



International Convention for the Protection of All Persons from Enforced Disappearance

Distr.: General
10 October 2019

Original: English

Committee on Enforced Disappearances

Seventeenth session

Summary record of the 300th meeting

Held at the Palais des Nations, Geneva, on Thursday, 3 October 2019, at 10 a.m.

Chair: Mr. Ayat

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GE.19-17052 (E) 091019 101019



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The meeting was called to order at 10.10 a.m.

Consideration of reports of States parties to the Convention (continued)

Initial report of Slovakia (continued) (CED/C/SVK/1, CED/C/SVK/Q/1 and CED/C/SVK/Q/1Add.1)

1. *At the invitation of the Chair, the delegation of Slovakia took places at the Committee table.*
2. **Mr. Teraya** (Country Rapporteur), referring to the principle of non-refoulement enshrined in article 16 of the Convention, asked whether he had correctly understood from paragraph 157 of the report that the principle was not applicable to the extradition of persons who were deemed to be a risk to the State party's security or who had been convicted of a particularly serious felony.
3. He would appreciate a clarification of the information on administrative decisions concerning foreign nationals provided in paragraph 161 of the report. In particular, he wished to know whether there was a high probability of erroneous administrative decisions. Furthermore, no mention was made in the following paragraph to legislation concerning gross violations of human rights that could be invoked in cases of extradition and expulsion in order to ensure respect for the principle of non-refoulement.
4. He noted from the replies to the list of issues that the Minister of Justice could refuse extradition pursuant to section 510 (2) of the Code of Criminal Procedure on a number of grounds. In addition, section 81 of the Foreigners Residence Act stipulated that foreign nationals could not be expelled on a wide range of grounds. However, no mention was made in either case of enforced disappearance.
5. He was interested in hearing whether diplomatic assurances could be accepted when there were substantial grounds for believing that a person to be extradited was in danger of enforced disappearance. The Committee against Torture had expressed concern in 2015 (CAT/C/SVK/CO/3) at the State party's failure to comply with the principle of non-refoulement and its acceptance of diplomatic assurances in relation to the extradition of persons who were at risk of torture.
6. The Committee had been informed of cases in which persons had been held in unauthorized locations in certain police stations prior to their official arrest and without proper records. According to a report issued by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in 2014 (CPR/Inf (2014) 29), placement in so-called "designated areas" was not always recorded in the custody register. An explanation of such procedures would be appreciated.
7. Noting that the Public Defender of Rights was entitled to monitor more than 650 facilities, he requested confirmation that the official in question had immediate and unrestricted access to all places of deprivation of liberty. He also wished to know how the Public Defender of Rights collaborated with the Prison and Judicial Guard Corps. He requested further details regarding the organizational framework of the Office of the Public Defender of Rights, which was composed of about 45 employees.
8. The information on detained foreign nationals contained in official registers appeared to be inadequate. It reportedly failed, for instance, to include the information specified in article 17 (3) (f) and (g) of the Convention. He requested confirmation that the "book of detained foreigners" met the requirements of the official registers referred to in article 17.
9. According to paragraph 28 of the replies to the list of issues, law enforcement authorities could decide not to notify relatives of detainees of their whereabouts when such information might undermine the investigation. Both the Committee against Torture and the European Committee for the Prevention of Torture had expressed concern about the State party's failure to observe fundamental safeguards for persons deprived of their liberty.
10. According to paragraph 79 of the replies to the list of issues, the term "close person" of a detainee was to be interpreted in the light of section 116 of the Civil Code. He wished to know whether the concept of a "close person" complied with the definition of "persons

with a legitimate interest" contained in article 17 (2) (f) of the Convention, since the State party's interpretation of the former concept seemed to be restrictive. For instance, would common-law spouses, close friends or lesbian, gay, bisexual, transgender and intersex persons qualify as close friends? No information had been provided on measures to guarantee access to information, on request, for persons with a legitimate interest.

11. While he welcomed the information concerning training courses on the Convention provided for various categories of personnel, no mention had been made of training courses for medical personnel. Were there any such programmes?

12. **Ms. Kolaković-Bojović** (Country Rapporteur) welcomed the State party's broad definition of a victim contained in paragraph 210 of the report. She underscored, however, that article 24 (4) and (5) of the Convention required States parties to ensure in their legal system that victims of enforced disappearance had the right to obtain reparation and prompt, fair and adequate compensation, including material and moral damages and other forms of reparation such as restitution, rehabilitation, restoration of dignity and reputation, and guarantees of non-repetition.

13. Under Act No. 274/2017 on victims of crime, or the "Victims Act", the administrative procedure for obtaining compensation from the State was reserved exclusively for cases relating to a limited list of violent crimes and situations in which it was not possible to obtain compensation under the regular judicial procedure. She would therefore be interested in hearing more about the two categories of procedure. How many cases were heard each year under the Victims Act and what proportion of compensation claims were approved? She wished to know whether the six-month time limit for a decision was respected in practice and whether decisions to grant compensation were enforced. What was the average amount of compensation granted and was there an annual State budget or a special fund for the purpose?

14. Referring to paragraphs 89 to 95 of the replies to the list of issues, she noted that compensation could not be granted to foreign victims of crimes of enforced disappearance perpetrated abroad by or with the involvement of the State party, and that the criminal offences listed did not include enforced disappearance. Moreover, the claim for compensation could be submitted only after a decision in criminal proceedings had entered into force and within a statutory time limit of one year. She asked whether the State party intended to remove those restrictions.

15. It would also be useful to know whether judges in criminal proceedings were permitted to rule on compensation claims or whether victims could only claim compensation in civil proceedings or proceedings under the Victims Act.

16. According to paragraph 94 of the replies to the list of issues, the Victims Act provided only for monetary compensation. The Committee would appreciate information on other forms of reparation, such as medical and psychological support and rehabilitation. It was aware of the role played by non-governmental organizations (NGOs) but it wished to know more about services supported by the State.

17. According to paragraph 88 of the replies to the list of issues, a person whose whereabouts were unknown for a lengthy period could be declared dead under the Civil Non-Dispute Code. As the legal situation of a disappeared person and his or her relatives prior to such a declaration was unclear, she would appreciate any clarification that the State party could provide.

18. The Committee on the Rights of the Child had expressed concern ([CRC/C/SVK/CO/3-5](#)) about the use of baby boxes that allowed for the anonymous abandonment of children. How could that practice be reconciled with article 25 of the Convention?

19. According to paragraph 220 of the report, adopted children were entitled to obtain information about their parents under section 106 (3) of the Family Act, unless such information could cause them harm. Yet paragraph 99 of the replies to the list of issues implied that all children could have access to birth certificates. A clarification of that apparent contradiction would be welcome.

20. **Ms. Villa Quintana**, referring to paragraph 95 of the replies to the list of issues, noted that NGOs provided support only to women, children and victims of domestic violence. She wished to know what proportion of support for such victims was provided by the State.

The meeting was suspended at 10.35 a.m. and resumed at 10.55 a.m.

21. **Ms. Bierbaumer** (Slovakia) said that the detention of foreign nationals in police stations was governed by Presidium of the Police Force Regulation No. 98/2018. The internal regulations specified the required action by police units, including the duties to be performed prior to the placement of foreign nationals in a police station, the type of accommodation and the time limit for detention.

22. **Ms. Bojková** (Slovakia) said that police units kept their own registers of persons deprived of liberty, in accordance with the Code of Criminal Procedure, and that, to her delegation's knowledge, there were no official registers common to all places of deprivation of liberty. However, the Government did plan to create an extensive electronic register of persons deprived of their liberty.

23. **Mr. Filčík** (Slovakia) said that the Ministry of Justice could refuse to authorize extraditions on a number of grounds, such as the risk that they might face the death penalty, worse prison conditions than in Slovakia, or persecution due to their origin, race, religion, nationality or political views. Some of those grounds, notably the risk of persecution for one's political views, could cover the risk of being subjected to enforced disappearance. The Ministry of Justice routinely obtained diplomatic assurances that the person's situation during criminal proceedings or in prison would not be any worse in the foreign jurisdiction than in Slovakia. The State party also conducted visits to extradited persons detained in prisons abroad in order to monitor their welfare.

24. Victims of enforced disappearance could claim compensation under criminal proceedings if they filed their claim before the end of the investigation into the enforced disappearance. If the criminal court was unable to reach a decision, it could refer the claim to the civil court. Under civil proceedings, compensation could be sought, within three years of the damage caused, for moral or actual bodily harm or actual financial loss. Claimants could also seek redress for a violation of their personal integrity, including their dignity and health, in which case other forms of reparation, including a public apology, could also be sought. There were only maximum, rather than minimum, amounts of State compensation that could be awarded to victims of violent crimes, moral or actual bodily harm. In criminal proceedings, if compensation could not be obtained from the perpetrator, the State could award compensation if the claim was made within one year of the perpetrator's sentencing.

25. He would like to clarify that the Public Defender of Rights would be entitled to visit a number of places of deprivation of liberty – both public and private – once Slovakia had ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Public Defender of Rights did not, therefore, currently monitor such facilities. The Ministry of Justice was partially responsible for the Prison and Judicial Guard Corps, with whom it was improving its cooperation. Changes recommended by the Public Defender of Rights, including improvements to prison buildings, were being implemented.

26. The Victims Act sought to create one-stop shops offering services such as psychological support, legal aid, assessment of the risk of secondary or repeated victimization and shelter in safe houses. Ten NGOs were currently able to offer such services and consequently received State funding based on their financial needs. In 2019, they had received a total of €110,000.

27. Persons facing extradition were granted legal representation by the State and could appeal against the administrative decision to extradite them.

28. **Ms. Kročková** (Slovakia) said that, legally, the decision on compensation for crime victims had to be made within six months of the court's judgment, although in practice the process was quicker. Most claims by crime victims for compensation were successful and

there had been around 300 such claims the previous year. Her delegation would endeavour to find out the average amount of compensation awarded.

29. Persons deemed to pose a threat to national security would not necessarily be extradited or expelled if extradition or expulsion would endanger their lives. While the crime of enforced disappearance was not directly provided for in the Act on Residence of Foreigners, other grounds on which an expulsion could be refused, including the threat it might pose to the person's life or freedom, offered sufficient protection from enforced disappearance.

30. **Mr. Filčík** (Slovakia) said that the concept of a "close person" in Slovak law aimed to cover a wide variety of relationships including direct relatives, friends and lesbian, gay, bisexual and transgender partners.

31. The so-called "baby boxes" scheme had been introduced in 2004 in response to a number of cases of abandoned newborn babies, in order to enable women to put up their newborns for adoption anonymously. The woman could reverse her decision before the adoption was finalized, in which case she would have to prove she was the mother.

32. Medical staff did not receive specific training on dealing with victims of enforced disappearance.

33. **Ms. Kročková** (Slovakia) said that birth certificates were duly amended after an adoption had taken place and copies of them were available on request.

34. **Mr. Podhorský** (Slovakia) said that the Ministry of Justice routinely consulted the Ministry of Foreign and European Affairs in order to evaluate the risks that extradition might pose to a person. Medical staff did receive training on dealing with vulnerable groups of people. The baby boxes scheme had been set up in order to save the lives of unwanted newborn babies and respect their right to life.

35. **Mr. Teraya** said that it would be useful to know why the suspensive effect of an appeal against expulsion was not always respected, what measures had been taken with respect to the law enforcement personnel involved and what remedies had been afforded to victims. The Code of Criminal Procedure listed the grounds, which did not include a risk of enforced disappearance, on which the Minister of Justice could refuse extradition. The existing legislation appeared to leave the consideration of such risk, as well as the decision to seek diplomatic assurances, to the discretion of the Minister; he would appreciate clarification on that point. He wished to hear the Government's assessment of the concerns raised by the Committee against Torture about the State party's compliance with the principle of non-refoulement. He would like to know what progress had been made in the establishment of a national preventive mechanism and the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He would appreciate comments from the delegation on the instances identified by the European Committee for the Prevention of Torture during its 2018 visit of failure to uphold the rights of access to a lawyer and to have a third party notified from the very outset of a person's deprivation of liberty. He would appreciate concrete examples of how the concept of a "close person" was interpreted in practice for the purpose of ensuring the rights of persons with a legitimate interest under the Convention. Finally, he would like to know whether the Government had any plans to introduce specific training on enforced disappearance for medical personnel.

36. **Ms. Kolaković-Bojović** said that she would appreciate confirmation that decisions on the risk of enforced disappearance made by the Minister of Justice in extradition cases could indeed not be appealed. Having personally witnessed the wide variety of training offered at the State party's Judicial Academy, she wondered what prevented the incorporation of enforced disappearance into its training courses on human rights. Lastly, it would be useful to have a description of the referral mechanism for victim support services.

37. **Mr. López Ortega** said that he would appreciate data on the practice of anonymous birth and legal abandonment of babies, including how many baby boxes there were and how many babies had been left in them. He would also like to know whether any social policies were in place to provide alternative solutions for mothers contemplating such a practice. He wondered whether any studies had been carried out to identify the motivation

of such mothers and other information about them; for example, was their motivation primarily financial or related to social stigma? And were the mothers who abandoned their baby generally foreigners or nationals of the State party?

38. **Mr. Filčík** (Slovakia) said that, as the Government had outlined in its response to the Committee against Torture, diplomatic assurances were always requested before extradition and strictly monitored afterwards. Such monitoring had been conducted in three cases of extradition to the Russian Federation. Those were the only relevant cases, as extradition requests were quite rare. That meant that it was possible for the Minister of Justice to consider each case thoroughly. A proposal had been discussed for the Public Defender of Rights, the Commissioner for Children and the Commissioner for Persons with Disabilities to share the responsibilities of the national preventive mechanism, since they were independent institutions and were already entitled to meet with persons deprived of their liberty without the presence of a third person. However, the proposal had proved too costly, and a new one would be agreed after the general election due in 2020. It was planned to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment immediately after the establishment of the national preventive mechanism.

39. In terms of fundamental safeguards, a provision in the Police Force Act stipulated that police officers, immediately upon taking a person into custody, must ensure that he or she could make a phone call to a “close person” and seek legal assistance – that was one of many references in the law to a “close person”. In practice, the police never refused a phone call on the grounds that it was not to a close person, and so the interpretation had never been challenged in court or administrative proceedings. He believed that the Minister of Justice’s decision not to extradite was final and could not be appealed in court. If the Minister did not authorize an extradition, the case was referred to the Office of General Public Prosecution so that the person could be prosecuted in Slovakia.

40. In principle, it would not be difficult for the Judicial Academy to provide training on enforced disappearance. However, as all the Academy’s training courses were voluntary, there would need to be sufficient interest among judges and prosecutors. Another problem was that Slovakia lacked experts on international human rights law in general and enforced disappearance in particular.

41. Under the Victims Act, from the time of their first contact with a competent authority, victims had a right to receive information on the services available to them. To that end, the Ministry of Justice and the Ministry of the Interior had produced a brochure that set out the rights of victims in plain language. Police officers were required to inform victims of their rights under the Code of Criminal Procedure.

42. There were currently 20 baby boxes in Slovakia. Between 2004 and 2017, 58 newborns had been placed in them. The mothers of six of those newborns had later returned after changing their minds. The Government and various charities, including Christian charities, provided support to young mothers in difficult circumstances, but a mother who was contemplating the possibility of leaving her newborn in a baby box would be unlikely to come forward to access such support.

43. With regard to the matter of universal jurisdiction, section 5 (a) of the Criminal Code contained a list of the offences in respect of which criminal liability could be established even when the act in question had been committed outside the territory of Slovakia by a foreign national who was not permanently resident in the country. That list included war crimes but not enforced disappearance. Section 6, which concerned judicial cooperation in criminal matters, stated that criminal liability could be established in respect of an act committed outside the territory of Slovakia if the act gave rise to criminal liability under the legislation in force in the territory in which it had been committed. Section 7 stated that criminal liability could also be established if so required by a duly ratified and promulgated international treaty that was binding on Slovakia.

44. **Ms. Bojková** (Slovakia) said that the Ministry of the Interior had organized a training course for police officers on the protection of vulnerable groups, including children. The Internal Security Fund of the European Commission was helping to fund a project aimed at preventing secondary victimization in the context of police questioning.

45. **Mr. Podhorský** (Slovakia) said that, as of September 2019, baby boxes had saved the lives of 66 children in Slovakia. The Committee on the Rights of the Child had expressed concern regarding the human rights implications of baby boxes, particularly in view of the right of the child to preserve his or her identity. However, baby boxes were a last resort for mothers in difficult circumstances and thus served to protect the right to life. All the baby boxes had been fitted with motion sensors and were located at health-care facilities, which ensured that any newborns placed in them would receive immediate medical assistance.

46. **Mr. de Frouville** said that a State party to the Convention was required to take measures to establish its competence to exercise jurisdiction over the offence of enforced disappearance not only when the offence was committed in a territory under its jurisdiction or when the alleged offender or the disappeared person was one of its nationals, but also, in accordance with article 9 (2) of the Convention, when the alleged offender was present in any territory under its jurisdiction, unless it extradited or surrendered him or her to another State in accordance with its international obligations or surrendered him or her to an international criminal tribunal whose jurisdiction it has recognized. On a related point, the State party might wish to consider clarifying section 7 of the Criminal Code, which seemed not to address the specific question of the establishment of competence to exercise jurisdiction.

47. **Mr. Teraya**, thanking the delegation for its replies, said that the State party was to be commended for establishing the specific offence of enforced disappearance in section 420 (a) of the Criminal Code. Indeed, the Criminal Code of Slovakia could serve as a model for other States parties. The constructive dialogue with the delegation had shown that the definition of enforced disappearance under Slovak law and the manner in which that definition was interpreted were in accordance with international jurisprudence. As the delegation had noted, the monistic legal order of Slovakia would ensure that the Convention prevailed in the case of any conflict with national law. The State party was also to be commended for its decision to recognize the competence of the Committee under articles 31 and 32 of the Convention.

48. Going forward, emphasis should be placed on strengthening the implementation of the Convention, with a particular focus on awareness-raising. Civil society organizations and the National Centre for Human Rights should play an active role in that process. The State party should also continue striving to uphold the key principles of the Convention, including the prohibition of non-refoulement.

49. **Mr. Podhorský** (Slovakia) said that his delegation was grateful for the opportunity to participate in such a constructive dialogue with the Committee, which would serve to strengthen the implementation of the Convention in Slovakia.

50. He wished to note that the efforts currently being made by the human rights treaty bodies to consolidate and advance their dialogues with States parties created challenges for smaller States, including Slovakia, which had limited human resources at their permanent missions in Geneva. In 2019, Slovakia had undergone the third cycle of the universal periodic review and would have two State party reports considered by treaty bodies. In addition, Slovakia was currently a member of the Human Rights Council, which gave rise to additional commitments. It would therefore continue to encourage the treaty bodies to take such challenges into account with a view to giving all States parties the opportunity to ensure that they were adequately represented and that any necessary documentation was submitted in good time. For its part, Slovakia was committed to fulfilling its obligations as a responsible State party to the human rights treaties that it had ratified.

51. **The Chair** said that any outstanding replies could be submitted in writing within 48 hours.

The meeting rose at 12.35 p.m.