

## SLOVAKIA

### CAT A/47/44 (1992)

#### Czech and Slovak Federal Republic

126. The Committee considered the initial report of the Czech and Slovak Federal Republic (CAT/C/7/Add.12) at its 93<sup>rd</sup> and 94<sup>th</sup> meetings, on 14 November 1991 (CAT/C/SR.93 and 94).

127. The report was introduced by the representative of the State party, who informed the Committee that the November 1989 revolution in his country had led to the establishment of a democratic social system and of a State governed by the rule of law. Supplementing the information contained in the report, he noted that two bills were currently under preparation, one concerning the terms of custody and the other relating to the establishment of a primarily civilian police guard to replace the Correction Corps, which had until now been in charge of enforcement of custody and prison terms. An evaluation of the skills and moral aptitude of prison staff had also been undertaken in 1990 since some of them had been involved in human rights violations before the November 1989 revolution. As a result of the evaluation, some 7 per cent of prison staff had left the prison service in the Czech Republic and a similar process was under way in the Slovak Republic. Act No. 179/1990 on the Execution of Prison Sentences, which stressed the need for greater protection of the human dignity of convicts, had also been adopted. An investigation into the situation in corrective institutions in Czechoslovakia by Helsinki Watch in late 1990 had found that despite some shortcomings in the material conditions of detention, efforts were being made by the prison system's managerial bodies to reform the conditions in prisons and no instances of violations of human rights or treatment which would be inconsistent with the provisions of the Convention had been found. The representative also stated that major reorganization of the police force was under way, involving the establishment of a Police Corps at both the Federal and the Republic level. The aim of the reorganization was to bring the police source under efficient public control which was to be exercised by members of special committees in the Federal Assembly and in the national parliaments. Recent legislative changes relating to the obligations and the duties of police officers included the principle that an order from a superior officer could not justify torture and that the offender could not evade responsibility for the crime.

128. Finally, the representative informed the Committee that his Government intended to withdraw the reservation, made at the time of ratification, to article 20 of the Convention to make the declaration required by article 22 of the Convention and to ratify the European Convention for the Prevention of Torture and Other Cruel or Degrading Treatment or Punishment. His Government also intended to support the elaboration and adoption of an additional protocol to the Convention against Torture, establishing international monitoring machinery similar to that of the European Convention for the Prevention of Torture.

129. Members of the Committee, while commending the report and the oral introduction of the representative of the Czech and Slovak Federal Republic, sought clarifications on numerous matters, particularly details of any specific provisions concerning the prohibition of torture in various pieces of legislation, including the Charter of Fundamental Rights and Freedoms of 9 January 1991. They

also wished to know how the laws governing the police were to be amended; how judges were appointed and how the independence of the judiciary was guaranteed; how the activities of the National Security Corps were regulated; how the National Councils of the Czech and Slovak Republic and of the Federal Assembly on the police would regulate the latter's activities in combating torture; how the principle of the rule of law was to be guaranteed; whether any complaints of torture or ill-treatment had been made in recent years; whether the perpetrators had been punished either by court convictions or disciplinary measures; and whether compensation had been provided for the victims.

130. Concerning the reporting State's intention to withdraw its reservation to article 20 and to make the declaration under article 22, members wished to know what legislation was to be adopted and what administrative measures would be taken to give full effect to the Convention in that regard.

131. With reference to articles 1 and 4 of the Convention, members of the Committee noted that there was no definition of the specific offence of torture in Czechoslovak penal law and they observed that the legislation cited in the report was not adequate to satisfy the requirements of those articles. They, therefore, wished to receive extracts of various penal provisions relating to the Convention in order to assess whether Czechoslovak law fully covered acts of torture as defined in the Convention.

132. In connection with article 2 of the convention, members of the Committee wished to know whether there were any specific cases in which a member of the National Security Corps had refused to obey an order from a superior on the grounds that it would mean committing a criminal offence.

133. Regarding article 3 of the Convention, members noted that the inclusion in the Convention of that article was intended precisely to cover cases that were not within the scope of the 1951 Convention relating to the Status of Refugees and asked what legal measures had been taken to implement, in particular, paragraph 2 of that article.

134. In connection with article 5 of the Convention, it was asked whether the provision contained in section 20 (a) of the amended Penal Code, whereby Czechoslovak law would be applicable in cases where international treaties applied, had precedence over the provision contained in article 20, paragraph 1, of the Penal Code, which provided that Czechoslovak law would be applicable in the case of offences committed abroad by aliens only if the offence was also punishable under the law in force in the territory where it had been committed.

135. With regard to article 7 of the Convention, clarification was requested in respect of a number of exceptions, listed in the report, to the institution of proceedings for criminal offences.

136. Concerning article 10 of the Convention, members recalled that the article required medical as well as law enforcement personnel to be educated about the prohibition against torture.

137. In connection with article 11 of the Convention, members of the Committee wished to know specifically what guarantees detained persons enjoyed and how rules and practices in that regard were kept under review; what was the duration of pre-trial detention; and what control was exercised over the conduct of investigations by the police.

138. With regard to article 13 of the Convention, members wished to know what machinery existed for making petitions, and requested specific examples of the outcome for those who had availed themselves of that right.

139. Concerning article 14 of the Convention, members noted that full rehabilitation of victims of torture should include medical rehabilitation and that a rehabilitation centre for victims of torture had recently been set up in Prague which, it was hoped, would receive the Government's support.

140. In his reply, the representative of the State party stated that he would transmit to the competent authorities of his country the suggestion that a definition of torture in conformity with that contained in article 1 of the Convention should be introduced into domestic law. He pointed out that now was an appropriate time to do so as a completely new penal code and code of penal procedure were being prepared. As those codes were still in the drafting stage, it was difficult to give an answer to questions relating to the application of particular articles of the Convention. However, with regard to article 4 of the Convention, the representative informed the Committee that an official guilty of assault in the exercise of his duties was liable to imprisonment from two to eight years, in accordance with article 222 of the Penal Code. Legal proceedings were under way in connection with 40 cases of torture or inhuman treatment in prisons that had occurred before 1989. In connection with the events of November 1989, 35 police officers has been charged with assault.

141. With regard to the independence of the judiciary, he stated that under the legislation adopted in 1991, judges were appointed for life by parliament and could be dismissed only for disciplinary reasons.

142. In connection with article 2 of the Convention, the representative said that a police officer who refused to obey an order from a superior was required to give his reasons for doing so in a written report, which was considered by a disciplinary board or by the prosecutor.

143. Referring to article 10 of the Convention, the representative agreed that it was desirable that the supervisory and medical staff of prisons should be more familiar with the Convention and indicated that that issue was one of the authorities' concerns.

144. With regard to article 11 of the Convention, the representative said that the maximum duration of custody was 24 hours and that the police were required to inform the family of the person arrested that he was in custody. In addition, detainees could have contact with priests, representatives of humanitarian organizations or their lawyers without the presence of a third person. A detainee could only be isolated if his fitness to withstand isolation had been confirmed by a medical examination. The present maximum length of pre-trial of two months was too long and the new rules on the execution of sentences, now under consideration, would guarantee conditions of detention in conformity with international instruments.

145. Concerning article 13 of the Convention, the representative said that the Act on the Execution of Prison Sentences of 1964, as amended by Act No. 178/1990, authorized detainees to lodge complaints which were to be considered by the competent authorities as expeditiously as possible.

146. In connection with article 14 of the Convention, the representative informed the Committee

that thousands of persons who had been arrested on political grounds had suffered from torture or inhuman or degrading treatment under the previous régime. Under a court ruling, such persons were having their rights restored and were receiving compensation, although Czechoslovak law did not yet provide for the award of compensation for personal injuries sustained during the earlier period.

#### Concluding observations

147. In its concluding remarks, the Committee welcomed the efforts being made by the Czechoslovak Government to fully implement the Convention. It also expressed the hope that the new Czechoslovak penal code would place greater emphasis on action to combat torture and inhuman and degrading treatment and punishment and that it would, in particular, include a definition of torture. Similarly, the new code of penal procedure should also be as much in line with the Convention as possible. The Committee expressed the hope that those parts of the penal code providing for the participation of doctors in decisions to place detainees in solitary confinement would be fully implemented so that no one was so detained without prior medical examination. It further suggested that the Czechoslovak authorities should draw up a programme which would enable lawyers, doctors and concerned officials to become familiar with the Convention. Finally, the Committee hoped that the replies which the Czechoslovak delegation had not been able to provide would be contained in the next periodic report. That report should indicate, in particular, whether the public prosecutor continued to monitor the administration of justice and contain further details on the question of the conformity of Czechoslovak legislation with the Convention, particularly its articles 3, 4 and 5.

## **CAT A/56/44 (2001)**

99. The Committee considered the initial report of Slovakia (CAT/C/24/Add.6) at its 464th, 467th and 475th meetings, held on 4, 7 and 11 May 2001 (CAT/C/SR.464, 467 and 475), and adopted the following conclusions and recommendations.

### **A. Introduction**

100. The Committee welcomes the submission of the initial report of Slovakia although it notes that the report, due in May 1994, was submitted with six years' delay. The State party notes that the document includes both the initial and the second periodic reports. However, the Committee emphasizes that the consolidation of reports by States parties is contrary to their obligations under article 19 of the Convention.

101. The report does not fully conform with the Committee's guidelines for the preparation of initial State party reports, as it fails to include information on practical implementation of measures giving effect to the provisions of the Convention. The Committee further notes that the State party has yet to submit a core document. However, the Committee appreciates the substantial efforts to engage in a constructive dialogue with the Committee and to supply some of the specific information and statistics in the oral presentations and replies to the Committee's questions.

### **B. Positive aspects**

102. The Committee welcomes the following:

(a) The State party's adherence to the principal international human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the European Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

(b) The declarations made on 17 March 1995 recognizing the competence of the Committee under articles 21 and 22 and the withdrawal of the reservation on article 20 made on 7 July 1988 by the Czechoslovak Socialist Republic;

(c) The impressive efforts made by the State party aimed at major transformation in the political, economic, legislative and institutional spheres in Slovakia and the improved respect for human rights in that country;

(d) The inclusion of extensive human rights protections in the Constitution and the enactment, following Slovakia's independence, of a Charter of Fundamental Rights and Freedoms, and the amendment to the Constitution of 23 February 2001, establishing the supremacy of international treaties;

(e) The establishment of new institutions and of special units within the police to promote respect for human rights and, in particular, recent steps taken towards the establishment of the institution of Ombudsman.

C. Factors and difficulties impeding the application of the Convention

103. The Committee is aware of the difficulty of overcoming the inheritance of an authoritarian system in the transition to a democratic system and the challenges emanating from the rebuilding of State structures following the dissolution of the Czech and Slovak Federal Republic.

D. Subjects of concern

104. The Committee expresses concern about the following:

(a) The lack of specificity in the Criminal Code of the State party about the purposes of any act of torture, as defined in article 1 of the Convention;

(b) Exceptions to the guarantees of article 3 regarding the return of persons at risk of torture, in contradiction to the absolute prohibition of article 3;

(c) Allegations of instances of police participation in attacks on Roma and other members of the population, as well as allegations of inaction by police and law-enforcement officials who fail to provide adequate protection against racially motivated attacks when such groups have been threatened by “skinheads” or other extremist groups;

(d) Failure on the part of the authorities to carry out prompt, impartial and thorough investigations into allegations of such acts or to prosecute and punish those responsible;

(e) Allegations that law-enforcement officials have ill-treated detainees during detention and in police custody, particularly in lock-ups and police cells;

(f) Allegations of harassment of human rights defenders as well as threats, reportedly to deter submission of complaints, which are allegedly not adequately investigated;

(g) The lack of adequate guarantees of the rights of persons deprived of liberty to have access to counsel and a doctor of their choice, as well as prompt medical examinations.

E. Recommendations

105. The Committee recommends that the State party:

(a) Adopt a definition of torture which covers all elements of the definition contained in article 1 of the Convention and amend domestic penal law accordingly;

(b) Continue efforts towards structural reforms and the implementation of those contained in the 23 February 2001 amendments to the Constitution;

(c) Take measures to initiate an effective, reliable and independent complaint system to undertake prompt, impartial and effective investigations into allegations of ill-treatment or torture by police and other public officials and, where the findings so warrant, to prosecute and punish perpetrators;

(d) Adopt measures to ensure that statements or information obtained through coercion is not admissible as evidence in courts and that legal provisions permitting the use of physical force by police officials are reviewed, revised as appropriate, and implemented in accordance with the requirements of the Convention;

(e) Protect human rights defenders from harassment and threats that undermine their capacity to monitor and provide assistance to those alleging human rights violations;

(f) Adopt measures to prevent inter-prisoner violence, including sexual violence, in places of detention and provide all relevant information on such practices in its next report;

(g) Provide the Committee in its next periodic report with statistical information on persons confined in State institutions, both civilian and military, for purposes of detention, correction, psychiatric health, specialized education, etc., with data disaggregated by, inter alia, by age, ethnicity, gender and geographical region;

(h) Take effective steps to guarantee the independence of the judiciary so as to strengthen the rule of law and democratic governance, essential for implementation of the Convention;

(i) Make adequate provisions for compensation and rehabilitation of victims of torture and ill-treatment;

(j) Continue to provide human rights training for law-enforcement, military and other officials, including those operating in local communities, as well as for those at border areas and those serving at officially administered institutions, and provide clear guidelines on the prohibition against torture and ill-treatment and the prohibition on returning persons facing a probable risk of torture;

(k) Disseminate the Committee's conclusions and recommendations, and the summary records of the review of the State party's initial report, widely in the country, and encourage non-governmental organizations to participate in this effort.