



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

Distr.: General
7 December 2010

Original: English

Committee against Torture

Forty-fifth session

1-19 November 2010

List of issues to be considered during the examination of the third periodic report of Slovenia (CAT/C/SVN/3)

Articles 1 and 4

1. Please provide detailed information on the new provision defining and criminalizing torture included in article 265 of the Penal Code adopted in 2008,¹ in particular on whether it contains all the elements specified in article 1 of the Convention.²

2. In the light of the Committee's previous concluding observations, in which the Committee expressed concern about the fact that torture is subject to a statute of limitation and that acts of ill-treatment are subject to a short statute of limitation in Slovenian criminal legislation (CAT/C/CR/30/4, para. 5 (a)), please provide information on the steps taken to repeal the statute of limitation for torture and increase the limitation period for other types of ill-treatment. Please indicate how the new Penal Code, adopted in 2008, addresses these issues.

Article 2³

3. Please provide detailed information on the brochure "Notice of rights to the person who has been arrested" published by the Slovenian police as well as on the "Notice of rights in case of deprivation of liberty", published in 22 languages, in particular with regard

¹ Official Gazette 55/2008.

² According to the national report submitted in accordance with para. 15 (a) of the annex to Human Rights Council Resolution 5/1, the new Slovenian Penal Code stipulated an independent criminal offence of torture (article 265). However the exact content of the provision is not indicated. See A/HRC/WG.6/7SVN/1, para. 38.

³ The issues raised under article 2 could also imply different articles of the Convention, including but not limited to article 16. As the Committee states in its general comment No. 2, para. 3, "the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter "ill-treatment") under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture... In practice, the definitional threshold between ill-treatment and torture is often not clear." See further chapter V of the same general comment.

to whether they have been amended according to the observations of the Slovenian Human Rights Ombudsman in his regular annual report for 2004 (see CAT/C/SVN/3, para. 9).

4. Following the concern expressed by the Committee in its previous concluding observations at the absence of adequate guarantees of the right of persons deprived of liberty to have access to an independent doctor from the outset of their custody (CAT/C/CR/30/4, para. 5 (e)), the State party introduced on 26 October 2005 a formal provision guaranteeing detainees access to a doctor. However, according to the report of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT) on its 2006 visit to Slovenia, detainees are not properly informed of such right.⁴ Please provide information on the measures adopted to guarantee that persons deprived of their liberty are informed of their rights, including access to a doctor, access to a lawyer and the right to contact a member of their family.

5. Please indicate if mechanisms have been devised to collect, process and save data on the ethnicity of victims, excessive use of force and unlawful conduct of police officers⁵ and, if so, please provide the Committee with the relevant updated disaggregated statistical data.

6. In the light of the Committee's previous concluding observations (CAT/C/CR/30/4, para. 6 (e)), please indicate if and how the safeguards provided for in the Code of Criminal Procedure against torture and ill-treatment have been strengthened. Please also provide updated information, disaggregated by sex, age, and ethnicity or origins of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of acts of torture.

7. Please provide detailed information on the specialized department recently established within the group of state prosecutors assigned to prosecute organized crime, under the Office of the State Prosecutor General, in order to pursue independent investigation of criminal offences of which police officers are suspected (A/HRC/WG.6/7/SVN/1, para. 40). Please also provide information on any other measure undertaken to guarantee prompt, effective and impartial investigations into allegations of torture and ill-treatment perpetrated by police officers and other public officials.

8. Please provide information on the measures taken to avoid long periods of detention in the case of particularly protracted proceedings. Please also provide detailed information on the cases in which courts ordered detention even after the expiry of the admissible period within which an individual can be detained and on which legal basis this is done (CAT/C/SVN/3, paras. 23-25).

9. According to the 2008 report of the Slovenian Human Rights Ombudsman and the report of the CPT on its 2006 visit to Slovenia,⁶ conditions of detention remain critical in some prisons. Please provide detailed information about the most recent steps taken to improve conditions of detention and particularly to address overcrowding in prisons and excessive use of force by the police, especially against members of ethnic minorities. In relation to the "intolerable" conditions of detention of persons suffering from mental disturbances or illness, please update the Committee against Torture on the discussions between the Ministries of Health and Justice on opening a forensic psychiatric hospital.

10. Notwithstanding the adoption of the Domestic Violence Prevention Act in 2008, in its concluding observations the Committee on the Elimination of Discrimination against

⁴ CPT/Inf (2008) 7, para. 22.

⁵ According to the State party report, chap. 4 of the Police Act (Gathering Protection and Securing of Data) provides that the police is not allowed to collect, process and save data on nationality or ethnic affiliation (para. 16).

⁶ CPT/Inf (2008) 7, paras. 48-73.

Women expressed concern about the continuing prevalence of violence against women and girls and the high number of women murdered by their intimate partners (CEDAW/C/SVN/CO/4, para. 23). Please provide information on whether, as recommended by that Committee, steps have been taken to develop a comprehensive strategy or action plan to prevent and eliminate all forms of violence against women and girls and whether an effective institutional mechanism has been developed to coordinate, monitor and assess the effectiveness of the measures taken. Please also provide updated information, disaggregated by sex, age, and ethnicity or origins of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of violence against women.

11. Please provide detailed information on the measures undertaken to prevent and combat human trafficking as well as to ensure that victims of human trafficking have access to effective remedies and reparation and are provided with adequate recovery and social integration services and programmes. Please also provide updated information, disaggregated by sex, age, and ethnicity or origins of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of human trafficking.

Article 3

12. Please provide detailed information on the amended Aliens Act (Ur. 1. RS, No. 79/2006), and especially on the newly introduced movement restrictions and stricter police supervision at the Aliens Centre (CAT/C/SVN/3, para. 38).

13. Please provide updated information, disaggregated by sex, age, and ethnicity or origin, on the number of ordered expulsions or residence prohibitions for aliens, returns and extraditions and countries of destination.⁷

14. In the report on its visit to Slovenia in 2006, the CPT indicated that, notwithstanding the general improvement of the living conditions for foreign nationals in Aliens Centres, refurbishment and the revision of the current practice concerning clothing were needed in some centres.⁸ Please provide information on the practical measures that have been taken to address these issues.

15. According to the information before the Committee, the Government of Slovenia has proposed a new law on international protection that does not fully comply with international standards and that, in particular, does not contain a non-refoulement clause. Please provide detailed information on the measures that have been taken to bring the law into line with international standards, including with regard to the State party obligations under the Convention, especially to establish the principle of non-refoulement whenever there are substantial grounds for believing that a person would be in danger of being subject to torture. Please also provide information on any other steps taken to ensure that the State party fulfils its obligations under article 3 of the Convention, in particular to consider all elements of an individual case, and that it provides, in practice, all procedural guarantees to the person expelled, returned or extradited.

⁷ According to the State party report, administrative norms provide that the Police do not keep statistical data on ordered expulsions or residence prohibitions for aliens. See CAT/C/SVN/3, para. 39.

⁸ CPT/Inf (2008) 7, paras. 32 and 35.

16. Please indicate if the State party relies on “diplomatic assurances” to return a person to a third country. If so, please provide information on such cases, including what post-return monitoring mechanisms are put in place.

17. According to information before the Committee, despite the fact that the Government of Slovenia committed to take part in the Asylum Systems Quality Assurance and Evaluation Mechanism Project promoting adherence to the established common international standards in the European Union and supporting the full application of the 1951 Geneva Convention within the framework of asylum-related European Union legislation, it is not engaging in the second phase of the Further Developing Quality project. Please provide information on the reasons why the State party has failed to continue to actively participate in the Further Developing Quality project.

18. Please provide detailed information on which legislative and other measures have been taken to address the situation of the group of permanent residents in Slovenia known as “the erased”.

Articles 5 and 7

19. Please update the Committee on whether the State party has rejected, for any reason, any request for extradition by another State for an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. If so, please provide information on the status and outcome of such proceedings.

Article 10

20. Please provide detailed information on the documents regulating police work relevant in combating cruel, inhuman and degrading treatment that were mentioned in the State party report but that have not been submitted due to their internal nature (CAT/C/SVN/3, para. 55).

21. The Slovenian Human Rights Ombudsman reports that the Slovenian Code of Police Ethics was renewed in 2008 and brought into line with the European Code of Police Ethics and that the provisions of the Code are included in the programmes of education, basic training and advanced training in the police. Please provide detailed information about the new legislation and about any measures taken to develop training and education of the police and other staff, especially those working in direct contact with foreign nationals.⁹

Article 11

22. During its visit to Slovenia in 2006, the CPT was informed that a handbook on police interrogations had been prepared and made available to police staff through the Ministry of the Interior intranet site. However, hardly any police officers interviewed by the delegation were aware of the new guidelines.¹⁰ Please provide information on whether, as recommended by the CPT, the handbook on police interrogations has been integrated into ongoing training programmes. Please provide also information on the measures that have

⁹ The development of training for staff working in direct contact with foreign nationals was particularly emphasized by the CPT in its 2008 report. See CPT/Inf (2008) 7, para. 39.

¹⁰ CPT/Inf (2008) 7, para. 12.

been taken to ensure that electronic equipment for recording police interviews is used on a regular basis, as the CPT recommended.¹¹

23. Please provide information on the practical application of the provisions of the Slovenian Criminal Procedure Act, amended in 2003, which allow the police to interrogate the suspect and prepare the record, which can be used as evidence in the main hearing (CAT/C/SVN/3, para. 64).

24. Please provide updated detailed information on the construction, adaptation and furnishing of detention facilities and psychiatric hospitals for the period 2006-2010.

25. Please provide updated information, including statistics disaggregated by sex, age and ethnicity, on the number of pretrial detainees and convicted prisoners, the occupancy rate of all places of detention and on crime reports filed against police officers for the period 2006-2010. Please also provide information on the number of persons deprived of their liberty in psychiatric hospitals.

26. Please provide updated statistical data regarding reported deaths in detention facilities and psychiatric hospitals, disaggregated by the location of detention, the sex, age and ethnicity of the deceased and cause of death, for the period 2006-2010. Please make available detailed information on the results of the investigations in respect of those deaths and measures implemented to prevent suicides and other sudden deaths that occur in detention centres.

27. Considering the declaration of unconstitutionality by the Slovenian Constitutional Court of articles 70-81 of the Non-litigious Civil Procedure Act (*ibid.*, para. 89), please provide updated information on the current legislation regulating confinement in psychiatric hospitals.

28. Please provide detailed information on the proposed legislation on mental health mentioned in the State party's report (*ibid.*, paras. 101-111), if it has been adopted and, if so, provide detailed information on the procedure for the confinement of mental patients in psychiatric hospitals and social welfare institutions.

29. The State party's report mentions the new Rules on Police Powers to better protect human rights and freedoms, a catalogue of standards for police procedures and several manuals relating to the use of instruments of restraint to improve the professional work of police officers (*ibid.*, para. 129). Please provide detailed information on the content of such standards.

Articles 12 and 13

30. According to the State party's report, mechanisms have been set up to prevent and identify potential maltreatment of detainees (*ibid.*, para. 113). Please provide detailed information on such mechanisms and on any other measures taken to improve the generally insufficient and protracted disciplinary procedures against police officers.

31. Please provide detailed information on cases where disciplinary procedures were initiated against police officers and the kind of disciplinary sanctions applied (*ibid.*, paras. 35-36).

32. Please provide detailed information on the measures taken to deal with court backlogs and, more specifically, on the content of the recently adopted "Hercules" and

¹¹ *Ibid.*, para. 24.

“Lukenda” projects (ibid., para. 114). Please provide information on the practical positive outcome of such projects.

33. With regard to the concern about the independency and impartiality of the new police complaints procedure expressed in the report of the CPT on its 2006 visit to Slovenia,¹² please provide information on the measures that have been taken to ensure that the persons responsible for investigating complaints against the police are not from the same service as those who are the subject of the investigation.

34. Please provide updated statistical data, for the period 2006-2010, on the number and grounds of complaints regarding the use of instruments of restraint by the police and on the subsequent investigations, prosecutions and convictions of perpetrators of the unlawful use of such instruments.

35. Please provide detailed information on the measures that have been taken to systematically regulate the procedure for complaints by users of psychiatric services (CAT/C/SVN/3, paras. 130-134). Please also provide statistical data for the period 2006-2010 on the number of complaints received in the main psychiatric hospitals and the grounds on which these complaints were filed.

Article 14

36. Please provide information on redress and compensation measures, including the means of rehabilitation, ordered by courts and actually provided to victims of torture, or their families.

Article 15

37. Please inform the Committee on the practical measures taken to ensure that, both in law and in practice, evidence obtained through torture is inadmissible in any proceedings. Please provide examples of any cases that have been dismissed by courts due to evidence or testimony obtained through torture.

Article 16

38. In the light of the Committee’s previous concluding observations (CAT/C/CR/30/4, para. 6), please provide detailed information on the measures taken to eliminate the occurrence of ill-treatment by police officers and other public officials, especially when ethnically motivated. Please also provide detailed information on whether modalities for collecting data and monitoring the occurrence of such acts have been devised.

¹² As noted by the CPT in its report on its 2006 visit to Slovenia, the 2003 reform led to the establishment of a specific Complaints Section at the Ministry of the Interior’s Police and Security Directorate. Complaints are subjected to a two-stage review: (a) the head of the police unit in which the officer facing the complaint is working establishes the facts pertaining to the complaint, and (b) in cases where the complainant does not agree with the findings, the complaint is forwarded to the Ministry of the Interior to review the case and the complaint is subsequently examined by a special panel (chaired by a person appointed by the Minister and including two members of the public). See CPT/Inf (2008) 7, para. 15.