Church in the Slovenian politics and all arenas of public discourse that insists on equating the Slovenian nation with a ‘Catholic nation’ (Toplak & Haček 2012: 48–51).

This manner of understanding the history, commonality, and politics we have defined on many occasions as a diagnostic sign of a structural and functional postcolony. The historic source of the Slovenian postcolonial social situation is the very phenomenon of the so-called *Mitteleuropa*, the ex-space of the Austro-Hungarian Empire within which the first Slovenian programme of political autonomy came into being in mid-19<sup>th</sup> century. After the dissolution of the Empire, the Slovenian-speaking rural populace on the territory of present-day Slovenia struggled to incorporate as a nation; however, it lacked the key class and interest diversification that was historically the mark of successful nation-state building. What followed can be summarised as a succession of usurping quasi-elites that is still unfolding. Each of these short-lived attempts at constructing a functional, socially diversified national community seeks to emulate the historic coloniser but falls short of its programme and authenticity (Šumi & Janko-Spreizer 2011; Šumi 2012, 2015; Toplak & Haček 2012:). A typical postcolonial fifty-fifty division of the political and ideological space between quasi-progressives and (Catholic) traditionalists persists. Neither are able, or willing, to breach the perimeter of the Slovenian autochthony; rather, both insist in the dysfunctional, vicious circle of the postcolonial and post-socialist *Gemeinschaft* (Šumi 2015; Šumi, in Trampuš 2016).

From the analytically organised perspective, that which comprises the dichotomy between a Slovenian citizen and a Slovenian “by blood”, or else, the bearer of the civil rights vs. the conditions for the acquisition of citizenship transforms into a seemingly logical, gradational continuity in the ideology of autochthony: creationist thinking is the

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<sup>2</sup> Čepič and Vogrinčič (2003: 325) analyse the normative narrative of the Slovenian national history which maintains that during the 16th century, the time of the Reformation, the cultural ancestors of Slovenians were gradually evolving towards the essential truth of their existence, their Slovenianness, although they still failed to understand that they were Slovenians: ‘The assertion that during the 16th century, the notion of belonging to the Slovenian nation was gaining strength, we can infer that this consciousness pre-existed for an indefinite time before the 16th century, albeit in a weak (as opposed to a strong), or latent form.’

foundation of the belief that the legislation on citizenship springs from the “natural” fact of pseudo-biological Slovenianness as a logical consequence rather than a dichotomy. Drawing on Claude Lévi-Strauss’ classical opposition between the “raw” and the “cooked” in his discussion of how ‘the mythology thinks itself in people’ rather than what people think in, or of mythology, it can be said that in the view of autochthony believers, the opposition between blood mythology and citizenry is gradational rather than dichotomous. The gradation is mitigated by the process of recognition of the metamorphosis. It is essential to recognise that in the doctrine of autochthony, the raw state possesses only one possible path of evolution, that into the cooked state, and that the metamorphosis does not in any way annihilate the raw precedent. In this sense, Lévi-Strauss’ classical analysis does not describe dichotomies, but the processes of predetermined, fatalistic, indeed creationist metamorphoses. In our positioning of the problem, the creationist belief in autochthony is the raw given, and the legal encoding its logical cooked consequence. The tension between the two states, the basically anti-legalistic and anti-democratic result, is seen by the autochthony believers as perhaps a problem, but one that affirms rather than contests the reality of the “true”, “blood” Slovenianness: in a crucial sense, it makes the “Slovenian blood” tangible rather than exposed for the myth it is. Even the professional producers of social analysis and theorisation in Slovenia fall prey to affirming the ideology of autochthonism as redoubtably irrefutable natural foundation of any social reality. Such theoretical production in history, social sciences, etc. that remains prevalent, and is consistently backed by political power, we designated as “scientifist” (Šumi 2000, 2004; cf. also Pušnik 2010).

Following a review of Slovenian constitutional and legal encoding of autochthony and Slovenianness, two cases are presented that are diagnostic of the ideology: the evacuation of Slovenians from the warring Bosnia and Herzegovina from 1992 to 1994, and the infamous case of the “Erased” who were, in the wake of Slovenian independence, stripped of their status of permanent residents because they did not opt for Slovenian citizenship. Our conclusions are summarised in the Epilogue.

## **The cooked: Slovenianness in legal encoding**

The legal matrix conforming to the ideological perimeter of autochthony described above is initially spelled out in Article 3 of the Slovenian constitution which, in a single breath, asserts the following: ‘Slovenia is a state of all its citizens and is founded on the permanent and inalienable right of the Slovene nation to self-determination.’<sup>3</sup> As all the citizens to whom the state ostensibly belongs do not meet the criterion of possessing “Slovenian blood”, and as Slovenian statehood is said to be based on the ‘Slovenian nation’s’ inalienable right to self-determination, this sentence alone well illustrates how the ideology of autochthony is an indefatigable source of legal and social problems on

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<sup>3</sup> We are bringing the official translation to English at the Constitutional Court webpage, <http://www.us-rs.si/en/about-the-court/legal-basis/>. The Slovenian text is at: <http://www.us-rs.si/o-sodiscu/pravna-podlaga/ustava/>. As needs be mentioned, the wording in Article 3 in the Slovenian original states: ‘Slovenia is a state of all its citizens founded on the permanent and inalienable right of the Slovene nation to self-determination.’ The official translator may have found the insertion of ‘and is’ indispensable to render the sentence meaningful to English speakers.

the national as well as international levels. There are numerous conflicts and scandals at the level of the European Union, e.g. the stirring in the ECRI produced by the Roma Protection Act of 2007<sup>4</sup> on whether or not the provisions of the act are valid for all Roma in Slovenia, or just the purportedly autochthonous ones (Janko Spreizer 2004). Tellingly, the dilemma seems real to the believers of autochthony, so they engage in attempts to delineate it chronologically, e.g. by ‘continued settlement’ over 50, 100, 200 or more years (Janko Spreizer 2004: 214ff).<sup>5</sup> In doing so, they follow closely the trademark optics of any creationist ideology that seeks to rationalise its premises by invoking the ‘deep well of time’ in which the origins of ethnic differences are seen as so remote that they are impossible to do away with (Šumi 2000: 35ff): as stated above, Slovenianness, for example, is understood by creationist national ideology as a biologically inheritable trait that existed before its hypothetical first carriers were even aware of it.

The Slovenian authorities from the early 20<sup>th</sup> century onward were much preoccupied with the Slovenians living outside the Slovenian borders, the so-called “behind-border Slovenians” (orig. *zamejci*) and emigrants. This constant preoccupation with the Slovenian blood outside the borders of Slovenia triggered a succession of unusual ideas, e.g. the micro-imperialist agenda of the so-called “common Slovenian cultural space” across political borders that remains to this day the leading principle in the relations between the Slovenian state and Slovenians abroad. The latest culmination of this relationship is the aforementioned Act Regulating Relations between the Republic of Slovenia and Slovenians Abroad (ARRRSSA) that details a number of protectionist measures to benefit the pseudo-biological Slovenian substance outside the state of Slovenia. In the efforts to “preserve the national culture and identity” of these people, generous sums of state budget money are spent on various projects, organisations and activities of Slovenians abroad, accompanied by raging, if futile, debates on the “Slovenian national body and interest”, and cementing the systemic positive discrimination of Slovenians abroad compared to the taxpayers, the citizens and residents, in Slovenia. The act draws directly on the provisions of the Citizenship Act (CA).<sup>6</sup>

Acquiring Slovenian citizenship follows the principle of *ius sanguinis*: the main criterion is the possession of Slovenian *blood* or *origin*. Citizenship can also be acquired by naturalisation. The CA stipulates that a person is automatically a citizen of Slovenia at birth provided that she or he is born on the territory of Slovenia to at least one parent who is, at the time of birth, citizen of Slovenia. A child born abroad is also a citizen if one of her parents holds citizenship, but the birth must be reported in up to the child’s 36<sup>th</sup> year of age. Thus, the uninterrupted “blood lineage” is the substantial interpretation of the *ius sanguinis* on the part of the Slovenian Ministry of Interior that manages citizenship.

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<sup>4</sup> Access to the Slovenian text at: <http://www.uradni-list.si/1/objava.jsp?urlid=200733&stevilka=1762>.

<sup>5</sup> Presenting a series of interviews with decidedly primordial “specialists” in ethnic studies in Slovenia and their scientist knowledge base, Alenka Janko Spreizer (2004) outlines the vagueness of possible meanings of the constitutional category of autochthony, including the guessing on the time spent in Slovenia before a person or a community can be deemed autochthonous, and concludes that this kind of scientist thinking persists primarily in a willing codependence of social sciences with ‘the loyalty to nationalist policies of the state’ (ibid.: 221).

<sup>6</sup> Access to the Slovenian text at: <https://www.uradni-list.si/1/content?id=79103>

“Blood relation” is a required proof for naturalisation of any kind, but may prove more difficult for some given that Article 10 of the CA introduces two further criteria: the free judgement of the official or the office in charge, and national interest.<sup>7</sup> The CA enumerates ten conditions that only seemingly maintain equal opportunity for all candidates: as is clarified in Article 12, the law is decidedly partial to the “blood tie”. Slovenian emigrants and their descendants ‘up to the 4<sup>th</sup> generation in straight line’ need not give up their foreign citizenship (pt. 2 of Art. 10), and are exempt from the condition of ten years of uninterrupted living in Slovenia (pt. 3 of Art. 10), but instead, one year of living in Slovenia in the status of an alien is mandated. A further exemption is spelled out in Article 13 that exempts certain candidates from this condition as well, plus two more: that the candidate must have financial means to assure her or his material and social security (pt. 4 of art. 10), and must present proof of all tax obligations paid (pt. 9 of Art. 10). However, as the first paragraph of Article 13 makes clear, people who are deemed to possess Slovenian blood are also exempt from the requirement (pt. 5 of Art. 10) of fluency in the Slovenian language attested to by a certificate: as stated above, a person in possession of Slovenian blood is not required to know the Slovenian language in order to become a citizen. All these exceptions are stated to stem from the ‘gains on the basis of national reasons.’

Article 13 of the CA enumerates the conditions for naturalisation springing from various reasons that benefit the state, e.g. the scientific, economic, cultural, and of course, the national. To have a top sportsperson, cultural producer, academic etc. adopted into Slovenian citizenship is understandable as a way of augmenting the national human capital. The national reasons remain, however, a moot point given that it is difficult to understand how they could be any different from the cultural, economic or scientific: obviously, the ‘national reasons’ are merely a euphemism for “repatriating” the Slovenian blood as was, possibly despite the intent to the contrary, further clarified with the 2013 amendment to the regulation on the criteria of national interest in acceptance into citizenship of the Republic of Slovenia based on Article 13 of the CA.<sup>8</sup>

The ARRRSSA further obscures the notion of national interest. The category of Slovenians abroad comprise the emigrants and temporary emigrants that ‘live in the neighbouring states except the territory designated as Slovenian cross-border territory, and in other European and non-European countries.’ This completely unrealistic delineation that has, nevertheless, strong historic roots<sup>9</sup> mingles with the concept of citizen in Article 3, producing three categories of Slovenians: those across the borders and abroad with

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<sup>7</sup> Entire text: ‘The authorised organ can, on the basis of free judgement, grant a person who so asks the Slovenian citizenship if and when doing so is in compliance with the national interest’ (CA 2007).

<sup>8</sup> The previous versions (2007 and 2010) were much more vague in their wording. The 2013 version stipulates extraordinary naturalization to Slovenian emigrants and their offspring up to 4<sup>th</sup> generation in straight line (an amendment of 2013 only recognises offspring up to 2<sup>nd</sup> generation in straight line, very likely the consequence of the 2008 global financial crisis) provided they are able to prove an active connection (in the latest wording, a ‘long-term personal, active connection’), or active involvement of many years in the Slovenian associations, institutions, and other organisations abroad. The aspiring candidate has to present proofs to that effect, and the opinion of the nearest Slovenian diplomatic mission. Given that Slovenian immigrant organisations are largely shaped after the fashion and preferences in the Slovenian political space, the intent of the lawmaker can be interpreted as a mass recruitment of voters.

Slovenian citizenship; the same without citizenship, but in the status of Slovenians without citizenship; and those without either citizenship or the status.

Acquiring citizenship in Slovenia is therefore a legally determined procedure that introduces, systemically but to a varying degree, a positive discrimination of people who are deemed to possess Slovenian blood: the Slovenians abroad. In principle, anybody who is granted citizenship is entitled to all the rights that this status carries; in Slovenia, however, the lawmakers took pain to favour Slovenians by blood by bestowing upon them, in the absence of citizenship, special rights and benefits, creating in the process two additional categories of Slovenians abroad: those with the status of a Slovenian without Slovenian citizenship, and those without either. The benefits they can claim include, but are not limited to, preferential treatment in obtaining stipends and scholarships<sup>10</sup> and university enrolments.<sup>11</sup> A person with the status of a Slovenian without Slovenian citizenship enjoys certain rights on the territory of Slovenia that are indistinguishable from those of the citizens.<sup>12</sup> Those with Slovenian citizenship enjoy equal voting privileges even as they do not live in Slovenia, which means that they can help elect the political representatives of a country they do not live in or pay taxes to; the same cannot be said for numerous long-term permanent residents who work, and pay taxes in Slovenia.

People who obtained Slovenian citizenship after Slovenian independence are primarily those who emigrated from Slovenia following WWII, migrants from the 1960s and 1970s, and their offspring. They live in Australia, the United States, Argentina, Germany, Switzerland, etc. (Toplak 2006). In Argentina, many intimated that migrants,

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<sup>9</sup> The triad *zamejci* (Slovenians in the regions around the Slovenian national borders in all neighbouring countries), *zdomci* (purportedly temporary economic migrants, especially numerous during the 1960s and 1970s to Germany, Austria, Switzerland and Sweden who mostly never returned to Slovenia), and *izseljenci* (emigrants, predominantly overseas to the Americas and Australia, in at least two major historic waves: mid- to end of the 19th century for economic reasons, and post-WWII for ideological and political reasons) is an invention of the socialism era body of primordialist and patriotic knowledge titled the “Slovenian national question” and somewhat misleadingly equated with the English concept of ‘ethnic studies.’ It was coined expressly to obfuscate the reasons and instigations for these migrations, and to cover them with the ideology of planetary Slovenian ethnic “unity”. In post-socialism, this ideology was uncritically adopted by the state, both political blocs, and the scientistist “ethnic studies” alike.

<sup>10</sup> ‘Stipends for Slovenians across the border and abroad are reserved for Slovenians whose permanent residence is outside the Republic of Slovenia, for educational programmes on the levels of high school and university of first and second degrees in all educational institutions in Slovenia’ (Art. 37 of the Scholarship Act; Slovenian version at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4664>.) Stipends in the monthly amount of 200 EUR are available to all Slovenians abroad as defined in Art. 3 of the ARRRSSA.

<sup>11</sup> The Higher Education act (Slovenian text at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO172>) declares in Art. 7 : ‘Slovenians without Slovenian citizenship can undergo education in higher education institutions in Slovenia under the same conditions as the citizens of the Republic of Slovenia.’ Interestingly, the current version defines Slovenians without citizenship as ‘offspring of persons of Slovenian nationality up to the 3<sup>rd</sup> generation in a straight line.’ Details are in the hands of the Minister of Education who can, at her or his discretion, determine conditions more beneficial than those instituted for Slovenian citizens.

<sup>12</sup> Among others, a Slovenian without citizenship, but with a status of a Slovenian, can compete for national funding of research or cultural projects, has unlimited access to all ‘public cultural goods,’ the services of public libraries and archives, the possibility to become a regular member of the Slovenian Academy of Science and Art, be decorated with all state decorations and honorary titles, to obtain ownership of real estate, and enjoy primacy when applying for vacancies before all foreigners not citizens of EU Member States (Art. 66 of the ARRRSSA).

their children, grandchildren or other relatives opted for Slovenian citizenship, although they have never been to Slovenia, did not know the language, and knew nothing of Slovenian history or Slovenian socio-political circumstances (Toplak 2008). The repeated political turmoil and financial crises in Argentina prompted many to take up Slovenian citizenship in order to use the passport to travel to, or resettle in the other EU Member States, or in the United States. In other words, while Slovenia granted them citizenship on the grounds of national interest, many new citizens took it for practical reasons. Some applied for it for sentimental reasons: the elderly Slovenians who sought refuge from the Communist regime in Slovenia after WWII regarded it as a matter of personal pride to become citizens of independent Slovenia, while they never were citizens of the Socialist Federative Republic of Yugoslavia (SFRY).

## **The raw, case 1: Slovenian evacuees from Bosnia and Herzegovina, 1992–1994**

Between November 1992 and June 1994, the Slovenian government evacuated around 350 people from the warring Bosnia and Herzegovina by means of a group Slovenian passport, as citizens of the Republic of Slovenia.<sup>13</sup> According to a then high official of the Foreign Ministry, the Slovenian government proceeded to collect data on Slovenians living in Bosnia and Herzegovina in late spring of 1992 (Brilej 1992). The first rescue operation was to take place in Cazinska krajina, with the aid of UMPROFOR and the Red Cross. The evacuation of Slovenians from Sarajevo was a more demanding operation, requiring the involvement of a group of specialists from various ministries who took their primary example from the actions of the Children's Embassy in Sarajevo, and the local Jewish community (Brilej 1992).

Months after the carefully planned convoys of evacuees safely reached Slovenia, the initial determination to save the Bosnian Slovenians gave way to confusion. The media reported on the impossible situation of the evacuees that were subjected to bureaucratic scrutiny of their legal status: many commentators interpreted the entire action as election campaign trickery. The first unknown was the number of the evacuees: "around 300", "about 350", to "nearly 380" were the reported numbers of which 93 (or 96 according to another source) presented a particular problem as they obviously had no relatives or friends to stay with. The state first accommodated them in a formerly public, and at that time already privatised vacation home in Fiesa at the seaside. When this arrangement ran its course, the evacuees themselves found new accommodation in an abandoned "worker's vacation home" in Lucija near Portorož. Another grave problem was the fact that 90 per cent of the evacuees did not have Slovenian citizenship.<sup>14</sup> In October 1995, the MPs posed

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<sup>13</sup> The war in this ex-Yugoslav republic was a few months in duration at that time if we reckon its beginning to take place between the proclamation of independence on 3 March 1992 and the mobilization of the Territorial Defence on 4 April of the same year (Lampe 1996).

<sup>14</sup> The information of the governmental Office for immigration and refugees (terminated in 2004) from 9 November 1993 acknowledged that the records on the evacuees contain different data: the Ministry of Foreign Affairs enumerated 379 persons, among them 36 Slovenian citizens; 226 at the Red Cross Slovenia; 316 at the Employment Office; 320 at the Ministry of Interior, 32 of them citizens of Slovenia. Source: Government of the R of Slovenia, Office of immigration and refugees, 9 September 1993, No. SP1-13/9-74/93, undersigned: Renato Kranjc, Director.

a question concerning the evacuees to the government; the reply<sup>15</sup> was published in June the following year and provided the statistics: around 300 evacuees of whom 117 initiated the procedure to obtain citizenship according to Article 13 of the CA. At the time of the government response, 85 had already been granted citizenship, while 32 were still being processed. However, a specific obstacle surfaced: to the persons, aliens that were just evacuated from a foreign country in war, it was, according to the Aliens Act,<sup>16</sup>

... impossible to recognize the fulfilment of the condition of permanent residence, as the precondition to obtaining the permit for permanent residence ... is a minimum of three years of continuous residing on the territory of the Republic of Slovenia, based on the permit for temporary residence. [To grant them that] would be a **precedent** ... (emphasis original).<sup>17</sup>

Worse still, it was established that these persons could only obtain the permit for temporary residence if they were to expressly file for it, gave up their status of aliens, and even then only 'if reasonable grounds were established (e.g. employment), and evidence given of sufficient means for self-support.' With this manoeuvre, the problem of the status of the evacuees was returned to its very beginning: for one, the fact that these people were brought to Slovenia as Slovenian citizens with a group passport was completely ignored together with its possible legal consequences. After all, Slovenia issued the passport based on the premise that the evacuees met the conditions for obtaining the Slovenian citizenship. This twisted paradox was made public by the then head of the Public Order department at the Ministry of Interior (in Guzej-Sabadin 1994):

The government of the Republic of Slovenia determined, on its session of 26 November 1992, that the problem of the status of refugees from Bosnia and Herzegovina is not in granting them the extraordinary naturalization. Instead, the Republic of Slovenia offers them help in gradual integration to the life in Slovenia. For them to pursue citizenship according to Article 13 of the Citizenship Act is therefore out of the question. Given that in November 1993 it has been a year since the evacuation was carried out, all the evacuees of Slovenian nationality could be granted citizenship by regular naturalization pursuant to Article 12, of course, if they were to meet the other conditions mandated by the law (regular employment, permanent residence, knowledge of Slovenian language, absence of criminal record, etc.).

In other words, the evacuees were faced with the requirement to obtain citizenship in a regular way, like any other interested persons; however, because of the very circumstances of their arrival to Slovenia, they could not have met the conditions to do so. The absurdity of this circular argumentation that was exposed, among other, also by a lawyer that the evacuees hired, was finally recognised by the newly appointed liberal government. On 2 June 1994, the resolution to grant the path of extraordinary

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<sup>15</sup> *Poročevalec* Državnega zbora RS / Bulletin of the Slovenian Parliament, XXII/27, pp. 53-4, 17 July 1996.

<sup>16</sup> Slovenian text accessible at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5761>

<sup>17</sup> *Poročevalec* Državnega zbora RS / Bulletin of the Slovenian Parliament, XXII/27, pp. 53-4, 17 July 1996.

naturalization pursuant to Article 13 of the CA was passed. This resolution explicitly refuted all the bureaucratic decisions hitherto adopted by adding: ‘irrespective of conditions suggested by the Ministry of Interior in the process of determining the policy of processing the requests for citizenship.’<sup>18</sup>

The obvious fact that before the governmental decision of 1994, the bureaucratic and political machine was cherry-picking people for citizenship from among the evacuees in accord with their understanding of pure Slovenian “blood quantum” was not officially acknowledged, nor was it recognised by the media. However, the lesson was well learned and applied on the third convoy that was planned in 1993, and realised in 1994. By 2 March 1994, the Office of Immigration and Refugees directed a communiqué titled *Evacuated persons from Sarajevo* to the government containing a scathing critique of the governmental decision to give the evacuees the status of ‘temporary refugees,’<sup>19</sup> and urged ‘packet solutions:’ failing to do so had the people cornered as they lose jobs because they were aliens and could not obtain regular employment; they could not leave the country as they had no valid papers; they could not obtain pensions after their spouses, Slovenian citizens, as they were aliens; they could not withdraw money from the bank as they had no IDs; they could not register their cars; they could not enrol their children in schools. In short, cherry-picking Slovenian blood from among the evacuees proved costly for the state, but there was another speculation behind it all: once they got their citizenship, the evacuees were certain to stumble upon novel problems with no solutions, which just might give them a push to leave Slovenia:

With the acquisition of the Slovenian citizenship, the evacuees are obliged to procure permanent residence by themselves. Thus we can lower the costs of accommodation and support for the evacuated persons. Some will very likely move to other countries.<sup>20</sup>

In preparation of the third convoy in 1994, the terminology used in the governmental papers also changed substantially. The communiqué above concludes with a demand that

the possibilities for the existence of the evacuated Slovenian citizens in the Republic of Slovenia are thoroughly studied. A strategy for a pre-prepared programme of solving the existential needs of the Slovenian citizens from Bosnia and Herzegovina in their new homeland; ... A plan for their presence in Slovenia must be made ....

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<sup>18</sup> Government of the Republic of Slovenia, 2 June 1994, No. 260-05/93-1/35-8, undersigned: Mirko Bandelj, Secretary General.

<sup>19</sup> For a detailed discussion of this legal and terminological invention see Vrečer 2007: 33ff. After detailing the history of temporary protection of refugees in international law and conventions, Vrečer describes the pertinent Slovenian law of 1997 that does not allow its protégées ‘... permanent employment, but only eight hours per month ... while the Office of immigration and refugees kept an inventory of income thus gained.’

<sup>20</sup> The anticipated mass exodus of the evacuees subsequently actually happened. The preferred destination was Canada. During fieldwork carried out in 1997, two collocutors from among the evacuees estimated that ‘at least a half’ or else, ‘the majority’ of people from the first two convoys eventually left Slovenia (Šumi, fieldwork notes, 1997; cf. Šumi 2001).

While the conceptual error of calling the evacuees Slovenian citizens about to arrive into their “new” homeland is noticeable, it was anything but an error from the programmatic standpoint. The conditions for the third convoy that arrived to Ljubljana on 29 June 1994 were set well ahead of time: this evacuation pertained exclusively to persons in possession of Slovenian citizenship, and their minor children. The genesis of this radically restrictive decision can be traced through a short, documented chronology of communications between the Slovenian government and the Association of Slovenians in Bosnia and Herzegovina. By mid-1993, the Association seems to have perfected the technique of getting heard: they addressed their letters to the office of the Prime Minister or his Secretary General but also cc-ed them to a number of other addresses of key governmental departments, and to the office of the President of the Republic. An excerpt from a widely circulated letter dated 17 June 1993<sup>21</sup> illustrates well the style of argumentation in this communication:

Our association is trying to solve the problems that are, anywhere else in the world, the duty of state organs (embassies, consulates). Not because we want to be doing it, but for the following reasons: According to our data, more than 250 citizens of Slovenia live in Sarajevo, and more than 350 who have the right to Slovenian citizenship according to the Citizenship Act, that is to say, more than 600 Slovenians and their family members, mostly offspring of Slovenians in straight line of the first generation, and more than a thousand people who are descendants of Slovenians of the second and third generations. Each day there emerge at the [seat of the] Association new persons who have their Slovenian origin documented (in pre-war Sarajevo, there were over six thousand).

These introductory remarks are followed by a short summary of the history of Slovenian migrations to Bosnia and Herzegovina in the past hundred years, and a final, key explanation: that in the circumstances of war, Slovenian genealogy is no longer just a part of family histories, a fond memory, but subject to external categorisation that the people cannot influence, one that places them outside the possible, and acceptable ethnic categories, and puts them in the way of harm:

The constitutive nations [of Bosnia and Herzegovina] – Serbs, Croats, Muslims – have their own political and every other kind of protection, while the rest are (except the Jews who are very well organised thanks to the state of Israel) left to their own devices. ... Nowadays in Bosnia and Herzegovina the constitutive nations are quoted as Serbs, Croats, Muslims, quite affirmatively also the Jews and even Roma, but all the rest are “others”, Slovenians among them. All the offspring of Slovenians now seek out their origins because they cannot be anything else but Slovenians.

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<sup>21</sup> Association of Slovenians in Bosnia and Herzegovina to Government of the Republic of Slovenia, Secretary general Mirko Bandelj for the Prime Minister, cc-ed a number of addresses, 17 June 1993, KM/SN, undersigned: Aleksander Novak, President, Metka Kraigher, Secretary General.

It remains uncertain whether the Slovenian government was approachable in regard to the last argument: that the people in the Association, and the increasing numbers of people with Slovenian ancestors, were endangered precisely because of their Slovenian family origins. By end of July 1993, the then President of the Republic Milan Kučan directed a letter to the Prime Minister in which he urged the government to undertake ‘the necessary steps to protect the Slovenians in Bosnia and Herzegovina,’ and pondered on the ‘possibility of an eventual evacuation.’ The president used two terms to refer to the possible evacuees: *Slovenians in Bosnia and Herzegovina*, and *formal Slovenian citizens* in Bosnia.<sup>22</sup> The president further urged the prime minister to address the ‘enormously pressing problem ... due to more than well-founded reasons both practical and a matter of principle,’ by authorising ‘an immediate and efficient solution.’ By the end of November 1993, the Sector for Migrations at the Ministry of Foreign Affairs undertook the outlining of the plan titled Proposal for the Evacuation of Slovenians from Bosnia and Herzegovina.<sup>23</sup> The document, a result of a ‘cross-sector meeting,’ got to the point immediately:

Accepted was the proposal that we evacuate from Bosnia and Herzegovina the Slovenian citizens and their minor children. A question was posed as to the spouses of the citizens of the Republic of Slovenia. The proposal omits them, given the limited means of the Republic of Slovenia and given the manner of evacuation that is manageable. It is estimated that around 300 persons would be evacuated from Sarajevo, the Central Bosnia, and other parts.

In continuation, the document confirms that all evacuees will be provided with permanent residence in Slovenia, but gives preference to finding lodging with relatives as other possibilities are either scarce, absent or improper, like housing them in refugee centres. Detailed are also the rights of the evacuees to social services, health insurance, social care and schooling, but also, that all evacuees will be required to sign a declaration to the effect that they are in agreement with the said conditions, rights and duties in Slovenia.

The documentation at our disposal does not reveal how the impossibly restrictive and illegal plan to evacuate only citizens and minors, leaving behind all non-citizen spouses and adult offspring, was abandoned. Despite both the estimates of the Association of Slovenians in Bosnia and the cited cross-sector document however, the final number of evacuees was minuscule. In April 1994, the media reported on the preparations to evacuate

... 165 Slovenians from Sarajevo. ... Around 70 Slovenians on the list are Slovenian citizens, while the rest are ... their immediate family members. A third of the people arriving in the convoy will be placed with their relatives, and for the rest, Slovenia will have to make arrangements.<sup>24</sup>

It had been reported<sup>25</sup> a month earlier that the Association, the convoy organiser *in situ*, finally selected 199 people from among 700 odd candidates, noting that the

<sup>22</sup> Republic of Slovenia, Office of the President of the Republic, 26 July 1993, No. 26/7-1993, undersigned: Milan Kučan.

<sup>23</sup> Republic of Slovenia, Ministry of Foreign Affairs, Sector for migrations, 29 November 1993. No signatures.

<sup>24</sup> *Republika*, 14 April 1994: 5.

<sup>25</sup> Delo, 24 June 1994.

criteria for the selection were “administrative” rather than humanitarian. Upon arrival to Ljubljana, the third convoy evacuees were detained in a refugee centre in quarantine, an ostensibly health care measure that added insult to the injury of the selection process in Sarajevo. According to informants from among the evacuees, the selection process was “pseudo-racist” as their Slovenian blood quantum was both calculated and translated into convoy-organising principles: every family was required to appoint a person from among themselves to act as the “head of evacuation”, usually the individual with Slovenian citizenship; failing that, the family member in closest relation to the Slovenian citizen in the family was appointed, given her or his largest “amount of Slovenianness”:

It was even said that one’s origin is only to be reckoned along the male line, not the female. But I think that reckoning relationship along the female line is much more accurate, like the Jews have it: if a Slovenian woman gives birth, then the child is assuredly Slovenian, but if the father is a Slovenian, the child may or may not be one. That’s how it is [laughter]. My wife did not have Slovenian citizenship at that time, so my daughter could not be head of the evacuation for my family. I could not go with them as I had to stay in Sarajevo for another year, so I could not be the head. Another option was my little son, but they said, a small child cannot be the head of evacuation, we will just remove you all from the list. I totally lost it ... But then they too slept on it and realised that this was impossible (Šumi, fieldwork notes, 1997).

## **The raw, case 2: The “Erased”**

Upon Slovenian independence on 25 June 1991, all the inhabitants in possession of Slovenian citizenship within the (SFRY) acquired their new Slovenian citizenship without any particular procedure. The legal transfer of citizenship was accomplished by mailing out notices. In accord with Article 40 of the CA, permanent residents from before 23 December 1990, the date of the plebiscite for independence, citizens of other ex-Yugoslav republics, had the option to apply for Slovenian citizenship within six months after this date; all, however, had the right to vote in the plebiscite.<sup>26</sup>

During the six-month term, their status was indistinguishable from that of the citizens of Slovenia; to obtain extraordinary naturalization, however, they had to meet two additional conditions: that they were actually living in Slovenia, and that they did not ‘endanger the public order and safety of Slovenia:’ a condition that was added late in the process. All residents of Slovenia who initiated the acquisition of permanent residence, or were still processed, were automatically relegated to the status of aliens on 25 June 1991.<sup>27</sup> A number of internal instructions on the part of the Ministry of the Interior followed that further changed the status of these people, while the public was left completely in the dark. Following the Brioni Declaration of 2 July 1991 that instituted a three-month moratorium on the enactment of Slovenian independence, all the above

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<sup>26</sup> As needs be noted, the voter turnout at the plebiscite was 93.2 per cent of all eligible voters, of which 88.5 per cent voted in favour of independence.

<sup>27</sup> Document accessible at: Mirovni inštitut/Peace institute, <http://www.mirovni-institut.si/izbrisani/>

was temporarily halted, except the six-month deadline that was extended to 26 February 1992. On this date, the Aliens Act's provision to relegate all citizens of other ex-Yugoslav republics into the status of aliens took effect: 25,671 people, permanent residents of Slovenia, officially became aliens, the "Erased", overnight. Following the internal orders of the Ministry of the Interior, they were stripped of all their IDs and had their passports, issued by the SFRY, invalidated even if not expired. There were no legal grounds for these measures.<sup>28</sup> Those among them who did submit the applications for citizenship had them either rejected or the process simply terminated. They were purged from the record of permanent residents arbitrarily and without even being notified. Many of them had lived in Slovenia for several years, even decades, only to become apatrides overnight. In some cases, the Ministry of the Interior ordered expulsions. Many learned of their novel circumstances by chance while seeking new personal documents in place of expired ones, having been stopped by the police for traffic offences, or when seeking school enrolment or medical service. For an entire decade, the public in Slovenia was not aware of the Erased, even though the Ombudsman persistently reported on them in his yearly reports to the parliament. The entire scandal became public only after the Constitutional Court ruled on the matter with the decision U-I-284/94 of 8 February 1999.

The decision established that the erasure from the registry of permanent residents was illegal, and that the Aliens Act could not have been the basis for the termination of the status; the illegal action was arbitrary and based on an unlawful interpretation of the law. In response, the Ministry of the Interior argued that they acted on the basis of Article 5 of the Rules on the permanent residents register according to which, allegedly, only Slovenian citizens could be permanent residents of Slovenia, but the Constitutional Court refuted that by stating that the Rules do not provide a legal basis for the erasure of persons from the evidence, and that 'the permanent residents of Slovenia who did not obtain Slovenian citizenship rightfully expected that their status to remain unchanged despite independence'.<sup>29</sup> The Court further opined (Para. 16) that

... citizens of other [Yugoslav] republics who did not decide for the Slovenian citizenship rightfully expected that they will not be equated with aliens ... or loose their permanent residence, and without any notification at that. Slovenia ... resolved in its independence documents to guarantee the protection of human rights and fundamental freedoms of all persons on the territory of the Republic of Slovenia regardless of their national affiliation.

The Court established that no less than three constitutional principles were breached: the principle of protection of legitimate expectations, the prohibition of discrimination, and the principle of equality before the law. Following a heated debate in the government, the law to carry out the court decision was endorsed. On 3 April 2003, the Constitutional Court issued another decision, U-I-246/02, that affirmed the previous one, and added that the

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<sup>28</sup> Depeša Ministrstva za notranje zadeve / Dispatch of the Ministry of Interior, 5 February 1992, accessible at: <http://www.mirovni-institut.si/izbrisani/5-2-1992/>

<sup>29</sup> Full text in Slovenian accessible at: *Odločba Ustavnega sodišča U-I-284/94* <http://www.mirovni-institut.si/izbrisani/odlocbe-ustavnega-sodisca/>

Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia from 1999<sup>30</sup> was likewise unconstitutional as it failed to recognise the right of the Erased to have their permanent resident status reinstated from day one onward; as it does not detail the procedure of obtaining the permit for permanent residence to those who were evicted from Slovenia; and as it does not specify the condition of ‘actual living in Slovenia.’ The Court demanded that the three-month deadline for permanent residence be revoked, and that the Erased who initially held the permits need have them reinstated retroactively. Although the Court instructed the government to amend the law within six months, the decision was not acted upon for seven years. Instead, the Ministry of Interior prepared several draft acts that differed from the Constitutional Court deliberation substantially. Several referendum demands were also submitted, even though a referendum on a human rights issue is illegal, and one was carried out. This referendum of 4 April 2004 was a textbook case of the tyranny of a minority: the voter turnout was 31.45 per cent of all eligible voters, from among whom 94.69 per cent voted against the passing of the law as commanded by the Constitutional Court. The episode was dutifully accompanied by the press’ portrayals the Erased as the non-patriotic Other, enemies of the independent Slovenia rather than victims of a mass human rights violation.

Despite certain legal opinions to the effect that the wrongdoing can be corrected only by passing a special law, the first individual orders to reinstate the status of a resident were issued in 2004 based directly on the Constitutional Court decision. The first pack issued by the then centre-left government comprised 4,040 orders; an additional pack of 2,581 was issued in 2009, again under a centre-left government. In 2012, a conservative coalition in power reacted strongly to the then decision of the European Court of Human Rights that mandated not only the restoration of resident status but also damages paid. The 2012 government was very vocal in its intent to ignore the decision of the European Court especially given the times of austerity after the global financial crisis, fuelling in the process a renewed public discourse on the Erased as the hateful and evil Other, undeserving of Slovenian citizenship, let alone the damages.

## **Epilogue**

Armed with, among other, the experiences with the Bosnian evacuees and the Erased presented above, Slovenian lawmakers decided to determine once and for all who real Slovenians, and the only legitimate candidates for its citizenship, actually are. Three MPs undersigned the draft act on the relations between the Republic of Slovenia and Slovenians outside its borders that was submitted to legislative procedure on 8 April 2004 and withdrawn in January 2005 for serious review. To understand the ideology of autochthony, however, the retracted draft act is of importance both for its graphic creationism, its understanding of autochthony as natural, and its attempts to reconcile the latter with the democratic rule of law.

In the part titled Assessment of the situation, the draft act introduces the concept antonymous to autochthony, namely allochthony, in the following context:

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<sup>30</sup> Slovenian text of the act at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1586#>

Despite the fact that under *the influence of France*, the concept of minority protection that *does not recognise the principle of minority autochthony* is spreading in the EU states, it is *no doubt very appropriate* that the Republic of Slovenia maintains its concept of *dividing the minorities to autochthonous and allochthonous* in relation to its minorities across the border, and both minorities<sup>31</sup> on its territory. The autochthonous national minorities are those whose members reside *in a precisely determined territory* from before the time of the industrial revolution. The industrial revolution triggered mass migrations and created in the economically developed countries numerous non-autochthonous, therefore allochthonous or modern-age minorities (emphases added).

Even as the invocations of the deep European history of the 18<sup>th</sup> and 19<sup>th</sup> centuries did little to clarify either the concept of autochthony or the industrialisation processes that barely begun in Slovenia prior to the 20<sup>th</sup> century, to the authors' credit, they did note that their doctrine is at odds with that of the EU, so they came up with a cunning plan to circumvent it. As they determined that the EU abstains from legally regulating the ethnic difference, they recommended doing so by way of upgrading the EU directives with the doctrine of autochthonism, neglecting in the process the glaring possibility that the EU refrained from such regulation precisely because it is inherently racist:

At the level of [the European Union<sup>32</sup>] there are no mandatory standards except the directives that generally prohibit racial discrimination. Important in their contents are the Resolutions of the European Parliament that encourage the members to adopt measures needed for the preservation of cultural and linguistic diversity. . . . Treaty on European community defines the goals of its activities that are mainly in the creation of a common cultural heritage while simultaneously respecting the national and regional differences, and the consciousness and knowledge of cultures of other Member States. In the area *of legal regulation of the relationship between the Republic of Slovenia and Slovenians outside its borders therefore, we merely need to upgrade the level of regulation that is recommended by the resolutions of the European Union* [emphases added].

Just how real the blood containing the precious substance of Slovenianness appeared to the authors of the draft is demonstrated in another provision they worded (Art. 38) in utter disregard of every principle of family law, but possibly with an eye on both the Bosnian evacuees and the Erased episodes:

The right to obtain the status of a Slovenian without Slovenian citizenship is not transferrable to those family members of the beneficiary who are not of Slovenian origin (spouses, adopted children, etc.), except in cases specified in this Act.

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<sup>31</sup> Two "autochthonous self-managing national communities" enjoy constitutional protection in Slovenia from WWII onwards, the Italians at the coastal region, and the Hungarians at the Slovenian-Hungarian border. Their status is largely the consequence of the peace treaties after both world wars.

<sup>32</sup> The draft consistently speaks of the EU as a "community", probably in an attempt to Slovenicise the name of the Union.

However, the authors did not deny themselves the right to control this blood just in case it proved to be insufficiently politically and philosophically disciplined, or was claimed fraudulently (Art. 48):

The status of a Slovenian without Slovenian citizenship is retracted if the person with his/her actions seeks to harm the interests of the Republic of Slovenia, defames its name, or is found after the fact that the person obtained the status on the grounds of false proofs [of Slovenian origin].

The fact that the pseudo-biologist foundations of the Slovenian nation constitutionally affirmed the doctrine of autochthony did not entirely escape the legal scholars. Thus, the anthology of constitutional commentaries (Šturm 2010)<sup>33</sup> brings, in the piece on the Preamble, a lengthy discussion on the Slovenian nation's historic rights obtained in the course of many decades, even centuries, of state-building efforts. The legal scholar Peter Jambreč (ibid.: 22) brings copious quotes; among them, one penned by the philosopher Tine Hribar, propounding that:

The basic historical fact that we Slovenians have, by our own effort, shaped our national identity and enforced our statehood, is an empirical fact. It is an empirical proof that we are capable of national sovereignty that we are, as a nation, entitled to regardless. [It is a proof that] we are at the stage of the historical development whereby we as a nation with its own state can become equal to other nations ...

As to the problem of citizens vs. members of the Slovenian nation, the Commentary (ibid.: 47ff) presents a languidly comfortable continuity between these two, introducing the category of “a people”, but in the conclusion, nevertheless excluding some categories of citizens from the “Slovenian people”:

A people are a community of humans who comprise the personnel substance of the state as a whole ... Citizens are vitally connected to the workings and the fate of the state that they themselves found and establish. ... The Slovenian people are therefore a community of citizens that are interconnected, and defined by the same historic fate. ... From the historic viewpoint, the common fate of the Slovenian people is conditioned upon their key state-building experience in the critical time of the realization of their right to self-determination on 23 December 1991. ... The will of the people to make Slovenia a sovereign state represented the joint will of the Slovenian nation, the Italian and Hungarian nationalities, and all other voters in the then Republic of Slovenia ...

Katherine Verdery (1998) noted that one of the primary process that occurred after the fall of the Communist regimes in Eastern Europe was that of a revival of “ethno-national” identities. In Slovenia, and in *Mittleuropa* in general, this process expressed itself in an adamant conviction that the dawn of democracy's central historic purpose was in the reinstating the profound “truth” of creationist national autochthony that Communism with its proletarian internationalist ideology sought to eradicate. This

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<sup>33</sup> We are indebted to Tit Škrget, lawyer and Ph.D. student of law, for directing us to this authoritative source.

distinctly postcolonial turn from a national liberation project back to a traumatised, xenophobic ‘conservative collectivism’ (Verdery 1998: 294). Bajt (2010) describes as the affirmation of a specific stance in the ideology of Slovenianness, reproduced by the discourse of the cultural, scientific, and political elites, which portrays Slovenians as “threatened minority” in what was, curiously enough, designed as the state primarily of and for “blood Slovenians”.

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## **Povzetek**

Problem, ki ga članek naslavlja, je mogoče opisati kot socialne posledice legalnega kodiranja slovenskega naroda in njegovega članstva nasproti državljanskemu korpusu v slovenski poosamosvojitveni ustavi in zakonodaji, ki ju osvetljujemo skozi dva primera, v katerih se je konflikt med narodom in državljani polno izrazil. Kaj je narod, kakšen je njegov odnos do države, kdo so njegovi člani, kakšno je razmerje med pripadnostjo narodu in državljanstvom; in končno, kakšna so možna razmerja med pripadniki naroda, ki živijo zunaj Slovenije, s Slovenijo? Ta na videz legalistična vprašanja, ki jih vsaka moderna država določi na podlagi praktičnih uvidov v svojo populacijo, imajo za ljudi in njihova življenja povsem otipljive posledice. V Sloveniji so ljudje, ki se jih šteje za pripadnike slovenskega naroda, ne glede na to, ali živijo v Sloveniji ali ne, privilegirani tako v ustavi kot v zakonodaji, in imajo statuse, ki so enaki ali višji od tistih, ki jih uživajo državljani. V članku prinašamo dva primera, v katerih se je napetost med tema dvema pripisoma izrazila skozi katastrofalne posledice za ljudi: primer slovenskih repatriirancev med vojno v Bosni in Hercegovini v 1990. letih, in primer t.i. izbrisanih, ljudi, državljanov drugih republik bivše Jugoslavije, ki jim je bil protiustavno in protipravno odvzet status stalnih prebivalcev Slovenije v prvih poosamosvojitvenih letih. Članek podrobno analizira podloženo ideologijo naroda in pojmovanje državljanstva v Sloveniji, ki je v tem pogledu vzorčna za tovrstne ideologizacije v Srednji Evropi.

**Ključne besede:** narodnost, državljanstvo, ideološki kreacionizem, postkolonija, postsocializem

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