



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

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**Committee against Torture
Forty-third session**

Summary record of the first part* of the 901st meeting

Held at the Palais Wilson, Geneva, on Wednesday, 4 November 2009, at 3 p.m.

Chairperson: Mr. Grossman

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* There was no summary record for the remainder of the meeting.

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The meeting opened at 3.05 p.m.

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

Second periodic report of Slovakia (CAT/C/SVK/2; CAT/C/SVK/Q/2; CAT/C/SVK/Q/2 and Add.1) (document distributed in English only); HRI/CORE/1 and Add.120) (continued)

1. At the invitation of the Chairperson, the Slovak delegation resumed places at the Committee table.
2. Mr. Sudor (Slovakia) explained the absence of any reference to discrimination in the definition of torture contained in the Slovak Criminal Code by saying that that aspect of the definition was already covered in domestic law insofar as the Slovak Constitution guaranteed equality between all human beings and prohibited any distinction on any grounds whatever. That was the reason why the lawgivers had not deemed it necessary to include that ground in the definition of torture given in the Criminal Code. The Slovak authorities therefore considered that domestic legislation was fully in compliance with article 1 of the Convention.
3. With regard to the question of the responsibility of persons guilty of complicity in acts of torture, he said that any person who had taken a direct or indirect part in the perpetration of acts of torture or ill treatment, by providing instruments of torture or objects which could be used for that purpose, by obliging or persuading third persons to perpetrate such acts or by participating in the acts in any way whatever, was held responsible before the law and liable to prosecution. Lastly, he recalled that, under domestic law, no person could be expelled to a country where that person was in danger of being tortured or subjected to ill treatment on the grounds of racial or ethnic origin or political or religious convictions.
4. Mr. Csémy (Slovakia) said that any person could appeal to the Public Defender of Rights, so that any alien or asylum seeker under order of expulsion who was afraid of being tortured in his or her home country in the event of return could ask the Public Defender for assistance in lodging an appeal against the expulsion order. In addition, aliens wishing to challenge an expulsion order had various appeal options available and could take their case up to the Supreme Court, so long as the appeal was lodged within 15 days of the expulsion order being notified. Under Act No. 48/2002 on asylum, rejected asylum seekers who wished to appeal were offered the free services of a lawyer by the Ministry of Justice.
5. Since Slovakia was part of the Schengen area, border guards had to apply the Community Code on the rules governing the movement of persons across borders (Schengen Borders Code). Any person was entitled to request international protection or asylum on arrival at a border post and the asylum procedure was deemed to begin from the moment an alien expressly declared his or her intention to request Slovakia's protection.
6. Ms. Vozáryová id that in 2009 eight asylum seekers had obtained refugee status, while 44 persons who did not meet the required conditions were nevertheless granted the status of alien under special protection, available to non-nationals who ran the risk of the death penalty, torture or cruel, inhuman or degrading treatment or punishment in the event of return or who were exposed to real danger on account of military conflict in their country. Thus some aliens could obtain an entry permit to Slovakia even though their asylum application had been rejected.
7. Mr. Csémy (Slovakia) said that in order to check the national origin of an asylum seeker, the Slovak authorities contacted the embassy or the consulate of the country concerned or, if necessary, the police services or Interpol. Slovakia was a member of the

International Organization for Migration (IOM) and any searches it carried out to determine the nationality of an asylum seeker were based on the best practices of that organization.

8. With regard to the contradiction noted by a member of the Committee between Act No. 480/2002 on asylum and Act No. 48/2002 on stay of aliens, he explained that those acts implied different procedures. In the case of an asylum procedure, the competent authorities referred to the 1951 Convention relating to the Status of Refugees and to the 1967 Protocol relating to the Status of Refugees when considering the grounds put forward by asylum seekers to obtain refugee status. In that type of procedure, the question of expulsion from the territory did not need to be considered. On the other hand, if a rejected asylum seeker opted for clandestinity, the question arose of the lawfulness of his presence in the country. In that case, the applicable law was the Act on stay of aliens and the competent authorities had to determine whether there were objections to expulsion, such as the person concerned running the risk of torture in the home country. If they reached the conclusion that the person ran a serious risk in the event of return, they would grant him an entry permit.

9. Ms. Vozáryová (Slovakia), with regard to the issue of the compliance of domestic law with European Union law, pointed out that the previously mentioned Schengen Border Code was directly applicable and therefore did not need to be transposed into domestic law. European legislation on asylum and the treatment of refugees, on the other hand, had been incorporated in domestic law. It was worth noting that four refugee assistance projects had been implemented in order to give effect to the relevant European directives.

10. Under a trilateral agreement between the Office of the United Nations High Commissioner for Refugees (UNHCR), IOM and Slovakia, 98 Palestinians who had been blocked in Iraq had been resettled in an emergency transit centre and had been given a six-month entry visa pending their final resettlement in another country.

11. With regard to the case of the Algerian under an expulsion order who had appealed to the Constitutional Court against that decision, she said that his appeal had been successful on the grounds that he ran a real risk of being tortured if returned to his country. He had subsequently lodged an asylum application, which was currently being examined. She reiterated that in Slovakia asylum was granted to any person who ran the risk of being executed or tortured in his or her home country, regardless of the person's judicial record.

12. The immigration services did not draw any distinction between asylum seekers and based their decisions only on consideration of the grounds put forward by an applicant. In accordance with European legislation, the fact that a person represented a threat to the country's internal security could justify rejecting that person's asylum application. It should be added, however, that such cases chiefly concerned individuals who had been convicted of a serious crime in a democratic country or who were suspected of having committed acts of terrorism, war crimes or crimes against humanity. Furthermore, an asylum seeker did not have to prove at the outset that he ran the risk of being tortured in his country of origin; in the form he was asked to fill in he simply needed to give the reasons why he was requesting asylum, which were subsequently examined by the competent authorities. Lastly, Slovakia had never yet resorted to diplomatic assurances.

13. Mr. Sudor (Slovakia) said that, after Slovakia had become independent in 1999, since the workload of the military courts had been lighter than that of the other courts, it had been decided to extend their jurisdiction into other areas in order to relieve the workload of the ordinary courts. There were currently no more military courts in Slovakia, however, and all the cases they had dealt with previously had been transferred to the ordinary courts.

14. With regard to the appointment of judges and the independence of the justice system, he said that according to the Slovak Constitution, executive, legislative and judicial powers were kept strictly separate and justice was administered by independent and

impartial courts. Judges were appointed by the President of the Republic, on a proposal by the nine-member Judicial Council, whose president was also President of the Supreme Court and whose members were appointed by Parliament, the President of the Republic and the Council of Ministers on an equal basis. The President and Vice-President of the Supreme Court were also appointed on a proposal by the Judicial Council, which had the power to transfer judges or remove them. The Judicial Council was therefore the keystone of the judicial system, thanks to which the judiciary was an independent power, separate from the other two powers of State.

15. Mr. Poláček (Slovakia), referring to the question of whether investigations into offences committed by police officers were independently conducted, said that they were the responsibility of the Inspection Service, an independent body attached to the Ministry of the Interior and placed under the supervision of the public prosecution department. It was true that only a police officer could act as investigator within that service, subject to undergoing the necessary specialized training. Investigators were fully independent in their work, however, and even their hierarchical superiors could not influence the course of their investigations. In some cases, an investigation could also be undertaken by the prosecution department or by another authority, such as the customs, the military police or the prison administration.

16. With regard to the rule whereby persons who were arrested or detained on remand by the police were informed of their rights “as soon as practicable”, he referred back to the detailed reply the State party had given to question 2 of the list of issues, adding that in exceptional cases, for example where a police officer carried out an arrest and his physical safety or that of any other person was jeopardized, the officer would deal with the imminent danger before informing the arrested person of his rights. With regard to the question asked about whether there was an independent body responsible for checking whether the rights of persons deprived of their liberty were respected, he explained that the Ombudsman and a representative of the Ministry of the Interior would draw up a report on such cases for submission to the Ministry of the Interior, fully independently of the police department. In reply to Ms. Kleopas, who had mentioned the case of a minor interrogated without a legal representative being present, he said that the matter had been investigated and it had been ascertained that both a lawyer and a social worker had been present on that occasion and that the police had not been guilty of any misconduct.

17. Responding to a question concerning the access of detainees to the files which concerned them, he said that they were entitled to consult their record drawn up by the police as well as their medical record, in accordance with legally established procedures. With regard to the means of constraint used by the police, he said that metal handcuffs or plastic disposable handcuffs were used in cases where, for instance, a person resisted arrest or displayed violent behaviour. The handcuffs were removed as soon as they were no longer strictly necessary. With regard to conditions of detention, he said that the Ministry of the Interior and the police services, following recommendations by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), had installed appropriate detention facilities in all police stations.

18. Ms. Brennerová (Slovakia), referring to the question of the protection of vulnerable groups, said that the Government had adopted a programme to encourage gender equality and another in favour of women and the family, which was intended to combat all forms of violence against women and children. Specific measures had also been taken to protect the rights of elderly persons and persons suffering from disabilities. Strategies had been devised for each of the groups with a view to setting up centres specializing in crisis management, active response, counselling, legal services and social services aimed at assisting persons in difficulties and responding to their particular requirements.

19. M. Galbavý (Slovakia), responding to questions concerning the situation of the Roma, said that Slovakia had been presiding over the Decade of Roma Inclusion since 1 July 2009. That programme included a series of measures targeting education, housing, health care and employment.

20. A national action plan based on that programme had been implemented for the last five years by the various ministries concerned. As it no longer quite met requirements, it would be brought up to date. With regard to Roma children placed in special schools, he explained that the aim of the Education Act currently in force was to place children in whatever schools were best suited to their needs. Under the terms of that Act concerning the placement of children in special schools, such placement required the consent of parents or guardians, subject to sanctions for any breach. In the event of an error, the child's parents or guardian could intervene and have the child transferred to an ordinary school. The authorities intended to launch an inquiry into allegations that children in the village of Pavloce had been unjustly placed in special schools and, if it was ascertained that the allegations were true, the children concerned would immediately be transferred to ordinary schools. In addition, the Government had decided to allocate 200 million euros to the improvement of the Roma's living conditions. Local administrations and municipalities had been asked to submit plans, by 31 January 2010, to overcome the problems encountered by that minority, especially in the area of housing. The Government would then examine the plans and select those which deserved to be funded.

21. Turning to the question of forced sterilization, he stressed that it had never been and would never be Slovakia's official policy. All Slovak citizens had the same rights, regardless of their ethnic background. Forced sterilization was forbidden under the Health-care Act and any person subjected to the practice could lodge a criminal complaint. He had received no reports that women had been systematically offered sterilization, nor was he aware that any women had given permission to be sterilized without knowing what they were letting themselves in for. The law forbade sterilization without the consent of the person concerned and doctors had to inform potential candidates of all the potential risks involved.

22. Mr. Sudor (Slovakia) said with regard to juvenile justice that there were no juvenile courts in Slovakia and that cases involving minors were dealt with by the ordinary courts. The Code of Criminal Procedure, however, did include specific provisions concerning juveniles, in order to emphasize the educational nature of procedures involving them and to protect their rights. Even though there were no separate courts dealing with juvenile cases, they were dealt with by experienced judges, who as far as possible gave them priority. Similarly, the police department included staff who specialized in juvenile cases. Children under the age of 15 were not held criminally liable and all minors having dealings with the justice system, even if criminally liable, had to undergo a psychiatric examination to determine whether they were conscious of their acts at the time of committing them. At any event, minors were placed in detention only if it was absolutely necessary.

23. Ms. Kreslová (Slovakia), responding to the question of whether minors in detention were kept separate from adults, said that that was always so, except in certain exceptional circumstances and only in the case of minors awaiting trial. It could sometimes be preferable, depending on the psychological state of the minor, to keep him in a place where an adult was present. Such a solution was employed, however, only if the authorities were certain that there was no risk of abuse and if the psychological profile of the adult with whom he was placed was suitable. Subject to the necessary detention facilities being available, a minor could be placed in facilities subject to more lenient conditions of detention, in which case he would share the same premises as adults but with a separate cell. If a minor was ever detained alongside adults, the fact had to be entered in his record.

Convicted minors were held separate from adults, in premises suited to their age and situation.

24. A minor could be placed in solitary confinement for breaches of discipline for a period not exceeding ten days. Educational activities were not interrupted during that time. In the case of a repeated offence, the punishment could be extended by another four days. It could be also be deferred for up to three months if the disciplinary authority considered it appropriate.

25. Ms. Brennerová (Slovakia) said that according to the law on the protection of children any person knowing about a case of corporal punishment in the family had to report it to the social services, who were obliged to conduct an investigation and if necessary take action to protect the child. Such action might consist in counselling and educating the parents, but in more extreme cases the social services could even initiate court proceedings to withdraw parental authority. In schools, all forms of ill treatment, whether physical or psychological, were forbidden. Domestic violence had been dealt with by means of two national strategies and one national plan of action. Awareness campaigns and education programmes were also implemented at the regional and national level. In addition a national centre was planned, which would be specially responsible for monitoring such practices and for assisting victims.

26. Ms. Kreslová (Slovakia) said that steps had been taken to improve the conditions in which persons receiving heavy sentences were detained. For example, prisoners serving sentences in excess of 25 years were no longer isolated but instead allowed to mingle with other prisoners. Those sentenced to life imprisonment, moreover, were eligible for more flexible conditions after a number of years, in accordance with Act No. 475/2005 on Execution of Custodial Sentences, which had introduced two different sets of rules (D1 and D2) for that category of prisoner.

27. Mr. Paláček (Slovakia) said that all complaints lodged for police brutality were investigated by the monitoring and inspection service of the Ministry of the Interior. The Ministry rejected complaints if there were no grounds to prosecute. The discrepancy between the number of rejected complaints and the number of those admitted was therefore due to the fact that many of the complaints lodged were unfounded.

28. Mr. Sudor (Slovakia) said that the penalties applied for acts of a racist nature perpetrated against aliens varied considerably. Clearly it was often very difficult to prove racist intention. All proceedings were held in public, however, and judgments were published on the official websites. Racist assaults were a very sensitive subject, which attracted a great deal of attention from the media. Such cases did not therefore pass unnoticed and were likely to be more severely penalized.

29. In Slovak legal terminology, rehabilitation referred to both moral and material reparation. Moral rehabilitation might consist in an obligation to make a public apology. For example, in the case of the young Roma beaten to death while in custody, a parliamentary commission had demanded explanations from the police authorities and the Ministry of the Interior, which had publicly condemned the event and apologized to the family. Such measures, when conveyed by the media, did give the victims some moral comfort. In the case of material reparation, criminal responsibility first needed to be established by a court of law and the amount of damage had to be assessed, especially by means of a medical examination. The victim could then sue for damages in civil proceedings. The State's liability for any injury caused in the performance of public duties has been recognized in legislation since 1969. Compensation was not restricted to cases of violence: any unlawful act by a public official constituted a form of damage. In the same way, any unjustified administrative decision gave rise to an entitlement to compensation.

30. Ms. Vozáryová (Slovakia) said that the protection of witnesses was governed by a special law. The programme concerned was based on similar ones applied by other countries, with whom the authorities cooperated closely. As far as human trafficking was concerned, it should be noted that obliging a person to beg, as in the case of Roma children, was a criminal offence. Slovakia has statistics on such practices, disaggregated by age and by sex, though not by ethnic origin, which would be considered discriminatory.

31. Ms. Kreslová (Slovakia) added that statistics on the prison population were disaggregated only by nationality. Prison staff had no knowledge of the ethnic origin of detainees, or of the type of offence for which they had been convicted.

32. Mr. Csémy (Slovakia) explained that the performance of police officers was monitored by their superiors on a daily basis. Seminars were also held regularly at the policy academy and training programmes had been adapted in 2006 on the basis of acquired experience.

33. Ms. Čahojová (Slovakia) said that the same conditions applied to the armed forces, which depended on the Ministry of Defence. Training guidelines were updated every year. The performance of each unit was assessed on the basis of the data collected for that purpose. A further training centre was also available to staff.

34. Ms. Kreslová (Slovakia) said that prison administration and court guard personnel were given initial training at the police academy in Nitra, which was followed by ongoing training consisting in specialized courses, such as pedagogy or psychology.

35. Mr. Sudor (Slovakia) said that psychiatric hospitals depended not on the Ministry of Justice, as mistakenly stated in the report, but on the Ministry of Health. As the delegation included no Ministry of Health representative, replies would be sent later to the Committee to questions concerning such matters. Cage beds still existed, but their use was gradually being withdrawn. It should be made clear that such beds were used only if patients represented a danger for themselves or for others and other means of constraint had proved ineffective. They were used, moreover, only for a limited time. There was a plan to install padded rooms to protect dangerous patients, but such a move was very costly and would take a long time to implement.

36. Ms. Vozáryová (Slovakia) said that Slovakia had completed its analysis of its legislation in preparation for ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. A public call for comments by all interested parties was currently taking place.

37. The Chairperson thanked the delegation for its replies and invited those members of the Committee wishing to do so to put further questions.

38. Ms. Kleopas (Rapporteur for Slovakia), noting that judges, including those of the Judicial Council, were appointed and removed by the President of the Republic, wished to know how the State party could guarantee the independence of the judiciary under those conditions. She asked in particular what grounds justified the removal of a judge. A further point she had noted was that the body in charge of investigating offences committed by police officials was made up of former policemen and she wondered how such investigators could remain impartial. As far as she understood, there had been no or at any rate few complaints by Roma for forced sterilization, though she pointed out that even in the absence of complaints, Slovakia had the duty to inquire into any serious allegation of forced sterilization. The information given by the delegation regarding the placement of Roma children in special schools was somewhat vague and she would like to know for sure whether the placement was conditional on the agreement of their parents. With regard to the monitoring of living conditions in prisons, she understood that the Ombudsman was

authorized to visit prisons at short notice. She invited the Slovak delegation to confirm that fact.

39. She asked whether the State party was considering repealing the law authorizing corporal punishment at home. With regard to the decision of the Constitutional Court preventing the expulsion of an Algerian national accused of terrorism in his country, she asked what was likely to become of the person. On the question of the training of persons involved in torture cases, she wanted to know whether Slovakia was planning to include information courses on the Istanbul Protocol/Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. She did not understand what the Slovak delegation meant when it said that gathering statistics based on ethnic origin could be discriminatory. The State could collect such statistics without revealing the identity of the persons concerned, under the terms of the Act on Personal Data Protection. With regard to article 3 of the Convention, she was surprised at the delegation's statement that Slovakia totally forbade expulsion, refoulement or extradition of any person to another country if there were serious reasons for believing that the person might be exposed to the risk of torture, whereas as far as she knew Slovak law always allowed for exceptions in that respect, especially in cases of threats to State security. The delegation might provide further details.

40. Mr. Wang Xuexian (Co-Rapporteur for Slovakia), while expressing general satisfaction with the delegation's replies, said that he would like further details concerning the ill treatment which, according to several sources, was frequently inflicted during arrests and pre-trial detention.

41. Ms. Gaer said that, in the absence of statistics concerning ethnic origin, the Committee could not arrive at any clear idea of the efforts really made by the State party in response to allegations of ill treatment or torture expressed by members of ethnic minorities. She regretted that the delegation had not replied to her question regarding the fact that all 11 persons accused of human trafficking had been given suspended sentences. She would like to know why the judges were so lenient: was it on account of prison overpopulation or due simply to a lack of interest?

42. Ms. Sveaass said she would like more information about conditions of internment in psychiatric hospitals. She also mentioned the problem of juvenile delinquents who were placed in solitary confinement after repeated offences and she expressed the view that such cases were often a sign of more serious problems which could not be solved in that way. She asked whether Slovakia had undertaken any research into the matter.

43. Ms. Belmir asked whether military courts dealt only with military cases or others as well, as they had done in the past. The replies given by the Slovak delegation regarding forced sterilization were not entirely satisfactory. She asked why the State could not commit itself fully to combating the practice of forced sterilization rather than tolerating that hospitals, maternity wards or other facilities should themselves prepare pseudo-consent forms for sterilization cases. She would like more details in that respect.

44. The Chairperson, speaking as a member of the Committee, said that the small number of convictions for torture and other cruel, inhuman or degrading treatment or punishment, compared with the total number of complaints, reflected a real problem, to which the State party was invited to return in its subsequent periodic report. He would also like to receive copies of the consent forms used for sterilization and internment in psychiatric hospitals. In addition, it would be useful for Slovakia to supply indicators concerning the sort of persons who made use of forced sterilization, such as their ethnic origin or their socioeconomic situation.

45. In conclusion, he thanked the Slovak delegation for the valuable information they had supplied at the meeting and asked its members to reply in writing as soon as possible to the additional questions asked by members of the Committee.

46. Mr. Rosocha (Slovakia) thanked the members of the Committee for their comments and recommendations, which would help Slovakia to meet its obligations under the Convention. He assured the Committee that his country would spare no effort to promote human rights and to combat torture.

47. *The Slovak delegation withdrew.*

The resumed discussion closed at 5.10 p.m.
