



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

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Summary record of the first part (public)* of the 984th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 10 May 2011, at 10 a.m.

Chairperson: Mr. Grossman

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.984/Add.1.

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The meeting was called to order at 10 a.m.

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

Third periodic report of Slovenia (CAT/C/SVN/3; CAT/C/SVN/Q/3 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Slovenia took places at the Committee table.*
2. **Mr. Škrlec** (Slovenia) said that the provisions on human rights and fundamental freedoms, which constituted almost one third of the Slovenian Constitution, were the subject of a special chapter entitled “Human rights and fundamental freedoms”. The principle of the absolute prohibition of torture was enshrined in article 18 of the Constitution. Slovenia had ratified the Optional Protocol to the Convention against Torture in 2006 and had established a national preventive mechanism in 2007. Desirous of involving civil society in human rights, the Slovenian Government had decided to incorporate a provision in the Act ratifying the Optional Protocol, stipulating that the Human Rights Ombudsman, who served as the national preventive mechanism, must involve the representatives of NGOs and humanitarian organizations in the groups responsible for monitoring detention conditions and the treatment of detainees.
3. In 2008, Slovenia had adopted a new Criminal Code; article 265 thereof, concerning the crime of torture, contained all of the components of the definition of torture contained in article 1 of the Convention. In addition, the Criminal Code provided for longer statutes of limitations for crimes of torture. In 2006, the Constitutional Court had handed down two decisions in which it made specific reference to the provisions of the Convention. In the first decision, taken in the context of asylum procedures and the prohibition against the expulsion or extradition of a person to a State where they were in danger of being tortured, it had recalled that the prohibition against torture was absolute; in the second decision, it had established the State’s obligation in the event of a death caused by the law enforcement services to conduct an independent inquiry into the circumstances of the death and to inform the deceased person’s family of the findings.
4. In 2007, Slovenia had introduced a new arrangement whereby a new Specialized Department attached to the Group of State Prosecutors for the Prosecution of Organized Crime was responsible for investigating and prosecuting members of the police, the military police or a military operation abroad who were suspected of having committed a criminal offence. The new arrangement made it possible to guarantee the impartiality of the police and law enforcement authorities when any of their members were accused of human rights violations.
5. In 2008, Slovenia had adopted a Patients’ Rights Act, which regulated appeal procedures for patients and provided them with free assistance in the context of those procedures. Under the Mental Health Act, also adopted in 2008, persons with mental disabilities were also entitled to that service.
6. Slovenia devoted particular attention to alternative penalties, including “weekend prison”, which allowed convicts who met certain criteria established by the prison administration to serve their sentence while continuing to work or study and to live at home apart from the weekend, which they were required to spend in prison.
7. In general terms, no effort was spared to improve detention conditions, and measures had been taken to reduce the negative impact of prison overcrowding, including by limiting the maximum number of detainees, renovating existing establishments or building new ones.

8. At the end of 2010, the National Assembly had substantially reworked the International Protection Act to strengthen the rights of persons who had applied for such protection or who had already been granted refugee status in Slovenia. Slovenia could thus better acquit itself of its international obligations to protect the rights and freedoms of persons in need of international protection, in particular with regard to the housing, health, education and free legal aid available to them.

9. Since 2001, in cooperation with NGOs and humanitarian organizations, Slovenia had sought to combat trafficking in persons, including through a prevention project with the police and the Office of the Public Prosecutor and developing a body of case law to clarify certain important points of law. Moreover, the first final judgements in trafficking cases had been handed down.

10. **Mr. Mariño Menéndez** (First Country Rapporteur), welcoming the fact that article 265 of the Criminal Code of 2008 defined torture, asked why the words “for any reason based on discrimination of any kind” had not been retained in that definition when all other elements of article 1 of the Convention had been. He noted with satisfaction that a national preventive mechanism had been established in 2007, and would like to know a little more about how it functioned. He would also like detailed information about the detention and interrogation procedure followed by the police and would, in particular, like to know whether the officers who carried out arrests were the same as those who conducted interrogations, whether audio and video recordings of interrogations were made systematically and whether there were duly updated registers of detainees at all places of detention. Noting that Slovenia had passed a law allowing legal counsel to be present from the beginning of the interrogation, he asked whether that law was enforceable, as persons who had been arrested did not always have the means to obtain representation, and court-appointed lawyers were not always available.

11. With regard to article 2 of the Convention, he wished to know whether corporal punishment was still lawful within the home and whether specific judicial bodies, including the courts, dealt with violence against women. According to some sources of information, there was a strategy for the prevention of violence against women but no comprehensive strategy for effectively sanctioning perpetrators of violence. With regard to the Ombudsman, he would like to know what his precise functions were and his specific courses of action when he visited prisons and encountered detainees who alleged that they were ill-treated. Moreover, according to the information available to the Committee, the Ombudsman did not have sufficient financial resources at his disposal, which would considerably undermine his independence. He invited the Slovenian delegation to comment on the matter.

12. He welcomed the revision in 2010 of the International Protection Act, yet found it surprising that the Act, as amended, made no specific reference to the principle of non-refoulement, which nevertheless appeared to be enshrined in other legislation. He would like to know which law dealt with the consideration of urgent asylum applications and what the deadlines were for such cases. He further wished to know how asylum-seekers were treated pending a decision and whether they had, for instance, access to basic health care. He would also like to know whether the victims of trafficking, who for the most part were foreign women and children, were informed of their right to seek asylum.

13. Noting that the practice of requesting diplomatic guarantees fell under customary law, he asked why Slovenia did not do so and, in that regard, whether the counter-terrorism laws adopted specifically dealt with the extradition or transfer of suspects to third countries, since it so happened that some terrorist suspects were sent abroad without recourse to an extradition procedure, which would have necessitated a request for guarantees. He also wished to know, with regard to the granting of residency permits, whether Slovenian legislation made any distinction between native and non-native Roma minorities, and about

stateless persons, whose status was often less well protected than that of aliens. He would be interested to learn the causes of the tremendous delays in the judicial process — which were a veritable blight — whether there were statistics on the problem and what measures had been taken to remedy the situation. With regard to persons considered to be non-Slovene after independence in the early 1990s because they came from countries of the former Yugoslavia, a number of laws and regulations had been adopted, notably in 2010, to eliminate discrimination against them. Had measures been introduced to reintegrate them?

14. **Mr. Wang Xuexian** (Second Country Rapporteur), commending the training activities conducted by the State party, asked whether they were regularly and independently evaluated. He also welcomed the regulatory measures taken to combat torture; however, he regretted that, according to the report of the Subcommittee on Prevention of Torture following its visit to the country, hardly any police officers were familiar with the police interrogation handbook published in 2003. He wished to know whether interrogations could be recorded or filmed systematically, which would constitute a guarantee for those questioned. According to the report, the Human Rights Ombudsman had considered that the situation in some prisons left much to be desired, owing to poor conditions and overpopulation. He would like to know what proportion of prisons had such problems and whether there was a plan to improve the situation. With regard to investigations, he recalled that the Committee had previously recommended that more should be done in that area. Were independent investigations into allegations of torture conducted systematically or only when torture and ill-treatment led to the victim's death? In its report, Slovenia had recognized that disciplinary procedures against police officers were normally insufficient or too late and that there was room for improvement. In that connection, he would like to know whether cases of statements or confessions made under duress had been brought to court. Furthermore, he noted that the slow pace of the judicial process continued to be problematic, although considerable progress had been made in that regard. Slovenia believed that it could clear its backlog by the end of the present year, although more than a million cases were pending. In 2009 alone, 925,000 new cases had been submitted to the courts. In that connection, he would like to understand why so many new cases had been submitted. With regard to persons deprived of Slovenian nationality immediately following independence, he noted that new legislation had been passed but that one of the conditions to be met by persons wishing to recover their rights was that they must live in Slovenia. He would therefore like to know the situation of those who had left the country. Lastly, could the Human Rights Ombudsman's resources be increased so that he could play an even more effective role in the promotion of human rights?

15. **Mr. Gallegos Chiriboga**, referring to disability rights, requested further information about the concerns expressed with regard to the ill-treatment to which persons with disabilities might be subjected and the intolerable detention conditions of the mentally disturbed, which the Human Rights Ombudsman had mentioned. It would be helpful to have further information about the psychiatric hospitals and centres built or renovated between 2006 and 2010, in view of the vulnerability of persons with disabilities and the importance the Convention assigned to the matter.

16. **Mr. Gaye** asked about the role played by NGOs in the preparation of the report, although they had been mentioned in general terms, there was no specific information about the nature of their contribution. Moreover, the report mentioned that the Slovenian police had published a brochure, entitled Notice of rights to the person who has been arrested; however, there appeared to be an omission in the brochure, at least in the English version, which made no mention of a detainee's right to inform close relatives of his arrest, although the State party considered that to be a fundamental right. Were any measures planned to remedy that omission? Furthermore, while the report had mentioned the violation of the right to equal status by police officers, it had not mentioned any penalty for those acts, which constituted a criminal offence. What exactly was the situation? With regard to the

maximum duration of pretrial detention, there appeared to be a discrepancy between theory and practice, as the Ombudsman had pointed out. Further information on that topic would be welcome. With regard to the violation of a suspect's right to retain counsel, mentioned in paragraph 64 of the report, it appeared that it was for the court to which the case was assigned to determine whether to consider or to overlook such a violation. Would it not be simpler, in order to avoid possible disparities in the case law, to provide in the legislation that cases in which the right to defence had been violated would be automatically thrown out? With reference to the deaths at the psychiatric hospital in Ljubljana proclaimed to be suicides and mentioned in the report, he asked whether there had been an independent investigation and, if so, what the outcome had been. He was surprised at the absence of any information in the report on possible legal redress for the victims of acts of torture or for their families.

17. **Mr. Bruni** requested additional information on the implementation of article 265 of the Slovenian Criminal Code, which adopted the definition of torture contained in the Convention. While penalties ranging from 1 to 12 years' imprisonment could be imposed, the report said nothing about torture that resulted in the victim's death. What penalties were provided for under such circumstances? With regard to the implementation of article 3 of the Convention, it had been noted that the new Asylum Act had caused concern among some sectors of society and for the Office of the United Nations High Commissioner for Refugees, which had indicated in 2008 that some persons had been expelled before their cases had been considered and that there had been excessive recourse to detention. The new Act, which transposed the applicable European provisions for asylum requests into domestic laws, would fall short of international standards and limit the chances of persons seeking protection of being granted asylum in Slovenia. Slovenia had indicated in the additional information that it had provided in March that it had taken measures to amend that law. He would like to know whether progress had been made in that respect and whether there were statistics on expulsions. He would also like to obtain information on recent cases of asylum-seekers claiming that they feared being subjected to torture if they were returned from Slovenia, on the decisions taken by the authorities in such cases and on the legal basis for those decisions. He would also like to know whether officials and medical staff working with detainees were familiar with the Istanbul Protocol. With regard to article 11, the report mentioned that 50 detention cells were to be built or renovated in police stations during 2007. Had that been done? In connection with prison overcrowding, it appeared that the planned corrective measures had been implemented and that in 2010 the number of detainees had decreased by some 4 per cent, for the first time in years. However, those statistics did not give a full idea of the reality, as overpopulation continued to pose just as much of a problem. What measures had Slovenia taken to resolve that problem? Another serious issue was that of deaths and the high suicide rate in detention. Some measures appeared to have been taken in that regard but it was too soon to assess their impact. As that was a thorny issue in many European countries, he would like to know what training activities were in place with a view to reducing the number of suicides. In 2006, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) had stated that the degree of ill-treatment by police officers was unacceptable. Thereafter, Slovenia had organized training courses for thousands of police officers, with particular focus on interrogation techniques. He would like details on the outcome of that training and to know whether it had served to reduce the number of allegations of ill-treatment. Noting the information provided on proceedings against police officers and the psychiatric staff, he wished to know whether measures had been taken to guarantee the protection of complainants and witnesses and, if so, whether the delegation could provide specific examples.

18. **Ms. Gaer**, noting the absence of data on ethnicity, which was due to concern to protect the constitutional right to respect for privacy, said that such data would reveal the

number of racial hate crimes. CPT, for example, was concerned about the disproportionate use of force against minorities; it was difficult to combat that problem if no data were collected. She would like to know whether the State party envisaged adopting measures which, without invading privacy, would make it possible to fill the gaps in that area.

19. She noted that paragraph 245 of the written replies mentioned that the police had broken up a demonstration that was not related to ethnicity in the least violent manner possible and had “decided to eliminate the most violent individuals”. She would like the delegation to provide further information on how gatherings related to ethnicity were distinguished from those which were not; she also sought clarification as to what the State party meant by the word “eliminate”, the fate of the persons concerned, the prosecutions brought and the sentences handed down. Had allegations been made against the police?

20. The State party had indicated that a new detention facility would be built in order to address the problem of prison overcrowding. The Committee would like to know the anticipated timeframe for completion of the work. It would also like further information on the highly interesting experiment of allowing some convicted persons to serve their prison terms over weekends and the criteria on which that option was offered. In addition, the number of suicides by hanging in prison was noteworthy and yet preventive measures seemed to focus exclusively on training prison staff. Were there plans to adopt other suicide prevention methods? With regard to the case of suicide by hanging mentioned in paragraph 158 of the written replies, she wondered how a person under such close monitoring had been able to kill himself. She invited the delegation to state the conclusions of the investigation and whether they had given rise to new preventive measures. With reference to the tables in paragraph 142 of the written replies (Composition of sentenced prisoners by age and gender), it was difficult to discern what the various columns referred to and clarification was needed on that point. Paragraph 35 of the written replies stated that special attention would be given to elderly female victims of violence. It would be useful to have further information on the number of people involved, the arrangements made for them and the programmes delivered. Lastly, in connection with the information on prosecutions for trafficking provided in table 2 of the written replies, it would be helpful if the delegation could disaggregate the data on prison sentences by term.

21. **Ms. Kleopas** recalled that the Committee had underscored on a number of occasions the importance of ensuring that mechanisms for the investigation of allegations of ill-treatment and acts of torture were independent, and of ensuring that there was no institutional link between those responsible for conducting investigations and those being investigated. However, the delegation had indicated that a specialized department for the investigation and prosecution of abuses of power by the police had been established in the Office of the State Prosecutor General in order to investigate allegations made against the police concerning acts of torture and that police officers had been assigned to it. In the Committee’s view, such assignments could compromise the independence of the investigations and it would therefore like to know exactly what the links were between the police officers assigned to that department and the police department. In that regard, the importance of providing training in the Istanbul Protocol to all those with an active role in investigating complaints of ill-treatment and torture should be underscored. On that issue, it would also be helpful to know whether persons taking part in asylum application procedures received training in the Istanbul Protocol.

22. The Committee would like to know whether the State party had taken measures to ensure that all health care — in particular mental health care — was provided with respect for the principle of prior, free and informed consent. It would also like to know whether measures had been taken to put an end to certain practices current in establishments for the care of persons with mental disabilities such as the use of coercive measures, including particular physical force, immobilization and the use of medication such as neuroleptic

drugs and of treatments such as electroconvulsive therapy. Moreover, it would be helpful to indicate whether laws or other measures had been adopted to guarantee that women and girls with disabilities were not subjected to enforced sterilization and whether the authorities gave effect to the right of persons with disabilities to live in the community rather than in specialized institutions.

23. **Ms. Sveaass** said that there were sometimes good reasons to admit a person suffering from psychiatric problems to hospital on an involuntary basis or to administer treatment without consent, but that such practices must be used in the context of robust legal safeguards. In that regard, paragraph 191 of the written replies had indicated that under the Mental Health Act, three conditions must be met in order to proceed with an involuntary hospitalization. It would be helpful if the delegation could specify the means available to the authorities to ensure that all of those conditions were met when a person was hospitalized without his or her consent. The said Act also provided for special protective measures that could be taken when a person behaved dangerously, as distinct from authorized special treatment methods such as electroconvulsive therapy and hormonal treatment (paragraphs 195–196 of the written replies). Information on those special protective measures would be helpful. Moreover, it would be interesting to know whether electroshock therapy had been used more frequently since such practices had been regulated by the Mental Health Act and the Patients' Rights Act.

24. It was striking that none of the complaints lodged by persons who had received psychiatric treatment were about the use of forced treatment or treatments such as electroconvulsive therapy. Explanations would be welcome. The State party had indicated that the courts had not ordered any redress and compensation measures, including rehabilitation, for the victims of acts of torture as no such cases had been brought. Did that mean that no person who had been subjected to serious physical or moral harm had benefited from reparation or rehabilitation measures?

25. **The Chairperson** asked whether the Convention could be invoked directly before the courts. It had been stated that the crime of torture was subject to limitation. In that regard, the Committee would like to know whether other provisions existed in Slovene legislation that would make it possible to avoid applying the principle of limitation in certain cases, for example in the case of the systematic practice of torture or acts of torture leading to death. With reference to the fact that no reparation or rehabilitation measure had been ordered for any victims of acts of torture, it was not clearly indicated whether any convictions for such acts had been handed down and that some thought needed to be given to the system for registering complaints.

26. The State party had consistently stated in reply to questions concerning the situation of Roma, including with regard to the proportion of Roma in the prison population, that it did not prepare specific statistics on Roma and drew distinctions only between nationals and non-nationals. However, the Council of Europe had observed that some Roma who had the right to nationality had been denied that right, and had recommended that the State party should spare no effort to re-establish their rights and improve the situation of Roma in general. It would be helpful if the delegation could inform the Committee whether statistics had been prepared since that recommendation had been made. Roma were the victims of discrimination in numerous countries and were the object of various stereotypes and persistent prejudices. The delegation was invited to indicate whether that issue was addressed in the context of police training, whether organizations for the defence of Roma rights contributed to such training and whether there were any Roma in the police force. It would also be useful to know whether incitement to hatred on grounds such as race or sexual orientation was an offence by law.

27. **Mr. Škrlec** (Slovenia) said that the decision adopted in 2006 by the Constitutional Court, mentioned in paragraph 234 of the written replies, had constituted the basis of the

system for the impartial investigation of torture cases that had subsequently been established. The Specialized Department for the investigation and prosecution of abuse of authority by the police, which had been established in 2007, had exclusive competence to investigate all cases of abuse of authority. The police officers assigned to that department became staff of the Office of the Public Prosecutor; the delegation could assure the Committee that they worked for that Office and not for the police. In the view of the authorities, that system guaranteed maximum impartiality in investigations and prosecutions. The delegation would reply to the other questions raised by the Committee at the next meeting.

28. *The delegation of Slovenia withdrew.*
29. *The first part (public) of the meeting rose at noon.*