



**Convention against Torture
and Other Cruel, Inhuman or
Degrading Treatment
or Punishment**

Distr.: General
20 June 2011

Original: English

Committee against Torture

Forty-sixth session

9 May–3 June 2011

**Consideration of reports submitted by States parties under
article 19 of the Convention**

Concluding observations of the Committee against Torture

Slovenia

1. The Committee against Torture considered the third periodic report of Slovenia (CAT/C/SVN/3) at its 984th and 987th meetings, held on 10 and 11 May 2011 (CAT/C/SR.984 and 987), and adopted the following concluding observations at its 1006th meeting (CAT/C/SR.1006).

A. Introduction

2. The Committee welcomes the submission of the third periodic report of Slovenia, which was submitted in accordance with its reporting guidelines, but regrets that it was submitted three years late.

3. The Committee notes with appreciation that a high-level delegation from the State party met with the Committee, and also notes with appreciation the opportunity to engage in a constructive dialogue covering many areas under the Convention.

B. Positive aspects

4. The Committee welcomes that since the consideration of the second periodic report, the State party has ratified the following international instruments:

- (a) Optional Protocol to the Convention against Torture, on 23 January 2007;
- (b) International Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 24 April 2008;
- (c) Optional Protocols to the Convention on the Rights of the Child, on 23 September 2004;
- (d) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 23 September 2004;

(e) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 21 May 2004.

5. The Committee notes the State party's ongoing efforts to revise its legislation in areas of relevance to the Convention, including:

(a) Introduction of article 265 defining and criminalizing torture and the amendments increasing the maximum punishment for trafficking in human beings in the Penal Code, in 2008;

(b) Amendments to the Police Act providing detainees with access to a doctor, in 2005;

(c) Amendments in the Criminal Procedure Act and Prosecutor's Act, in 2007, establishing Specialized Departments of the Group of State Prosecutors for prosecution of crimes committed by the police, military police or persons seconded to a military or similar mission abroad;

(d) Adoption of the Patients' Rights Act, in 2008, which regulates the complaint procedure in case of violations of rights of patients, including those in mental health institutions;

(e) Adoption of the Mental Health Act, in 2008, which stipulates counselling and protection of rights in the area of mental health, including procedures for detention of people with mental health problems;

(f) Adoption of the Domestic Violence Prevention Act, in 2008;

(g) Adoption of the Act amending the Act regulating the Legal Status of Citizens of Former Socialist Federal Republic of Yugoslavia living in Slovenia, in 2010;

(h) Adoption of the Act on the Protection of Right to Trial without Undue Delay, in 2006 and amendments thereto in 2009.

6. The Committee also welcomes the efforts being made by the State party to improve its policies and procedures in order to ensure greater protection of human rights and give effect to the Convention, including:

(a) Introduction of an alternative form of penal sanction referred to as "weekend prison";

(b) Publication of a brochure on the "Notice of Rights to the Person Who Has Been Arrested" in 2009;

(c) Adoption of a resolution on the prevention of domestic violence for the period of 2009–2014.

C. Principal subjects of concern and recommendations

Definition and offence of torture

7. While welcoming the introduction of a new provision defining and criminalizing torture which contains all the elements specified in article 1 of the Convention, the Committee remains concerned that the crime of torture is subject to statute of limitation (arts. 1 and 4).

The Committee urges the State party to amend article 90 of its Penal Code with a view to abolishing the statute of limitation for the crime of torture. The State party should

also ensure that such offence is punishable by appropriate penalty which takes into account its grave nature, as set out in article 4, paragraph 2, of the Convention.

Fundamental legal safeguards

8. While noting that under article 148 of the Criminal Procedure Act there is a possibility for audio and video-recording of interrogations, the Committee is concerned that the audio and video-recording generally does not take place as there is no requirement therefor in law¹ (art. 2).

The Committee recommends that the State party establishes the legal requirement for the audio and video recording of all interrogations of detainees throughout the country as a further means to prevent torture and ill-treatment.

9. While noting that the State party introduced a computerized system for registration of all information related to detention by the police, the Committee is concerned that not all information is entered in the system, as certain information – such as the time of arrival at the police station and the time of placement in a cell – is missing² (art. 2).

The Committee recommends that the computerized system for registration of detainees be expanded in order to include all relevant information on the custody of the detained person in order to establish a precise monitoring system of the whole detention period.

Pretrial detention and court backlog

10. The Committee welcomes the “Lukenda” project and other measures taken by the State party aimed at reducing the court backlog, but remains concerned about the high proportion of remand prisoners awaiting for trials which, according to the statistics provided by the State party, has not decreased in the last five years (art. 2).

The Committee recommends that the State party continues its efforts in reducing the backlog of court cases and takes all necessary measures to that effect, including non-custodial measures.

Ombudsman

11. The Committee notes the new role of the Human Rights Ombudsman as a national preventive mechanism under the Optional Protocol, but is concerned about the inadequate funding of Ombudsman’s office and of information on the scope of its mandate to carry out its own investigation into allegations of torture and ill-treatment (art. 2).

The State party should further strengthen the structure of the office of the Ombudsman and broaden its mandate to carry out its own investigation into allegations of torture and ill-treatment and provide it with adequate human, material and financial resources in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

Complaints, investigation and prosecution of the acts of torture

12. The Committee notes the data provided by the State party on cases of investigations of ill-treatment under various sections of the Penal Code, such as abuse of power,

¹ See report to the Slovenian Government on the visit to Slovenia carried out by the European Committee for the Prevention of Torture and Inhuman Degrading Treatment CPT/Inf (2008) 7, paragraph 24.

² See CPT/Inf (2008) 7, paragraph 25.

falsification of documents, threats, negligence and others, and is concerned by the lack of information on cases investigated or complaints submitted under article 265 of the Penal Code on torture (arts. 12 and 13).

The Committee urges the State party to ensure prompt, impartial and effective investigation into all allegations of torture and ill-treatment and to prosecute perpetrators of such acts. It requests the State party to provide the Committee with data disaggregated by sex, age, ethnicity or origin of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed under article 265 of the Penal Code.

Conditions of detention

13. While welcoming the measures taken by the State party to improve considerably the conditions of detention, including the construction of new facilities and the renovation of existing ones, the Committee remains concerned about the problems of overcrowding especially in major prisons such as the Dob, Ljubljana, Maribor, Koper and Novy Mesto prisons. The Committee is further concerned about insufficient mechanisms to prevent suicide in prisons (arts. 11 and 16).

The State party should intensify its efforts to bring the conditions of detention in places of deprivation of liberty into line with the Standard Minimum Rules for the Treatment of Prisoners, as well as other relevant international standards, in particular by reducing prison overcrowding, expanding non-custodial forms of detention and providing adequate accommodation and psychosocial support care for detainees who require psychiatric supervision and treatment. The Committee also recommends that the State party take all necessary measures to investigate and prevent suicide in places of detention.

Psychiatric facilities

14. The Committee appreciates the information provided during the dialogue by the representatives of the State party, but regrets the lack of information on cases of involuntary placement in psychiatric institutions when only some and not all criteria established in the Mental Health Act are met and the lack of information on the number of complaints and appeals against involuntary placement in psychiatric hospitals. Despite the information provided during the dialogue, the Committee regrets the lack of information on use of measures such as electroconvulsive therapy and psychotropic drugs, and on complaints against such special measures (art. 16).

The Committee recommends that the State party establishes close supervision and monitoring by the judicial organs of any placements in psychiatric institutions and ensure that all places where mental-health patients are held for involuntary treatment are regularly visited by independent monitoring bodies to guarantee the proper implementation of the existing safeguards. Furthermore, the State party should ensure the full and timely implementation of the recommendations made by the Ombudsman and other monitoring bodies in this regard. The Committee also recommends that the State party undertake a serious review of the application of electroconvulsive treatment (ECT), and any other treatment which could be in violation of the Convention.

Violence against women and children, including domestic violence

15. While noting the legal and administrative measures undertaken by the State party to combat gender-based violence and violence against children, the Committee remains concerned about the prevalence of violence against women and girls (see concluding

observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/SVN/CO/4, para. 23). The Committee is also concerned that corporal punishment of children remains lawful at home (arts. 2, 12 and 16).

The Committee recommends that the State party enhances its efforts to prevent, prosecute and punish all forms of violence against women and children, including domestic violence, and ensure effective and full implementation of the existing laws and the national strategies adopted to that end, including the National Programme of Family Violence Prevention for the period 2009–2014. The Committee also recommends that the State party accelerate the adoption of the draft Marriage and Family Act, which prohibits corporal punishment of children in the home (see concluding observations of the Committee on the Rights of the Child, CRC/C/15/Add.230, para. 40). Furthermore, the State party is encouraged to conduct broader awareness-raising campaigns and training on domestic violence for law enforcement agencies, judges, lawyers and social workers who are in direct contact with the victims and for the public at large.

Trafficking in persons

16. The Committee welcomes the amendments of the Penal Code introducing human trafficking as a crime and increasing the punishment for such acts as well as the policies aiming at raising awareness, protecting victims and prosecuting perpetrators. However, the Committee remains concerned that trafficking of women for prostitution continues to be a problem in Slovenia and that measures to protect and assist victims are project-based and not institutionalized and regrets the lack of information on the number of cases where the victims received redress, including compensation (arts. 2, 4 and 16).

The State party should strengthen its efforts to combat trafficking in persons, especially in women and children, in particular by:

- (a) Continuing its efforts to raise awareness for all law enforcement personnel, judges and prosecutors on trafficking in persons;**
- (b) Prosecuting perpetrators under the relevant provision of the Penal Code and ensuring that all victims of trafficking obtain effective redress, including compensation and rehabilitation; and**
- (c) Improving the identification of victims of trafficking and providing them with appropriate rehabilitation programmes, genuine access to health care and counselling, and institutionalizing such services.**

Asylum and non-refoulement

17. Notwithstanding article 51 of the Aliens Act on non-refoulement, the Committee remains concerned that the new Law on International Protection which regulates asylum and asylum-related matters, does not contain a clause on non-refoulement, where there are substantial grounds for believing that, if expelled, returned or extradited to another State, a person would be in danger of being subjected to torture. It is also concerned about the length and uncertainties related to the refugee status determination process (art. 3).

The State party should:

- (a) Ensure that the principle of non-refoulement is established in all legislative acts that regulate asylum or asylum-related matters, including the procedures for subsidiary protection concerning vulnerable groups, in particular victims of trafficking;**

(b) Ensure procedural safeguards against refoulement and effective remedies with respect to refoulement claims in removal proceedings, including review by an independent judicial body concerning rejections;

(c) Ensure that persons whose applications for asylum have been rejected have the right to lodge an effective appeal with the effect of suspending the execution of the decision on the expulsion or deportation; and

(d) Amend the Law on International Protection so that it reflects the principles and criteria established in international refugee law and human rights standards, especially the 1951 Convention relating to the Status of Refugees and its Protocol of 1967.

18. While noting the legislative measures taken to amend the Act Regulating the Legal Status of citizens of Former Socialist Federal Republic of Yugoslavia Living in the Republic of Slovenia in order to remedy the provisions that were found to be unconstitutional, the Committee remains concerned that the State party failed to enforce the Act and to restore the residency rights of persons, known as the “erased”, originating from other Yugoslav republics whose permanent residence in Slovenia was unlawfully revoked in 1992 and already returned to other republics of Former Socialist Republic of Yugoslavia. The Committee is concerned that the discrimination against the so called “erased” persons, including against those who belong to Roma community, is persistent (arts. 3 and 16).

In light of its general comment No. 2 (2008) on implementation of article 2 by States parties, the Committee recalls the special protection of certain minorities or marginalized individuals or groups especially at risk is part of the State party’s obligations under the Convention. In this respect, the Committee recommends that the State party takes measures to restore the permanent resident status of the so-called “erased” persons who were returned to other States in Former Socialist Federal Republic of Yugoslavia. The Committee also encourages the State party to facilitate the full integration of the “erased” persons, including of those who belong to Roma communities and guarantee them with fair procedures for application for citizenship.

Redress, including compensation and rehabilitation

19. The Committee regrets that no information has been provided on any redress provided to victims of an act of torture and ill-treatment by the State party (arts. 14 and 16).

The State party should ensure that all victims of torture and ill-treatment obtain redress and have an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. It should further collect data on the number of victims who have received compensation and rehabilitation including the amount provided.

Training

20. While welcoming the positive measures taken by the State party by developing training programmes on police ethics and human rights for police officers and introducing a feedback system, the Committee remains concerned about insufficient monitoring and evaluation of the effectiveness of these programmes in preventing and detecting torture and ill-treatment (art. 10).

The Committee recommends that the State party:

(a) Ensure that training on the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) is provided to medical personnel and other officials

involved in the investigation and documentation of cases of torture, on a regular and systematic basis;

(b) Develop and implement a methodology to assess the effectiveness and impact of all educational and training programmes on the reduction of cases of torture and ill-treatment and regularly evaluate the training provided to its law enforcement officials;

(c) Strengthen its efforts to implement a gender-sensitive approach for the training of those involved in the custody, interrogation or treatment of women subjected to any form of arrest, detention or imprisonment; and

(d) Develop training modules with the aim of sensitizing the law enforcement officials against discrimination based on ethnicity.

Roma minority

21. While noting the State party's explanation that collection of data on ethnicity contradicts the right to privacy, the Committee remains concerned that no other alternative modalities have been developed by the State party in order to study the extent of ethnically motivated crimes and to prevent and monitor occurrences of such acts, while ensuring protection of individual privacy. It is further concerned about discrimination against the non-national Roma minority (see concluding observations of the Committee on Economic, Social and Cultural Rights, E/C.12/SVN/CO/1) (arts. 2, 10 and 16).

In light of its general comment No. 2, the Committee recalls that the special protection of certain minorities or marginalized individuals or groups especially at risk is part of the State party's obligations under the Convention. The Committee notes that the purpose of gathering statistical data is to make possible for the State parties to identify and obtain a better understanding of the ethnic groups in its territory and the kind of discrimination they are or may be subject to, to find appropriate responses and solutions to the forms of discrimination identified, and to measure progress made. The Committee therefore recommends that the State party study and report the extent of crimes that are ethnically motivated, investigate root causes whilst ensuring the right to privacy and take all necessary measures to prevent such crimes in the future. In this respect, the State party should strengthen its efforts to combat any types of discrimination against Roma minorities.

Data collection

22. The Committee regrets the absence of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement and prison personnel, as well as on domestic, sexual violence and violence against women and violence against children and other vulnerable groups. It also repeats the absence of information on redress available to victims of torture and ill-treatment.

The State party should compile statistical data, disaggregated by crime, ethnicity, age and sex, relevant to the monitoring of the implementation of the Convention at the national level, including data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement and prison personnel, domestic and sexual violence and violence against children and other vulnerable groups, as well as on means of redress, including compensation and rehabilitation, provided to the victims.

23. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet a party, namely the International Convention on the Protection

of the Rights of All Migrant Workers and Members of Their Families, the Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

24. The State party is requested to disseminate widely the report submitted to the Committee and the Committee's concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.

25. The Committee requests the State party to provide, within one year, follow-up information in response to the Committee's recommendations contained in paragraphs 9, 12, 17 and 21 of the present document.

26. The Committee invites the State party to present its next periodic report in accordance with its reporting guidelines and to observe the page limit of 40 pages for the treaty-specific document. The Committee also invites the State party to submit an updated common core document in accordance with the requirements of the common core document contained in the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN.2/Rev.6), approved by the Inter-Committee Meeting of the human rights treaty bodies, and to observe the page limit of 80 pages for the common core document. The treaty-specific document and the common core document together constitute the reporting obligation of the State party under the Convention.

27. The State party is invited to submit its next report, which will be the fourth periodic report, by 3 June 2015.
