

SLOVENIA

CAT A/55/44 (2000)

189. The Committee considered the initial report of Slovenia (CAT/C/24/Add.5) at its 428th, 431st and 435th meetings, on 12, 15 and 17 May 2000 (CAT/C/SR.428, 431 and 435), and adopted the following conclusions and recommendations.

1. Introduction

190. The Committee welcomes the initial report of the Republic of Slovenia, which, although overdue since 1994, was prepared in accordance with the general guidelines of the Committee.

191. The Committee welcomes the initiation of a constructive dialogue with the State party and thanks the delegation for the additional oral information provided.

2. Positive aspects

192. The Committee notes that, when ratifying the Convention on 15 April 1993, the State party did not make a reservation under article 20 and made the declarations under articles 21 and 22 of the Convention.

193. The Committee expresses its appreciation of the fact that the preparation of the initial report of the State party was done with the assistance of a specialized non-governmental institution.

194. The Committee notes as positive that the Constitution of the State party provides a broad range of norms protecting human rights and fundamental freedoms, including the prohibition of torture.

195. The Committee notes with satisfaction that it has received no information about alleged perpetration of torture, as defined in article 1 of the Convention, in the State party.

196. The Committee welcomes the establishment of the special institution of the Ombudsman for the protection of human rights and notes with interest its effective and responsible work.

197. The Committee notes with satisfaction that legislative provisions guarantee the exclusion of evidence from the record in cases where it was obtained in violation of human rights and basic freedoms.

198. The Committee welcomes the amendment to the Criminal Procedure Act which provides for the provision of mandatory legal assistance to the suspect throughout the period of detention. The Committee further notes as positive the introduction of a number of alternative measures to detention during the preliminary investigation.

199. The Committee welcomes the adoption of the Code of Police Practice.

200. The Committee notes as positive the adoption of rules for the construction, renovation and maintenance of the police detention quarters.

201. The Committee welcomes the establishment of the Bureau for Management and Supervision of the Police, and the Unit for Complaint Investigations in the General Police Directorate.

3. Factors and difficulties impeding the application of the provisions of the Convention

202. After gaining independence in 1991, the State party underwent a profound social, economic and political transition, successfully building a democratic State, which demanded great efforts and which may explain the late submission of the initial report.

4. Subjects of concern

203. The Committee notes the information provided in the report that in order to allow for the sanctioning of crimes of torture, special transfer into Slovenia's positive criminal law of the definition of torture contained in article 1 of the Convention is needed. The Committee further notes that the new Law on the Enforcement of Criminal Sanctions, introducing a new definition of torture, came into force on 23 March 2000. However, the Committee is concerned that such a definition has not been introduced into a criminal code and that substantive criminal law does not yet contain a specific *corpus delicti* torture and therefore is not an instrument for the direct incrimination and appropriate punishment of persons guilty of torture.

204. The Committee expresses its concern with regard to allegations about instances of police ill-treatment of and excessive use of force against members of the Roma population, which has reportedly resulted in severe injuries in some instances.

205. Concern is also expressed regarding allegations about the excessive use of force by the police in connection with arrests.

206. The Committee notes that the Aliens Act as a general rule precludes the expulsion of an alien to a country where he or she would be in danger of being subjected to torture. However, the Committee expresses its concern that article 51, paragraph 2, of the Act, which allows for the derogation from the general rule in cases where a person constitutes a threat to public security, does not respect the State party's obligations under article 3 of the Convention.

207. The Committee is concerned about the sub-standard conditions in which asylum-seekers are housed in the State party.

5. Recommendations

208. Although the Committee welcomes the incorporation of a definition of torture, in accordance with article 1 of the Convention, in domestic law relating to the enforcement of criminal sanctions, the Committee recommends that the State party incorporate the definition also in substantive criminal law.

209. The Committee recommends that the State party take the necessary steps to prevent the misuse of force by the police against members of the Roma population and other minorities, particularly, in connection with arrests and detention.

210. The Committee recommends that the State party consider amending the legislation which permits the expulsion of an alien to a country where he or she would be in danger of being tortured, i.e. expulsion justified by the individual being a threat to public security, so that it meets the conditions required by article 3 of the Convention.

211. As a matter of priority, the Committee urges the State party to take all necessary measures to ensure that asylum-seekers are housed in conditions that comply with the requirements of article 16 of the Convention.

212. The State party is invited to submit its second periodic report by 14 August 2001.

CAT A/58/44 (2003)

111. The Committee considered the second periodic report of Slovenia (CAT/C/43/Add.4) at its 356th and 359th meetings (CAT/C/SR.356 and 359), held on 5 and 6 May 2003, and adopted the following conclusions and recommendations.

A. Introduction

112. The Committee welcomes the timely submission of the second periodic report of Slovenia in accordance with the Committee's request, and the opportunity to continue its dialogue with the State party.

113. While noting that the report covers the period from May 2000 to March 2001, the Committee appreciates the update provided by the delegation of Slovenia during the consideration of the report and the detailed answers to the questions raised by the Committee.

B. Positive aspects

114. The Committee welcomes the ongoing efforts by the State party to reform its legal system and revise its legislation so as to strengthen human rights in Slovenia. In particular, the Committee welcomes:

(a) The inclusion in the State party's report of findings of the Human Rights Ombudsman of Slovenia, which were often critical of the Government, and notes the important role of this institution in the promotion and protection of human rights in the State party;

(b) The decision of the Supreme Court adopted in December 2000, which limits the duration of remand in custody to two years;

(c) The Rules on Police Powers introduced in June 2000 which provide detailed regulations governing the limits of police powers in official contacts with individuals;

(d) The amendments to the Aliens Act and the Asylum Act, thereby bringing domestic legislation into line with article 3 of the Convention, as recommended by the Committee during the consideration of the initial report;

(e) The decision of the Government adopted in 2003, according to which all government ministries should cooperate closely with NGOs in the preparation of legislation and by-laws that touch upon human rights and freedoms in any way;

(f) The "Hercules" special programme conducted by the Supreme Court of Slovenia and introduced in 2001, aimed at reducing and eliminating court backlogs;

(g) Efforts undertaken by the State party in the sphere of educational and training activities in order to familiarize policemen and recruits participating in in-service training with international human rights standards, including the prevention of torture.

C. Subjects of concern

115. The Committee expresses concern about the following:

(a) Substantive criminal law does not contain a specific crime of torture, which, although referred to in the Criminal Code, remains undefined;

(b) Torture is subject to a statute of limitation; the period of limitation pertaining to acts of ill-treatment other than torture is too short;

(c) Reports concerning the lack of an independent system to investigate complaints and allegations of ill-treatment promptly and impartially;

(d) Allegations of excessive use of force by the police, especially against members of ethnic minorities, continue. The Committee regrets the fact that disaggregated statistical data in this respect are not available from the State party;

(e) There is no adequate legal guarantee of the right of persons deprived of liberty to have access to a doctor of their choice from the outset of their custody. The Committee notes article 74 of the Rules on Police Powers that makes provision for medical assistance, but considers that this is not sufficient as a safeguard against ill-treatment and torture;

(f) There is no code of conduct for police interrogations to supplement the provisions of the Code of Criminal Procedure and the Police Act, with a view to preventing cases of torture and ill-treatment, as required by article 11 of the Convention;

(g) Overcrowding in prisons and other places of detention continues, despite the slight decrease noted in 2002.

D. Recommendations

116. The Committee recommends that the State party:

(a) Proceed promptly with plans to adopt a definition of torture which covers all the elements of that contained in article 1 of the Convention and amend its domestic penal law accordingly;

(b) Repeal the statute of limitation for torture and extend the limitation period for other types of ill-treatment;

- (c) Take measures to establish an effective, reliable and independent complaints mechanism to undertake prompt and impartial investigations into allegations of ill-treatment or torture by police and other public officials and to punish the offenders;
- (d) Strengthen existing efforts to reduce occurrences of ill-treatment by police and other public officials, in particular that which is ethnically motivated, and, while ensuring protection of individual privacy, devise modalities for collecting data and monitoring the occurrence of such acts in order to address the issue more effectively. The State party is encouraged to include such information in its third periodic report;
- (e) Strengthen the safeguards provided in the Code of Criminal Procedure against ill-treatment and torture and ensure that, in law as well as in practice, all persons deprived of their liberty are guaranteed the right to have access to an independent doctor. Privacy of medical examinations should be ensured;
- (f) Continue efforts to address overcrowding in prisons and other places of detention in accordance with, inter alia, the recommendation in this respect made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in its report on Slovenia (CPT/Inf(2002)36);
- (g) Widely disseminate the reports submitted by Slovenia to the Committee and the conclusions and recommendations, in appropriate languages, through official web sites, the media and non-governmental organizations.