

SLOVAKIA

CCPR A/33/40 (1978)

111. The Committee considered the initial report (CCPR/C/1/Add.12) submitted by Czechoslovakia at its 64th, 65th and 66th meetings on 27 and 30 January 1978 (CCPR/C/SR.64-66).

112. The report was introduced by the representative of the State party who, having indicated that it was prepared before the Committee had completed its general guidelines on the form and contents of reports from States, gave further information on certain questions dealt with in the report.

113. The representative of Czechoslovakia stated that international treaties, with certain exceptions, could not be incorporated into Czechoslovak internal law until an act which formed part of that body of law had been promulgated. As regards the Covenant, he maintained that, even before his country had ratified it, all the rights and freedoms recognized therein had been embodied in the Czechoslovak socialist legal order and effectively guaranteed by the Constitution, Constitutional Federal Laws and other generally binding rules.

114. With regard to the remedies available to an individual he said that Czechoslovak civil and penal courts and administrative organs at all levels had the authority and the duty to protect civil and political rights and to take decisions in each case. Justice was administered by elected and independent people's courts composed of professional judges and people's judges. The Office of the Procurator, whose task was to ensure observance of the law by all organs of the administration and to protect the legally recognized rights and interests of citizens, also played an important role. In that connection, he pointed out that the term "prosecutor" had been wrongly used in the English version of the report and should be replaced by the term "Office of the Procurator". Elaborating on the role of the Procurator, he said that the Procurator was also required to act upon cases of breach of socialist legality, and to answer a complaint within two months after the complaint had been lodged. The term "socialist legality" meant strict respect for the Constitution and for all laws and other mandatory provisions which had been legally promulgated. In addition to the Procurator, trade unions, representative bodies and organs of people's control were responsible for ensuring that socialist legality was respected in practice.

115. In accordance with Act. No. 40/1973 concerning the National Security Corps, legal protection was extended to anyone endangered by the illegal acts of others, and to anyone against whom action had been taken by the security organs. The Act stipulated, *inter alia*, the disciplinary, penal and civil responsibility of any organ which took decisions that were at variance with the law.

116. Members of the Committee expressed their satisfaction with the comprehensiveness and clarity of the report and for the supplementary information furnished by the representative of the State party.

117. Members of the Committee were in agreement that the method used to integrate the provisions of the Covenant in domestic law was a matter for each State party to decide in accordance with its

legal system and practice, the essential consideration being that no domestic system or practice could be invoked as a reason for failing to implement the Covenant. As the Covenant had not been made a part of Czechoslovak law, the representative was asked whether a citizen was able to initiate legal proceedings invoking the provisions of the Covenant directly and how much weight courts would give to those provisions as opposed to existing jurisprudence. If an individual were to consider that a law or practice was inconsistent with his right under the Covenant, could he seek to have the law or practice changed, for instance by action in the courts or by making it a matter of public debate?

118. It was noted that article 2 of the Covenant was to prohibit discrimination and at the same time to require States parties to ensure that any person whose rights and freedoms, as recognized by the Covenant, were violated had an effective remedy. Considering the emphasis laid in Czechoslovakia on the right to work, clarification was requested on the legislative provisions that could be invoked to obtain redress by anybody who was refused employment or access to public services in the country, as provided for in article 25 of the Covenant, for reasons other than his qualifications and experience. Information was requested on the Czechoslovak judicial system and on the methods for the election and dismissal of judges and to ensure their independence and impartiality, as well as on the extent of independence enjoyed by the Office of the Procurator and whether it could protect political rights from being violated by individuals, the State or persons claiming to act on behalf of the State.

119. With regard to articles 3 and 23 of the Covenant, it was noted that Czechoslovak legislation ensured equality between the sexes, but more information was requested concerning the right of women to be elected to political office.

120. With reference to the statement in the report on article 5 of the Covenant that restrictions on any of the rights or freedoms recognized by the Covenant as a result of incorrect interpretation of the Covenant were impossible, the representative was asked whether there existed any means by which an individual contesting the Government's interpretation of the Covenant could have his point of view heard and considered.

121. Considering the important place occupied by the right to life in the hierarchy of values established under the Covenant, the question was asked whether Czechoslovakia had any legislation, regulations or administrative orders concerning the circumstances in which the police were entitled to open fire. Clarification was also requested of the meaning of terrorism in Czechoslovak criminal law, and of the reference to murder "for gain, to lead a parasitic way of life, etc.", as well as of the statement in the report to the effect that one condition under which the death penalty could be imposed was the need to ensure the protection of society. The view was expressed, however, that the question of the right to life could not be reduced to the issue of the death penalty but embraced also the question of infant mortality and life expectancy. More information on the steps taken by Czechoslovakia in that respect would be welcome.

122. With regard to article 7 of the Covenant, the question was asked whether the rules described in the report were in accordance with the Standard Minimum Rules for the Treatment of Prisoners 6/ or the draft code of conduct for law enforcement officials (A/32/138). A number of specific questions were also asked: Did corporal punishment and solitary confinement exist in

Czechoslovakia and, if they did, for what reasons and for how long could a person be subjected to them?

123. Concerning the implementation of article 9 of the Covenant, further details of the conditions of detention were requested. Specific questions were asked about the meaning of the expression “or in any other way frustrate the investigation” which appeared in the report as one condition under which an accused might be detained, and about the grounds on which a decision might be taken to place a person, without his consent, under institutional care and whether such person was entitled to take proceedings before a court. Further information was requested on the practice in Czechoslovakia whereby “custody may be replaced by guarantee of a social organization for the accused person’s further behaviour” and on the type of organization referred to.

124. Several members, referring to article 12 of the Covenant, requested more information on the circumstances in which restrictions could be imposed in Czechoslovakia on an individual’s right to choose his residence and to leave and enter the country, on the authorities which were competent to decide on such restrictions and on the remedies available to persons subjected to them. In that connection, the meaning of the term “anti-social elements”, which appeared in the report, was requested. Clarification was also sought on the criteria applied for the issuance of passports. Some members felt that it would be helpful if the Czechoslovak Government could furnish the Committee with some statistics indicating what proportion of applications for exit visas or emigration were refused and for what reasons and whether there were more restrictions on travel to some countries than to others.

125. More information was requested on the limitations imposed by law or practice on the enjoyment of the right provided for in article 13 of the Covenant and on the meaning of the expression “any other public interest” which could be one reason for expelling an alien from Czechoslovakia. The question was also asked, Was a court decision always required for expulsion of aliens and could an individual who had recourse to remedies remain in the country until such remedies had been exhausted?

126. Clarification was requested on the implementation of various provisions of article 14 of the Covenant. Some questions focused on the conditions for holding judicial proceedings in camera and for the presence of the public and press representatives at trials. Regarding the provision that everyone charged with a criminal offence had the right to be presumed innocent until proved guilty, it was observed that the report used the word “pronounced” instead of “proved” which could have it was observed that the report used the word “pronounced” instead of “proved” which could have it was observed that the report used the word “pronounced” instead of “proved” which could have a defence counsel authorized to plead in the courts and was it possible to obtain legal assistance before criminal proceedings had actually begun?

127. In connection with article 17 of the Covenant, information was requested on the conditions

^{6/} See First United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report by the Secretariat (United Nations Publication, Sales No. 56.IV.4), annex I.A.

under which private homes or offices could be searched or mail could be opened without a warrant.

128. With respect to article 18 of the Covenant, questions were asked about the extent of freedom and protection enjoyed by clergymen and holders of religious beliefs in the fields of education and employment as well as in religious activities, and also concerning the freedom of research at university level.

129. As regards article 19 of the Covenant, it was noted that the Czechoslovak Constitution guaranteed freedom of expression, speech and the press, but that freedom was made dependent upon the strengthening and growth of socialist society and the interests of the workers. The question was asked, To what extent did those restrictions in practice inhibit the freedom of opinion and expression, particularly with regard to criticism of public authorities? Information was particularly requested on any restrictions that were imposed in practice on individuals who sought to promote and propagate their political views, including the promotion of respect for human rights, as well as on how such restrictions were imposed; and whether a person who considered that he had been the victim of an unjustified decision in respect of his freedom of expression could have the decision reviewed. The representative of Czechoslovakia was also asked whether there were any political detainees in Czechoslovakia currently and, if there were, how many.

130. Some questions centred on the freedom of the press, periodicals and media, in the light of the references made in the report to Act. No. 81/1966 concerning periodicals and other information media: Who decided if a newspaper was helping to develop the socialist consciousness of citizens? Was there general censorship in Czechoslovakia? On what grounds could a journalist or writer be forbidden to exercise his profession, and for how long?. Could a private individual subscribe to and receive on a regular basis newspapers published in various foreign countries?

131. The reporting State was commended for fulfilling the obligation imposed under article 20 of the Covenant regarding the prohibition of war propaganda and was requested to make available, for the benefit of other States, the text of the statute prohibiting war propaganda in Czechoslovakia.

132. With regard to article 21 of the Covenant some members requested clarification of the meaning of the term "socialist order" as it appeared in the relevant part of the report and of the restrictions on the right of peaceful assembly laid down in Czechoslovak laws as they did not seem to correspond exactly to those authorized by the Covenant.

133. In connection with article 22 of the Covenant, information was requested on whether the right to establish voluntary organizations as recognized in Czechoslovak law was restricted to trade unions and other social organizations or extended to political parties and whether the establishment of organizations required prior authorization by the Government.

134. Referring to articles 23 and 24 of the Covenant some members requested more information on the laws which ensured equality of rights and responsibilities of spouses, on steps taken to give practical effect to the prohibition of discrimination in respect of children, including those born out of wedlock, and on the criteria governing acquisition of nationality.

135. With regard to article 25, the question was asked how much freedom there was in practice for

persons of different political creeds to seek election to the Federal Assembly of Czechoslovakia or to the Czech and Slovak National Councils, and for individuals to form political parties or associations with a view to seeking the election of their representatives to those bodies.

136. The representative of Czechoslovakia commented on the observations and questions summarized in the preceding paragraphs. He stated that the foundation of Czechoslovak law was not the total independence of the individual, but his duties to others and to the community which were set out in the preamble to the Covenant. That concept, he maintained, should not be interpreted as a restriction of civil and political rights; on the contrary, it often gave citizens more extensive protection than was required under the Covenant. The expressions “socialist order or system” and “the interests of the working people” used in Czechoslovak legislation meant the same as democratic order or public order as referred to in the Covenant.

137. Regarding the application of the principle of non-discrimination, he said that that principle was not provided for as such in Czechoslovak legislation but that it was applied by labour courts and in civil legal proceedings, where it was the essential prerequisite for a fair trial, in the light of the general rule of the Constitution under which all citizens had equal rights and duties.

138. Elaborating on the role of the Procurator General, he stressed that the Procurator submitted to Parliament, in consultation with the President of the Supreme Court, a report on compliance with the laws of the Republic and gave an account of his activities in that sphere. He also drew the attention of Parliament to any inconsistencies which might exist between different laws. As regards the judiciary, he pointed out that the independence of judges was ensured by the fact that they were elected and could not be removed from office except in specific cases by the body which had elected them. While in office, he added, a judge could not be detained or be the subject of criminal proceedings without the prior authorization of the electing body.

139. Concerning the death penalty, he informed the Committee that it was not mandatory and that it was applicable only in cases of murder, sedition, terrorism, sabotage, espionage, high treason, acts endangering the safety of transport aircraft and the hijacking of aircraft. A terrorist, he said, as defined by Czechoslovak legislation, was a person who killed deliberately or attempted to kill with a view to endangering the socialist State. Replying to a question concerning the circumstances in which a policeman was entitled to open fire, he stated that this was possible only in cases specified by law, for example, when the policeman needed to prevent an imminent attack on himself or another person, or prevent an attack on property which was under guard, or when a person ordered to stop near the border failed to do so, but that he must first of all have used every other available means. He stated that corporal punishment had not existed in Czechoslovakia since 1970. With regard to the placing of people in institutions, he explained that it was not a penalty but rather a public health measure and that a decision to that effect could be taken only by the court with the assistance of three psychiatrists, subject to appeal. Concerning the conditions of pre-trial detention, he said that they were governed by the Code of Penal Procedure which provided that detention should be initiated by the Office of the Procurator, and, in an emergency, by the authority responsible for the investigation, but that in the latter case the President of the Court or the Office of the Procurator had to be notified within 48 hours. He also stated that social organizations such as trade unions and unions of youth organizations could stand as guarantors for persons on trial, and were permitted, in that capacity, to be present throughout the trial and could request that the

sentenced person be put on probation.

140. Replying to questions raised on the implementation of article 12 of the Covenant, the representative of Czechoslovakia said that a court could order prohibition of residence in the case of persons sentenced for certain crimes when their presence at a particular place was undesirable for reasons connected with public order or public health, or with the protection of the family, morality or property; that “anti-social elements” were deemed to be persons who had been sentenced several times for acts prejudicial to the property of other persons, to morality, to honest work and so on; that the issuance of a passport, which was the right of every citizen might be refused, subject to appeal, by the competent National Committee, if the journey abroad was contrary to State interests, if a habitual criminal was involved or if the person concerned had, in the course of previous journeys abroad, committed acts likely to harm the good reputation of the Republic.

141. Regarding the application of article 14 of the Covenant, he said that the public might be excluded during hearings or parts thereof if it were considered that publicity would be harmful to State interests, to the economy or to public morality, or might lead to disclosures which would prejudice the procedure, but that in such a case the accused had the right to request the presence of two persons of his choosing; that the accused had to have defence counsel, even during the preparatory phase of the case, and was free to choose his counsel.

142. Replying to questions relating to article 17 of the Covenant, he stated that premises could be searched only if there were good reasons to suppose that something of importance for penal proceedings was on those particular premises or that a person suspected of a crime was hiding there. There were definite legal guarantees concerning issuance of search orders and the conduct of search.

143. With regard to the freedoms provided for in articles 18 and 19 of the Covenant, he pointed out that when an application for employment was made to the Czechoslovak administration or during enrolment in an educational establishment, no account was taken of religion; that religious instruction was optional in primary schools; that Churches took an active part in the political life of the country; that the exchange of information between Czechoslovakia and other States was free whenever it encouraged understanding and friendship between nations but that it could not be allowed to endanger the honour and rights of Czechoslovak citizens, socialist coexistence, the interests of the socialist state or the development of peaceful co-operation. Commenting on some observations related to the application of the right of association, he stated that a voluntary workers' organization was being set up, its statutes had to be submitted to the regional National Committee but that trade unions were not subject to that type of authorization.

144. As to the implementation of articles 23 and 24 of the Covenant, he gave additional details on the law in practice whereby both spouses had parental authority; divorce could not be granted if the parents did not agree on the arrangements to be made with regard to the children; and no distinction was made between children born out of wedlock and children of a marriage.

145. Replying to questions concerning article 25 of the Covenant, the representative pointed out that any person who had reached the age of 21 years could be elected and all citizens had the right to vote from the age of 18 with respect to social organizations, local committees, district committees and regional committees, the national Czech and Slovak Councils and finally the Federal Assembly.

All candidates were considered by a commission comprising representatives of different national elements: the Communist Party, the People's Party, the Socialist Party and the Slovak Party. The candidatures proposed could be contested at all levels and it was possible to make counter-proposals.

146. The representative of the State party finally stated that further information would be submitted in reply to the questions which had remained unanswered.

CCPR A/41/40 (1986)

315. The Committee considered the second periodic report of Czechoslovakia (CCPR/C/28/Add.7) at its 679th to 683rd meetings, from 9 to 11 July 1986 (CCPR/SR.679 to SR.683).

316. The report was introduced by the representative of the State party who said that Czechoslovakia had always paid great attention to the fulfilment of the purposes and principles of the Charter of the United Nations. The foreign and domestic policy of the State in the field of human rights was characterized by the fact that it was a party to almost all pertinent international instruments, had concluded bilateral agreements on legal assistance with almost all European States, and was a contracting party to many regional treaties. The Constitution not only proclaimed human rights but also referred to the material conditions that guaranteed the equal enjoyment of those rights.

317. He also stated that, since its initial report to the Committee in 1977, Czechoslovakia had undertaken numerous activities for the continued implementation and promotion of human rights at both national and international levels. In particular, major efforts had been made in his country to improve material conditions, public education and the health and social welfare of the people as well as to promote international co-operation in the field of human rights. He noted, in particular, that new legislative regulations had consolidated and improved State care for the family and child, increasing child benefits and maternity allowances. The representative also drew attention to recent increases in the level of payments for foster care, temporary incapacity to work and pensions. A new School Act had been introduced with the aim of further improving the quality of education. The provisions of the Penal Code, the Labour Code and some other laws had also been amended with the purpose of strengthening the democratic principles of pertinent legislation relating to the rights and liberties of citizens. With the same end in view, other draft laws, dealing with such subjects as safety in the nuclear industry, the rights and duties of labour collectives and citizens' communications, were currently being prepared. He also informed the Committee that a new constitution and a new labour code were under consideration.

Constitutional and legal framework within which the Covenant is implemented

318. With reference to that issue, members of the Committee wished to receive information concerning the division of responsibility between the Federation and the two national Republics concern the implementation of the Covenant; the factors and difficulties, if any, affecting the implementation of the Covenant, including in particular those stemming from the federal structure; and efforts made to disseminate information about the Covenant and other human rights. They also wished to know whether it was possible to invoke the provisions of the Covenant before the courts in cases of alleged violations and what the legal status of the Covenant was vis-à-vis domestic law; which officials monitored implementation of the provisions of the Covenant; whether constitutional provisions had ever been contravened by legislative acts and what means were available to solve possible contradictions between the Constitution and laws; what the trends toward judicial protection and the strengthening of legality were and what the prospects were for the adoption of new legislative acts aimed at strengthening the protection of human rights; whether remedies were available to individuals who considered their rights to have been violated; and whether it was

possible to criticize the socialist system when the penal law was often conditioned by a reference to hostility against the socialist system. Members also requested clarification of the statement in the report that the civil and political rights of citizens in Czechoslovakia were frequently protected to a greater extent than provided for in the Covenant. Finally, members asked for information concerning the views and policies of the State party regarding the self-determination of peoples and the policy of apartheid.

319. In his reply, the representative of the State party said that, according to Czechoslovak law, the provisions of international treaties to which the country was a party, including the provisions of the Covenant, had to be transformed into domestic law through the adoption of a special legal act. Thus, the provisions of the Covenant were indirectly reflected in the legislation of both the Federation and the Republics. While the Covenant was not itself a source of domestic law, the legal rules of constitutional, criminal, civil and other branches of law corresponded to the pertinent provisions of the Covenant. Citizens of Czechoslovakia could refer to the provisions of the Covenant, but each case had to be treated on the basis of domestic legal rules.

320. Regarding the division of responsibility between the Federation and the two national Republics, the representative indicated that human rights were guaranteed by federal law and that their implementation fell within the responsibilities of the two Republics. No major difficulties had been encountered as a result of the country's federal structure.

321. As to the dissemination of information about human rights in general, and about the Covenant in particular, the representative stated that publicity concerning the Covenant's provisions had been undertaken prior to its ratification and that the full text had subsequently been published in the Collection of Laws as well as in the form of a separate booklet. Human rights were widely discussed in the mass media and there were many publications in that field. The study of the Covenant, within the framework of education concerning the law, was included in the curricula of schools and the text was also at the disposal of universities, legal executives and judicial bodies. The Covenant had been translated into the national languages and was available in the libraries.

322. As to which officials monitored the implementation of the provisions of the Covenant, the representative stated that the commissions of legislative organs and the office of the Procurator-General were among a number of bodies responsible for monitoring the observance of human rights. The latter had offices in the Republics, provinces and regions and his functions included the supervision of preliminary hearings, with a view to ensuring protection of the accused, and the monitoring of the legal process in the courts as well as conditions of detention. The Procurator-General was independent of both the legal authorities and the Minister of Justice. The courts and the people's control committees as well as the national committees, which dealt with issues of administrative law, and special monitoring groups, which visited prisons, were among the other organs that monitored the implementation of human rights.

323. The tendency of the judicial system in his country was toward expanding the rights of citizens as part of a special programme for the improvement and development of socialist legality. Another important aspect of that programme was the enhancement of the State's democratic and popular nature through a fuller initiation of workers into the political system, particularly the organs of State power. The new legislative instruments that were in the process of preparation, including a new

draft constitution, were all designed to achieve that purpose. Concerning the remedies available to individuals who considered their rights to have been violated, the representative said that article 29 of the Constitution enshrined the right of petition. However, the Government was not satisfied with the current system of remedies for dealing with such complaints and the scope of that article would be expanded in the new Constitution.

324. Regarding self-determination and apartheid, the representative pointed out that his country did its utmost to promote the right to self-determination and was one of the first countries to have ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid.

Non-discrimination, equality of the sexes and equality before the law

325. With reference to those issues, members of the Committee wished to know how the principle of non-discrimination referred to in paragraph 20 of the report was actually observed in practice; how the rights of aliens were restricted as compared with those of citizens; and whether women in Czechoslovakia were free to decide to terminate a pregnancy and what the legal requirements were. One member asked why the signatories of Charter 77 had been subjected over the past 10 years to legal, administrative or other measures, including prison sentences against some of them, and what the precise legal justifications were for the proceedings and sentences in 1979 against some members of a committee to assist unjustly prosecuted persons (VONS). Another member wished to know how article 20 (4) of the Czechoslovak Constitution, which not only prohibited discrimination but also provided for equal opportunities for all citizens, was understood and implemented. Members also asked for clarification of section 198 of the Penal Code, which made public defamation of a nation or race punishable, and of the status of foreign workers in Czechoslovakia.

326. Replying to those questions, the representative of the State party noted that equality of the sexes was guaranteed under articles 20 (4) and 25 to 27 of the Constitution, as well as article 11 of the Labour Code and various other laws concerning women and their rights. Women accounted for 45 per cent of the work force and many were in senior positions. Ways to enhance the equality of women and men at work were currently under consideration by the Government.

327. As to the question of the termination of pregnancy, the representative noted that the right of women to have or not to have a child had been expanded and that women could apply to the public commissions attached to the national committees for authorizations to have abortions, which were granted in 90 per cent of cases. Furthermore, a draft law aimed at improving existing regulations in that field was currently under consideration by the Government.

328. Foreigners enjoyed the same legal status as citizens, subject only to a few special requirements, such as registration with the police, and ineligibility for certain positions, such as those of judge and notary, or militia member. There were 51,000 workers of foreign nationality in the country, including Yugoslavs, Bulgarians and others. They were well treated and enjoyed the same social rights as nationals.

329. Discrimination on the ground of opinion was explicitly banned under the Constitution and other laws. Groups and individuals expressing different points of view were not subject to criminal

prosecution on that account and if some persons were convicted it was solely for specific criminal acts they had committed. Thus, none of the founders of Charter 77 had been prosecuted because they belonged to that group but only because they had committed specific criminal acts; they had all retained their political rights and had taken part in recent elections. No discriminatory measures had been taken against them. Referring to the question concerning section 198 of the Czechoslovak Penal Code, the representative explained that that provision was broader than article 20 of the Covenant since it also provided for punishment of certain criminal acts not covered in article 20.

Right to life

330. With reference to that issue, members of the Committee wished to know which offences were punishable by the death penalty and in how many cases that penalty had been carried out in the last five years.

331. In his reply, the representative of the State party said that the right to life was considered as a fundamental basis of his Government's internal and external policies. His Government supported all efforts to ban the threat of war. In that connection, he referred to Law No. 65, on the protection of peace, and declared that Czechoslovakia endorsed the conclusions of the Committee in its general comments, Nos. 6 (16) 1/ and 14 (23) 2/ on the right to life and, in particular, that the production, testing, possession, deployment and use of nuclear weapons should be prohibited and recognized as crimes against humanity. Although the death penalty was still applicable to a number of offences it was resorted to very infrequently, usually only for murder. Only 15 death sentences had been imposed during the last five years and only 10 of them - all involving murder - had actually been carried out. In fact, the death penalty in Czechoslovakia had become a very exceptional measure limited to multiple deaths and particularly odious crimes of violence, but, under the present circumstances, it could not yet be fully abolished.

Liberty and security of the person

332. With reference to that issue, members of the Committee wished to receive information regarding the circumstances under which persons might be held in preventive detention without being charged with a criminal offence and about detention in institutions other than prisons. They also asked whether there was any maximum limit to pre-trial detention and whether the complaint procedure against the decisions of prosecutors concerning pre-trial detention was resorted to frequently and with what results. In addition, they wished to know how soon after arrest a person could contact a lawyer and a person's family was notified, whether, in cases where detainees were not in a position to do so, members of his family could appeal for his release on his behalf, and whether such appeals received rapid consideration by judicial authorities. Members also asked under what circumstances residence in certain areas could be prohibited for a term of one to five years; what the aims and scope of the legislation on internal security forces were; in what manner Law No. 44 of 1973 on the protection of society from antisocial activities of persons was applied; how many persons had been convicted under that law; and whether the surveillance measures permitted under that law for a period of three years were justified restrictions under the Covenant.

333. In response to the question regarding the circumstances under which persons might be held in pre-trial detention without being charged with a criminal offence, the representative explained

that, under article 57 of the Penal Code, pre-trial detention could be applied only if circumstances justified that measure, for example, if the accused had no fixed residence or employment, had attempted to escape from the authorities or to influence witnesses, intended to continue committing criminal acts or constituted a menace to others. Detention had to be reported to the Procurator within 24 hours and could not exceed 48 hours. According to the statistics available for 1985, the average period of pre-trial detention for serious crimes was about 2.4 months and for minor offences about 1.38 months. Under Law No. 40 of 1975, relating to the rights and duties of National Security Forces, preventive detention could also be imposed as an administrative measure against persons who, for example, were suspected of preparing to commit an act of terrorism. The Procurator-General had to be advised of detentions within 48 hours or the person had to be released. Remand in custody of such detainees could be extended for an additional two days by the Procurator. Detention in institutions other than prisons was governed by Act No. 40 and other detailed legislation. That Act also extended legal protection to persons endangered by the illegal acts of others, and to anyone against whom action had been taken by security organs. The Act stipulated, *inter alia*, the disciplinary, penal and civil responsibility of any organ that took decisions that were at variance with the law. Prohibition of residence in certain places was applicable only to repeated offenders and was aimed primarily at preventing them from living in large industrial centres where they could commit further crimes. Such measures were part of a general programme to combat crime.

334. In addition, the representative of the State party explained that, in accordance with the law, the families of detained persons were immediately informed of their detention and were also advised of the relevant circumstances. A detainee was permitted to contact a lawyer immediately and could refuse to be interrogated in the absence of his lawyer. Pre-trial detention was applied in only about 15 per cent of cases and about 50 per cent of such detainees lodged appeals. Frequently, a procurator or a court decided to release detainees to allow them to pursue their work and family life. The maximum limit on the length of pre-trial detention resulting from prolongation by a procurator was two months. That limit could be exceeded only by authorization from a superior prosecutor but such decisions could be appealed before a court.

335. Replying to the question concerning the application of Law No. 44, the representative stated that it aimed at facilitating efforts to combat recidivist criminality. Whereas some countries, particularly in Europe, resorted to strict measures against recidivists, Law No. 44 was progressive and sought to create a less strict régime and to give certain persons the possibility for adapting to life in society without being confined. It also provided for post-penitentiary adaptation, for example, by helping former prisoners to reintegrate themselves and to find work and housing. Law No. 44 had never been applied to members of Charter 77. After its entry into force, the number of recidivists who had committed common crimes had declined to 15,000. As to the number of persons imprisoned for different offences, the representative furnished the Committee with a comprehensive statistical report.

Treatment of prisoners and other detainees

336. With reference to that issue, members of the Committee wished to know whether the practice of solitary confinement was resorted to in prisons and, if so, under what circumstances, whether any restrictions had been placed on the right of prisoners to receive visits and to maintain contact with

the outside world, how the education of prisoners was organized, whether those who were religious could practice their religion and observe their traditions, whether prisoners could receive printed materials, including material from abroad, what the most severe disciplinary measures were, and whether, and to whom, a prisoner could submit a complaint concerning a prison employee.

337. In his reply, the representative of the State party noted that under a recently enacted law prisoners were divided into three distinct groups, namely, dangerous recidivists, ordinary recidivists and first offenders, with different prison régimes being applied to each of those categories. As to the right of prisoners to visits, he explained that each of the three categories of prisoners had a right to receive visits from family members, friends or lawyers at intervals of three months, two months or one month, respectively. There were also prisons where first offenders were permitted to pursue cultural and educational activities after work and to see their families. All in all, prisoners in Czechoslovakia were very well treated.

338. In addition, the representative of the State party said that the aim of justice was not merely to punish but to rehabilitate the offender so that in the future he would be reintegrated into socialist society. The main method for achieving that objective involved reformatory, cultural and educational activities, including vocational training. A system of basic school education had been established, with successful participants being granted school-leaving certificates; 80 per cent of prisoners were engaged in vocational training. While prisons had no separate facilities for religious observances, any prisoner who wished to pray, for example, was free to do so. Prisoners could also receive printed material since there was no censorship in Czechoslovakia except for fascist and pornographic material. Disciplinary measures employed in prisons were regulated by article 20 of the law on the execution of prison sentences. Solitary confinement was the most severe sanction, it could be ordered for up to 30 days. Prisoners had the right to submit complaints to the Procurator as well as to the Minister of Justice and the Council of Ministers.

Right to a fair trial

339. With regard to that issue, members of the Committee requested information concerning the organization of the judiciary, existing legal guarantees of the right of all persons to a fair and public hearing by a competent, independent and impartial tribunal, and the relevant rules and practices concerning the publicity of trials and the public pronouncement of judgements as required by article 14, paragraph 1, of the Covenant, including specific rules concerning the admission of mass media to court hearings. They also requested clarification regarding any legal provisions relating to the independence of judges and procedures for their removal, the precise relationship between the Supreme Court and parliament, and the reasons for including the Ministry of Defence as one of the appeals bodies. Members also wished to know whether a law had ever been declared unconstitutional by the Constitutional court, whether lawyers were independent, how a defendant was able to exercise his right to choose a lawyer in practice, how the college of Advocates was organized and how its members were remunerated. Concern was expressed that, where accused persons had no knowledge of the Czech language, it was not always ensured that they were promptly informed of the charges in a language they understood. It was also asked whether in case of a miscarriage of justice the person who had suffered punishment had a right to compensation and whether a restriction of the legal capacity of a person was possible under Czechoslovak law.

340. In responding to questions concerning the organization of the judiciary, the representative of the State party explained that there were only two types of courts in Czechoslovakia - civil and military - the highest military tribunal being part of the Supreme Court, whereas the civil court system consisted of regional and district courts, the Supreme Courts of each Republic and the Supreme Court of the Czechoslovak Socialist Republic. Trials were public although the law provided that the public might be excluded in specific cases. While the decisions of a court were always made public, no press reports were allowed to be published in criminal cases until judgement had been pronounced.

341. The representative of the State party further said that the independence of judges was a fundamental basis of justice. The Constitution and the law stated that a judge was answerable only to the law and was to be guided only by the law and by the spirit of legal conscience. The reports by judicial bodies to the Federal Assembly did not focus on specific cases, but were intended to provide information concerning the general state of socialist legality, crime prevention and control. Such reports were prepared by the Procurator-General and the Chairman of the Supreme Court, neither of whom could interfere with judicial decisions in specific cases.

342. The reference to the Minister of Defence in paragraph 100 of the report related to that Ministry's involvement in the administration of Military Justice, as well as to the existence of the Military Council of the Supreme Court of the Czechoslovak Socialist Republic.

343. Regarding the Constitutional Court, the representative said that Constitutional Act No. 143 of 1968 provided for the establishment of such a court, but it had not been established since there had been no cases where it would have been necessary to decide whether a law was in conformity with the Constitution. Some were of the view that such functions should be vested in the Constitutional Boards of the Supreme Courts of the Federation and the Republics, while others felt that the matter involved the interpretation of law which should be left to the body from which the law had emanated or to the parliament itself.

344. With reference to questions relating to legal services, he noted that efforts were being made to enhance them so that the law could play a more effective role in the life of society. Professional lawyers were needed if court cases were to be properly handled. In civil proceedings, any person could act in defence of the accused, but in criminal proceedings only a professionally trained attorney could do so. The State had no influence on the remuneration of lawyers. The College of Advocates was an independent, autonomous organization operating under appropriate laws and regulations. The salary of advocates was very high, sometimes exceeding that of a Minister. A defence lawyer was chosen by the accused himself, by his relatives or by the person entrusted with that task, and the choice was entirely free. If a defendant lacked the means to hire counsel, in cases where defence was mandatory, the court appointed a defence counsel. The right to use one's mother tongue was provided for in the Code of Penal Procedure, which stipulated that bodies active in penal procedure should invite an interpreter to the proceedings, but the sentence itself was pronounced only in Czech and Slovak. Compensation for a miscarriage of justice was a basic obligation of the State and the Ministry of Justice was responsible under the law for dealing with the matter; 586,000 Czechoslovak koruny had been disbursed by the Ministry during 1985 in such compensatory payment.

345. The salaries of judges were paid from the official Ministry of Justice budget, with funds being allocated to the presiding magistrates of regional and district courts. Judges were elected by legislative bodies - the Czech and Slovak National Councils - for 10-year terms, which in practice meant a life appointment, and only the National Councils could submit candidates for the magistracy or propose the removal of a magistrate. The system for the removal of judges was very complicated and the representative was personally aware of only one such case. Regarding the legal capacity of citizens discussed in paragraphs 107 and 108 of the report, such capacity began at birth and was absolutely unrestricted. Until the age of 18, a person's legal capacity was exercised through others, the only exception being that women and men who married at 16 could exercise their legal capacity immediately upon marriage.

Freedom of movement and expulsion of aliens

346. With regard to that issue, the members of the Committee wished to know of any restrictions which applied to the issuance of travel documents and whether such restrictions were in compliance with the provisions of article 12, paragraph 3, of the Covenant, why it was necessary for persons seeking to leave the country to get authorizations from employers and from municipal authorities and what happened if such authorizations were not granted, how many applications to leave the country had been received and how many of them had been granted, how many persons had been detained under article 109 of the Penal Code for having attempted to leave the country and what justification there was for requiring the payment of emigration taxes and for depriving persons of their citizenship. They also wished to know whether there were any restrictions or other rules governing family reunification, whether expulsion orders against aliens could be appealed and, if so, whether the appeal had a suspensive effect, whether there were any restrictions on the movement of aliens, and what limitations could be placed on the freedom of movement of citizens within Czechoslovakia. One member asked whether it was necessary for a citizen of Czechoslovakia living abroad to obtain a visa to re-enter the country. Another member observed that the first and second periodic reports of Czechoslovakia on those matters were virtually identical, despite the questions asked in 1978, and objected to such an attitude. He asked what remedies were available to a person whose right to leave the country had been refused. Regarding protective surveillance, members wished to know where persons who had been released from prisons had to report, what powers the police had to enter the homes of such persons, how protective surveillance measures were enforced, and whether the Government had considered revising the relevant law to bring it into conformity with article 12, paragraph 3, of the Covenant.

347. In his reply, the representative of the State party said that existing laws and regulations were adequate to cope with the sensitive and acute problem of freedom of movement, which was not only of a political nature but also had an economic aspect. Furthermore, the international situation had changed in recent years and the State had to enact laws and to pursue policies bearing that in mind. Nevertheless, all restrictions on freedom of movement were consistent with the spirit and letter of the Covenant. The provisions of Act No. 63 of 1965 and Government Directive No. 114 of 1969 authorized the restriction of travel when a person's departure was not in the national interest, for example when it involved persons who were subject to criminal proceedings or who, during a previous visit abroad, had acted in a manner detrimental to the country. Over a 15-year period some 22,698 applications to emigrate and renounce citizenship had been filed, mostly by individuals of German origin, and more than 20,000 of those applications had been approved. In 1985 more than

5 million requests to travel abroad, for purposes of tourism and business, had been received, permission had been refused in 58 per cent of the cases, largely because of the scarcity of foreign currency.

348. Under the present international circumstances the Government of Czechoslovakia could not adopt a law establishing a universal right to emigrate, since the country could not afford to train highly skilled specialists for other countries. Moreover, emigrants had a moral responsibility to the State, with regard, for example, to the cost of the education they had received - estimated at about 750,000 koruny - and there were also considerations of the State's defence. Thus, laws and decrees regulating emigration and immigration had to take economic and international consideration into account. He noted that the regulation on leaving the country without permission would no longer be necessary if the international climate improved. Referring to the form and content of his country's report, the representative stressed that it had been prepared in accordance with the Committee's guideline.

349. Citizenship was withdrawn only on a case -by-case basis and concerned persons in respect of whom the Government had evidence of involvement with organizations that acted against the interests of the State. About 3,800 emigrants had been tried in absentia under article 109 of the Penal Code, but 96 per cent of them had later been pardoned by the President under Decree No. 340 of 1980, and many had been able to return to the country in recent years. Only a few dozen prosecutions under article 109 of the Penal Code had been brought against persons caught at the border with false papers. Visas were required only for foreigners wishing to enter Czechoslovakia. Citizens residing permanently abroad did not require a visa to re-enter the country but had to comply with an administrative procedure in accordance with Decree No. 340 of 1980; that procedure took about two years.

350. Responding to an inquiry about a specific individual whose rights to leave the country had been refused and who had subsequently been refused admission to university, the representative explained that the decision not to admit that person to university had been taken in the light of the competition for the available places; the individual concerned had been granted travel documents and was to continue his education abroad.

351. There were only minimal restrictions on family reunification, which in special cases, particularly those involving minors, was handled through the International Committee of the Red Cross. Under Decree No. 340 of 1980, increased opportunities were provided for visits abroad to relatives who had emigrated.

352. Act No. 87 of 1965 provided that aliens sentenced to expulsion could file appeals to the appropriate court or administrative body, in which case execution of the judgement would be deferred pending a decision on the appeal by the competent authority. Only 36 expulsion orders had been issued during 1985.

Interference with privacy

353. With reference to that issue, members of the Committee wished to receive information concerning protection against arbitrary or unlawful interference with privacy, family and home,

particularly with regard to postal and telephone communications; they also wished to know which authorities were meant by the reference to “another State body active in penal proceedings” in paragraph 110 of the report.

354. In his reply, the representative stated that a person or his home could be searched only in criminal cases and in accordance with sections 82 to 85 of the Code of Penal Procedure. The privacy of postal and telephone communications was protected by sections 239 and 243 of the Penal Code.

Freedom of expression and religion

355. With reference to freedom of expression, members of the Committee wished to receive information concerning legal controls on freedom of the press and the mass media and regarding the role of the Publications Control Board. They asked whether a journalist could be barred from exercising his profession and, if so, under what laws, which foreign newspapers and periodicals were currently prohibited from being imported or distributed under section 23 of Act No. 81 of 1966, why pamphlets expressing opinions could not be freely disseminated and why the dissemination of jokes and cartoons was regarded as an offence. Some members expressed the view that a number of penal provisions, in particular articles 98 (subversion) and 100 (incitement) of the Penal Code, were not compatible with article 19 of the Covenant, because they permitted the prosecution of persons for having expressed political views. It was also asked in that connection, whether there were any such detainees in Czechoslovakia currently. Some members noted that the report did not add any information to the initial report regarding freedom of expression and religion.

356. Some members requested additional information concerning freedom of religion, particularly with reference to the legislation referred to in paragraph 120 of the report. They pointed out that the far-reaching powers of the State in religious matters could hardly be reconciled with article 18, paragraph 3, of the Covenant. In that connection, it was asked, *inter alia*, why the appointment of Roman Catholic bishops needed governmental approval, why, in general, clergymen could exercise their religious activities only after approval by the State and why religious orders had been prohibited. Members asked in addition whether there had been complaints by priests concerning the financing of the Church by the State, and whether a religious community that had been criticized by a semi-official publication could publicly reply to such criticisms.

357. Responding to questions relating to freedom of expression, the representative of the State party said that freedom of the press was protected under Acts Nos. 81 of 1966 and 84 of 1966, and that censorship was prohibited under section 17 of the latter Act. Except for a provision contained in Act No. 81 of 1966, there were no legal barriers preventing a journalist from practising his profession. Some 420 foreign newspapers and periodicals were currently being imported into Czechoslovakia. The importation of publications was prohibited only when such publications violated the interests of society or international agreements, if they clearly aimed at promoting anti-socialist feelings, fascism or neo-fascism, if they advocated violence or contained war propaganda, or if they contained pornographic material. There were no political prisoners in Czechoslovakia. Persons were accused under Law No. 44 for specific acts and not for their convictions.

358. Regarding freedom of religion, the representative stressed that freedom of religion was

safeguarded under article 32 of the Constitution and in regulations which already existed in 1978 when the initial report was considered by the Committee and which were in full harmony with the Covenant. There were some 11,000 members of religious orders, thousands of places of worship and 600 students attending the five religious faculties in the country. He noted that there had been a trend in recent years towards using religion for reactionary political ends. The State's policy aimed at creating the necessary conditions for the exercise by believers of their religious faith. Some 50 per cent of the people in Slovakia and 35 per cent of those in the Czech Republic were believers. Paragraphs 1 and 2 of article 32 of the Czechoslovak Constitution guaranteed freedom of conscience, and everyone enjoyed the right to profess a religion or not to profess any religion and to conduct religious worship in accordance with the law. In March 1985, the relationship between Church and State had been examined by representatives of all Churches, and a declaration had been adopted which would dispel the concerns expressed by several members. Articles 196, 198 and 236 of the Penal Code provided protection from restrictions on the freedom of religion as well as from violence or defamation directed at a group on account of their beliefs. Incitement of hostility or hatred on religious grounds was also prohibited by law.

359. All the laws regulating the relations between the State and the Church had been agreed upon with the Church before they were adopted. The property of the Church having been nationalized, as had other large possessions and estates, the Church required, and had been given, assistance. No complaints had been raised by any Church officials against that system. Furthermore, considerable means were provided for the maintenance of cathedrals and churches; 130 churches had been built in the last 15 years. Priests were members of the National Council, some of them occupied important positions and had been awarded major decorations. Everything necessary to carry out the functions of the Church had been authorized, subject only to the interests of the State and the rights of other citizens. Regarding the appointment of Roman Catholic bishops, it was not the Government but the Vatican that had refused the designated persons. In 1985, 683 religious books and 30 religious newspapers had been published. Religious beliefs were not an obstacle to admission to the public service. In all, there were 18 denominations, testifying to the broad diversity of religious practice in the country.

360. The provisions of the Constitution, article 102 of the Penal Code, and other pertinent laws were consistent with article 18 of the Covenant in that they provided for freedom of religion for individuals while stipulating that religious organizations should not engage in activities other than those required for ministering to the religious needs of believers. Legislation and practice in that regard in Czechoslovakia clearly did not contravene the provisions of the Covenant, although further improvements in the regulations were under consideration.

Freedom of assembly and association

361. With reference to that issue, members of the Committee wished to know whether the right to establish voluntary organizations, pursuant to Act No. 68 of 1951, also included the right to establish political parties and associations or groups to promote human rights. Members also wished to be informed of restrictions on the rights to freedom of assembly and association, and to know what criteria were applied by State authorities when authorizing or refusing the creation of an association.

362. In his reply, the representative stated that the right to freedom of association did indeed exist

and that the authorities did not use discriminatory measures against various types of associations. As stipulated in article 5 of the Constitution, workers were able to unite in voluntary public organizations such as trade unions, youth organizations, co-operatives, and other public organizations. Such organizations were participating in managing State and public affairs and had recently become even more active in that regard.

Right to participate in the conduct of public affairs

363. In connection with that issue, members of the Committee wished to receive information concerning the exercise of, and restrictions on, political rights, and legislation and practice with respect to access to public office. In the latter regard, they asked specifically whether access to State service was limited to members of the Communist Party.

364. In responding to questions relating to access to public service, the representative noted that that subject was under discussion within the International Labour Organization and that Czechoslovakia's latest report to ILO could be distributed to the members of the Committee. He stated that there was no statutory prohibition of access to State service by non-members of the Communist Party.

Rights of minorities

365. With respect to that issue, members of the Committee wished to know which minorities were included in the group of 51,000 persons referred to in paragraph 165 of the report and what legal provisions related to the protection of the rights of minorities.

366. In his reply, the representative of the State party said that all ethnic minorities were able to use their own languages and to associate in their own cultural alliances. He noted, for example, that the Hungarian cultural alliance had 83,700 members.

367. Newspapers were published in Hungarian and Ukrainian, there were 35 hours per week of Hungarian language broadcasts on the Czech radio, and several hundred books were published in Hungarian every year. Schools, including three institutes of higher learning, had been established for Ukrainians and Hungarians. Most of the persons belonging to the group of 51,000 were foreign workers from Yugoslavia and Bulgaria. Constitutional law No. 144 of 1968 guaranteed them specific rights and enabled them freely to enjoy their ethnic traditions.

General observations

368. Members of the Committee expressed appreciation for the State party representative's cooperation and readiness to engage in a constructive dialogue with the Committee. They acknowledged his efforts to respond to questions both rapidly and authoritatively and to furnish the Committee with detailed information.

369. Some members considered that their concerns, in particular, with respect to rights such as freedom of movement, freedom of religion and freedom of expression of views opposed to those of the Government had not been fully allayed and that further improvement was needed. It was

generally felt, however, that Czechoslovakia had made great progress since the devastation of the war. The wish was also expressed that the consideration of the report by the Committee should be widely publicized in Czechoslovakia

370. In concluding the consideration of the second periodic report of Czechoslovakia, the Chairman thanked the representative of the State party for his active co-operation, observing that the open exchange of views had generated many ideas that would help his country to take a fresh look at its laws and practices.

CCPR A/52/40 (1997)

362. The Committee considered the initial report of Slovakia (CCPR/C/81/Add.9) at its 1589th to 1591st meetings (sixtieth session), held on 15 and 16 July 1997. And at its 1611th meeting, on 30 July 1997, adopted the following observations.

1. Introduction

363. The Committee welcomes the initial report of Slovakia and the Constructive dialogue with the Committee. It notes with regret that, although the report contained comprehensive information on prevailing constitutional and legislative norms in the field of human rights, it did not provide specific information on the implementation of the Covenant in practice. However, the Committee expresses its appreciation for the answers provided by the delegation to questions asked in the course of the discussion, which enabled it to obtain a somewhat clearer picture of the actual human rights situation in the country.

2. Factors and difficulties affecting the implementation of the Covenant

364. The Committee is aware that Slovakia is still in a period of transition from an authoritarian to a democratic system and that it recently acquired its independence after the dissolution of the Czech and Slovak Federation. The Committee notes with concern that the remnants of the former totalitarian rule have not yet been completely overcome and that further steps remain to be taken in consolidating and developing democratic institutions and strengthening the implementation of the Covenant. The Committee notes the persistence of political and social attitudes in the country that are adverse to the promotion and full protection of human rights. The Committee also notes with concern that the lack of clarity in the delimitation of the respective competence of the executive, legislative and judicial authorities may endanger the implementation of the rule of law and a consistent human rights policy.

3. Positive aspects

365. The Committee welcomes many recent developments in Slovakia that represent positive steps towards better promotion and protection of human rights. In particular, the committee welcomes the preferential status given to international treaties, including the Covenant, over domestic laws; the inclusion of an extensive and elaborate catalogue of fundamental rights, including minority rights, in the Constitution and the adaptation after Slovakia's independence of Constitutional Statute No. 23/1991 enacting a Charter of Fundamental Rights and Freedoms; and the application by the Constitutional Court of provisions of the Covenant, including reference to the Committee's General Comments.

366. The Committee welcomes the succession by Slovakia to the ratification of the Optional Protocol to the Covenant on individual communications.

367. The Committee notes with interest the establishment of institutions to deal with human rights issues, such as the Commission for Minorities, the Coordinating Commission on the Status of

Women and the Special Representative for persons in need of particular assistance, and looks forward to information, in future reports, about their activities.

368. The Committee welcomes the adoption of measures aimed at redressing past injustices, such as the policy instituted by the Slovak Government, based on Law No. 87/1991 enacted by the Czech and Slovak Federation, allowing properties confiscated by the former Communist regime to be reclaimed by their former owners or their descendants, and the adoption of Act No. 282/1993 Coll., on the mitigation of certain property injustices done to churches and religious societies between 1945 and 1990, and between 1939 and 1990 in the case of properties previously owned by synagogues and Jewish societies.

369. The Committee commends the abolition of the death penalty in 1990 and recommends that Slovakia ratify the Second Optional Protocol to the Covenant.

370. The Committee notes with appreciation the establishment of special units composed of personnel receiving specific training within the Slovak police to deal with crimes against women and children, and the enactment of new laws to deal with violence against women and the sexual exploitation of children.

371. The Committee welcomes the adoption of a new law on citizenship, which protects all children born in Slovakia from being stateless.

372. The Committee notes that various measures and steps are envisaged by Slovak authorities further to promote and protect human rights, including the setting up of an office of ombudsman for human rights, and urges their rapid implementation. It notes Slovakia's readiness to develop international cooperation to secure that all Roma children already born acquire either Czech or Slovak citizenship, and the intention expressed by the delegation to publish and disseminate the full text of the present observations.

4. Subjects of concern and the Committee's recommendations

373. The Committee notes with concern that insufficient steps have been taken to date to implement various provisions of the Constitution dealing with fundamental rights and of the Covenant. In particular, the Committee regrets the absence or inadequacy of laws regulating matters relating to article 14 of the Covenant, with respect to the appointment of members of the judiciary; article 4 of the Covenant; article 18, with respect to the right to conscientious objection to military service without a punitive extension of the period of service; and article 25.

374. The Committee regrets the lack of clarity regarding the interrelationship of articles 11, 125 and 132 of the Constitution, especially as to the Constitutional Court's competence conclusively to ensure that acts and regulations of central or local governments comply with the Constitution and international treaties, including the Covenant.

375. The Committee expresses its concern over substantiated reports of discrimination, particularly against women, and notes that independent complaint mechanisms for victims of all forms of discrimination do not exist. It recommends that: (a) priority be given to addressing discrimination,

in particular through training and education campaigns: and (b) mechanisms to monitor non-discrimination laws and to receive and investigate complaints from victims urgently be established

376. The Committee is concerned about reports that Roma people are often victims of racist attacks, without receiving adequate protection from law enforcement officers. It reiterates its recommendations made under (a) and (b) of paragraph 375.

377. The Committee is concerned about cases of excessive use of force by law enforcement officials, as well as maltreatment of detainees during police custody. It notes that the law enforcement system will only be able to function properly when sufficient attention is given to the training of law enforcement officials. The Committee therefore recommends the setting up of appropriate training programmes intended for law enforcement and custodial personnel in the field of human rights, especially on articles 7, 9 and 10 of the Covenant. More generally, the Committee recommends that training programmes be set up for professional groups such as judges, lawyers and public servants, and that human rights education be provided in schools at all levels, in order to develop a culture of respect for human rights within society.

378. The Committee regrets that insufficient information was provided on the actual compliance with the provisions of article 9 of the Covenant in relation to all forms of detention, in particular pre-trial administrative detention and detention of asylum seekers. The Committee recommends that the Government undertake a comprehensive analysis on compliance of legislation and practice relating to administrative detention with article 9 of the Covenant.

379. With respect to article 14 of the Covenant, the Committee notes with concern that the present rules governing the appointment of judges by the Government with approval of Parliament could have a negative effect on the independence of the judiciary. The Committee recommends that specific measures be adopted as a matter of priority guaranteeing the independence of the judiciary and protecting judges from any form of political influence, through the adoption of laws regulating the appointment, remuneration, tenure, dismissal and disciplining of members of the judiciary.

380. The Committee also notes with concern that the right to free legal assistance provided for by article 14, paragraph 3 (d), of the Covenant does not seem to be guaranteed in all cases, but only in cases for which the maximum penalty is more than five years' imprisonment. It further notes with concern that, although the law provides for the assistance of a lawyer immediately after arrest, many cases were reported in which that right was not respected during police custody. The Committee therefore recommends that legislation regulating the provision of free legal assistance be reviewed so as to conform with the Covenant and that the implementation of laws and regulations governing the presence and assistance of lawyers be closely monitored.

381. The Committee further notes with concern that civilians may be tried by military courts in certain cases, including betrayal of State secrets, espionage and State security. It recommends that the Criminal Code be amended so as to prohibit the trial of civilians by military tribunals in any circumstances.

382. The Committee notes that Act No. 308/1991 Coll., on freedom of religion and the status of churches and religious societies, and Acts No. 83/1990 Coll., 300/1990 Coll. and 62/1993 Coll., on

the association of citizens, require that churches, religious societies, associations and non-governmental organizations be registered to function freely and/or to receive subsidies from the State. Given that prerequisites for this registration are very restrictive, some churches and religious or other associations are excluded from being legally recognized. The Committee recommends that all necessary measures be adopted in order to amend the relevant legislation so as to bring it into conformity with articles 18 and 22 of the Covenant.

383. The Committee has a number of concerns with respect to freedom of expression under article 19 of the Covenant: (a) article 98 of the Penal Code makes it an offence to “disseminate false information abroad which harms the interest” of Slovakia; this terminology, in the 1996 Code, is so broadly phrased as to lack any certainty and carries the risk of restricting freedom of expression beyond the limits allowable under article 19, paragraph 3, of the Covenant; (b) interference by the Government in the direction of its State-owned television also carries a danger of violating article 19 of the Covenant; and (c) lawsuits for defamation resulting from expressed criticism of the Government poses a similar problem. The Committee recommends that all three aspects be reviewed and any necessary legislation passed to eliminate any such inconsistency with the Covenant.

384. The Committee is concerned at the absence of judicial guarantees with respect to telephone tapping during the pre-trial investigation of crime. It recommends that interception of confidential communications be always subject to control by an independent judicial authority.

385. With respect to article 27 of the Covenant, the Committee notes with concern that no steps have yet been taken to adopt legislation to implement articles 6 (b) and 34, paragraph 2 (b), of the Constitution, on the use of minority languages after the annulment of the 1990 Act on the Official Language, and that, as a consequence, the use of minority languages in official communications is not secured. The Committee recommends that legislation be rapidly adopted to secure language rights for minorities, with due consideration being given to the provisions of the Covenant and to the Committee’s General Comment 23 (50). The Committee is concerned that insufficient provision, in particular in relation to allocation of resources, is made in the field of educational and cultural rights for the benefit of the Hungarian minority.

386. The Committee expresses its regret that certain questions asked during the discussion with the delegation have not been answered, and it requests that additional information be provided to the Committee on the implementation of constitutional provisions relating to human rights, mentioned in paragraph 373; the institutions designed to protect human rights; the relationship between articles 11, 125 and 132 of the Constitution; the right to free legal assistance; the implementation of article 9 of the Covenant in all forms of detention, including detention of asylum seekers; and action to ensure that school textbooks do not contain material tending to promote anti-Semitic and other racist views.

387. The Committee draws to the attention of the Government of Slovakia the provisions of paragraph 6 (a) of the Guidelines regarding the Form and Contents of Periodic Reports from States parties and requests that, accordingly, its next report due on 31 December 2001, contain material which responds to all the present concluding observations. The Committee further requests that the present concluding observations be widely disseminated among the public at large in all parts of

Slovakia.

CCPR A/58/40 (2003)

82. Slovakia

(1) The Committee examined the second periodic report submitted by Slovakia (CCPR/C/SVK/2003/2) at its 2107th and 2108th meetings, held on 17 and 18 July 2003 (CCPR/C/SR.2107 and 2108), and adopted the following concluding observations at its 21st meeting, held on 28 July 2003 (CCPR/C/SR.2121).

Introduction

(2) The Committee has examined the detailed and comprehensive report of Slovakia. The Committee is grateful to the delegation of Slovakia for supplying it with a great deal of information about the implementation of the Covenant in Slovakia.

Positive aspects

(3) The Committee commends the State party for its commitment to following up on the concluding observations of the Committee, in particular through the adoption by the Government of resolution No. 519/1998 tasking individual ministries with following up on recommendations of the Committee and consistent references to the previous concluding observations, both in the second periodic report as well as in the replies to the list of issues.

(4) The Committee welcomes progress made in various areas since the review of the initial report in 1997, and in particular the continuing process of bringing the State party's legislation into harmony with its international obligations. This includes Constitutional Statute No. 90/2001 amending and supplementing the Constitution of the Slovak Republic; amendment of the Criminal Code eliminating the crime of defamation of the Republic and its representatives; amendment of the Labour Code to include non-discrimination principles, including in the area of sexual orientation; and the amendments to the Criminal Code to improve protection of the victim in domestic violence cases.

(5) The Committee welcomes the fact that Slovakia has ratified the Second Optional Protocol to the Covenant.

(6) The Committee welcomes the explanation provided in the report and confirmed by the delegation that the State party interprets succession to mean the continuity of its obligations under the Covenant, including in relation to any cases submitted under the Optional Protocol, irrespective of the date of deposition of the instrument of succession by the State party following the dissolution of Czechoslovakia and the creation of the Slovak Republic.

Principal subjects of concern and recommendations

(7) While welcoming the creation of the institution of Ombudsman and the election of an Ombudsman, the Committee regrets that it has received insufficient information on the nature of the

complaints submitted to and processed by the Ombudsman to enable it to assess the scope and effectiveness of the activities of this new institution.

The State party should ensure the effectiveness of the Ombudsman as an independent monitoring mechanism for the implementation of Covenant rights, particularly in the area of discrimination. It requests the State party to provide the Committee with the annual reports of the Ombudsman when submitting the third periodic report.

(8) The Committee observes that the proposed draft equal treatment law has not been adopted. While noting the information provided by the delegation that existing anti-discrimination laws enable possible instances of discrimination to be addressed, the Committee regrets that the delegation did not provide any statistics on the number of complaints submitted, the grounds for the complaints, as well as the outcomes.

The State party should continue with further measures to ensure the effectiveness of legislation against discrimination. It should also adopt further legislation in fields not covered by the current legislation in order to ensure full compliance with articles 2, 3 and 26 of the Covenant. The Committee urges the State party to establish adequate monitoring and redress mechanisms which provide ready access to individuals, in particular from vulnerable groups.

(9) The Committee is concerned at reports of high rates of domestic violence and regrets that the statistics provided by the State party were inconclusive. While noting some positive steps taken by the State party in the area of legislation, the Committee regrets that the adoption of the National Strategy for the Prevention and Elimination of Violence Committed against Women and in Families has been delayed (arts. 3, 9, 26).

The State party should adopt the necessary policy and legal framework to combat domestic violence; specifically, it should provide a framework for the protection of a spouse who is subjected to violence or threats of violence. The Committee recommends that the Government of Slovakia establish crisis centre hotlines and victim support centres equipped with medical, psychological, legal and emotional support services; in order to raise public awareness, it should disseminate information on this issue through the media.

(10) The Committee notes the efforts made by the State party to address the situation regarding trafficking in women, in particular by adopting a preventive strategy by providing information to potential victims and through international cooperation. However, the Committee notes that it has received only limited statistical information from the State party. It notes that trafficking is an international crime and therefore not only concerns women trafficked out of Slovakia, but also those being trafficked into Slovakia from neighbouring countries (arts. 3, 8).

The State party should strengthen programmes aimed at providing assistance to women in difficult circumstances, particularly those coming from other countries who are brought into its territory for the purpose of prostitution. Measures should be taken to prevent this form of trafficking and to impose sanctions on those who exploit women in this way. Protection should be extended to women who are the victims of this kind of trafficking so that they may have a place of refuge and an opportunity to give evidence against the persons responsible in

criminal or civil proceedings. The Committee encourages Slovakia to continue its cooperative efforts with border States to eliminate trafficking across national borders.

(11) The Committee is concerned about the persistent allegations of police harassment and ill-treatment during police investigations, particularly of the Roma minority, which the delegation described as resulting from psychological failure to handle the situation rather than to problems with legislation or police incompetence (arts. 2, 7, 9, 26).

The State party should take measures to eradicate all forms of police harassment and ill-treatment during police investigations of the Roma, including prompt investigations, prosecution of perpetrators and the provision of effective remedies to the victims.

(12) Despite the oral and written answers provided by the delegation, the Committee remains concerned at reports of forced or coerced sterilization of Roma women. In particular, the Committee regrets that in its written answers submitted after the oral consideration of the report, the State party did not clearly deny or admit breaches of the principle of full and informed consent but asserted that an investigation of maternity wards and gynaecology departments of 12 hospitals did not reveal infringements of “medical indication” of sterilization. The reference made, in the same submission, to “the fact that not all administrative acts were fulfilled in every case” appears to amount to an implicit admission of breaches of the requirement of informed consent (arts. 7, 26).

The State party should adopt all necessary measures to investigate all alleged cases of coerced or forced sterilization, publicize the findings, provide effective remedies to victims and prevent any future instances of sterilization without full and informed consent.

(13) The Committee is concerned at the continuing use of cage-beds as a measure of restraint in social care homes or psychiatric institutions (art. 10).

The use of cage-beds should cease.

(14) The Committee reiterates its concern, expressed in its previous concluding observations, at the fact that civilians may be tried by military courts, albeit in fewer situations than earlier (art. 14).

The State party should continue to revise its laws to the effect of excluding civilians from the jurisdiction of military courts.

(15) The Committee is concerned about the threat by governmental authorities of criminal prosecution of the authors of the publication “Body and Soul”, under article 199 of the Criminal Code, for “spreading false rumours”. While having been assured by the delegation that the Office of the Prosecutor General has dismissed the charges against the authors, the Committee is nevertheless concerned at the impact of the case on the exercise of the right to freedom of opinion and expression, particularly by human rights defenders (art. 19).

The State party should ensure that provisions of the Criminal Code are not used in such a way as to deter individuals from exercising their right to freedom of expression, in particular human rights defenders from carrying out independent research and publishing the results.

(16) The Committee is concerned about discrimination against the Roma. The Committee notes that the delegation has acknowledged the problem and stated that the situation of the Roma is both a short-term and a long-term priority of the Government. The Committee takes note of the measures aimed at improving the situation of Roma in various areas such as employment, health care, housing and education. The Committee also welcomes educational campaigns amongst the general public to attack stereotypes. However, the steps taken by the State party to improve the socio-economic condition of the Roma and to change the attitudes of society vis-à-vis the Roma do not appear to be sufficient, and de facto discrimination persists (arts. 2, 26).

The State party should take all necessary measures to eliminate discrimination against the Roma and to enhance the effective enjoyment of their rights under the Covenant. The State party should also make greater efforts to provide opportunities for Roma to use their language in official communications, to provide readily accessible social services, to provide training to Roma in order to equip them for employment and to create job opportunities for them. The Committee would like to receive full details on policies adopted in this regard and their results in practice.

(17) The Committee reiterates the concern expressed in its previous concluding observations about reports that Roma are often victims of racist attacks, without receiving adequate protection from law enforcement officers. It further notes continued reports of statements by prominent politicians reflecting discriminatory attitudes vis-à-vis the Roma (arts. 2, 20, 26).

The State party should take all necessary measures to combat racial violence and incitement, provide proper protection to Roma and establish adequate mechanisms to receive complaints from victims and ensure adequate investigation and prosecution of cases of racial violence and incitement to racial hatred.

(18) The Committee notes the introduction of programmes such as pre-school grades at elementary schools, the inclusion of Romani language education and the inclusion of teacher's assistant positions for Roma pupils. However, the Committee is concerned about the grossly disproportionate number of Roma children assigned to special schools designed for mentally disabled children, which causes a discriminatory effect in contravention of article 26 of the Covenant.

The State party should take immediate and decisive steps to eradicate the segregation of Roma children in its educational system by ensuring that any differentiation within education is aimed at securing attendance in non-segregated schools and classes. Where needed, the State party should also provide special training to Roma children to secure, through positive measures, their access to education without segregation.

(19) The Committee has taken note of the position of the delegation as to the reasons for the lack of statistical data with regard to the situation of Roma as well as of women. However, the Committee emphasizes the importance of data in assessing the situation in the State party and in addressing possible inequalities and patterns of discrimination. Furthermore, the Committee is concerned at the large discrepancy between official census figures and data provided by non-governmental organizations as to the size of the Roma population in the State party. Such under-reporting may have a significant impact on the position of Roma in public life, including the

exercise of certain rights, for instance under the Minority Language Law (arts. 2, 3 and 26).

While appreciating the complex nature of gathering such data, the Committee urges the State party to take steps to collect, through methods compatible with the principles of data protection, statistical data reflecting the current size of the Roma population, as well as the position of minorities and women in society, including in the workplace, both in the public and the private sectors.

(20) The State party should disseminate widely the text of its second periodic report, the replies provided to the Committee's list of issues and the present concluding observations.

(21) In accordance with article 70, paragraph 5, of the Committee's rules of procedure, the State party should provide within one year relevant information on the implementation of the Committee's recommendations regarding police harassment and ill-treatment during police investigations, forced or coerced sterilization and the results of policies adopted to eradicate discrimination and combat racial violence and incitement. The Committee requests the State party to provide information on the other recommendations made and on the implementation of the Covenant as a whole in its final periodic report, to be submitted by 1 August 2007.