



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

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Summary record of the 987th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 11 May 2011, at 3 p.m.

Chairperson: Mr. Grossman

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The meeting was called to order at 3.05 p.m.

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

Third periodic report of Slovenia (continued) (CAT/C/SVN/3; CAT/C/SVN/Q/3 and CAT/C/SVN/Q/3/Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Slovenia took places at the Committee table.*
2. **The Chairperson** invited the delegation of Slovenia to reply to the questions raised by Committee members at the previous meeting.
3. **Mr. Škrlec** (Slovenia) said that there was no substantive difference between the wording of article 265 of the new Criminal Code, which referred to the “violation of equal status”, and the term “discrimination” as used in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Article 297 of the Criminal Code also provided for the offence of violating the right to equal status. The Constitution of the State party, in which the word “discrimination” did not appear, employed only affirmative terminology and the wording of the Criminal Code took its cue from that of the Constitution. The principle of the self-executing nature of ratified international conventions was guaranteed under article 8 of the Constitution. Of course, such conventions had to be transposed into domestic law in order to be rendered operational.
4. With regard to the automatic dismissal of charges in cases where there was a breach of the right of defence, that right was safeguarded by the system of the exclusion of evidence obtained by illegal methods, especially where those methods constituted a violation of human rights. That system was being refined and afforded greater protection than article 15 of the Convention or the European Court of Human Rights.
5. The State party’s Criminal Code did not provide for the offence of torture with the death of the victim as an aggravating circumstance. In such cases, the perpetrator would be charged with torture and also with murder or manslaughter, depending on the circumstances of the case and criminal intent of the perpetrator.
6. **Mr. Pavlin** (Slovenia) said that, since the introduction of a specific offence of torture under the Criminal Code in November 2008, there had been no compensation claims under civil law specifically related to torture. On the other hand, compensation claims had been filed against the State in relation to the actions of law enforcement officials. In 2009, 46 claims had been filed against the police, resulting in total awards of €1,476,000 in damages. The basis for such compensation claims was article 26 of the Constitution on the general liability of the State for the actions of its officials.
7. **Ms. Gregori** (Slovenia) said that, in line with the ruling by the Constitutional Court of 2003, the Ministry of the Interior had again started to issue complementary decisions with retroactive effect on “the erased” in February 2009, adding 2,332 such decisions to the 4,034 issued in 2004. The Act amending the Act Regulating the Legal Status of Citizens of the Former Socialist Federal Republic of Yugoslavia Living in the Republic of Slovenia had entered into force in July 2010 after the Constitutional Court had ruled calls for a referendum on it inadmissible. The Court had further ruled that the Act properly regulated the situation of children of “the erased”. In so doing, it had established that the Act provided an adequate legal basis for the regulation of the status of all citizens of countries of the former Socialist Federal Republic of Yugoslavia whose names had been erased from the Permanent Population Register.
8. Under the Act, eligible persons had three years in which to apply for permanent residence permits. Permits could also be acquired by persons not residing in Slovenia if

their absence could be justified, for instance because they had left Slovenia as a consequence of their names having been erased from the population register.

9. The Government was aware of the importance of informing “the erased” and the general public of the details of the Act. A straightforward brochure on the Act had therefore been made available at all the administrative units in Slovenia responsible for dealing with “the erased” and at the State party’s diplomatic and consular offices in countries that had made up the former Socialist Federal Republic of Yugoslavia. The brochure, which had also been distributed to NGOs dealing with “the erased”, explained the application procedures and conditions for obtaining residence permits as well as providing information on retroactive complementary decisions. Information was also available in six languages on the websites of the Ministry of the Interior and the Ministry of Foreign Affairs. The Ministry of the Interior had also provided guidelines and training to the relevant administrative staff.

10. Addressing concerns that the International Protection Act might not be compliant with international standards, she said that amendments made to the Act in late 2010 had been aimed at strengthening the rights of applicants for international protection and of those persons who had already acquired such protection. Their rights to access to adequate housing, financial assistance, education, health care and legal aid were guaranteed under the amended Act.

11. Non-refoulement was an underlying principle of the Act, which regulated the situation of applicants for international protection and of residents in Slovenia with protected status. Articles 78 and 89 of the Act established their right to reside in Slovenia and that they could not be expelled from Slovenia under any pretext. Persons whose applications were rejected or whose refugee status was revoked became aliens. Their situation was regulated by the Aliens Act, under which the principle of non-refoulement was enshrined in article 51. Aliens whose deportation would be contrary to the non-refoulement principle could apply for temporary leave to remain in the country, which could be extended for as long as the conditions prohibiting return persisted.

12. The Act limited accelerated application procedures to specific cases. Applicants under the accelerated and normal procedures benefited from the same protective measures and entitlements and legal aid was provided to them free of charge. Applicants were entitled to appeal against decisions of the Ministry of the Interior within eight days before the Administrative Court, and could challenge decisions of that court before the Supreme Court. It was also possible to file complaints with the Constitutional Court. Decisions of the Supreme Court were final, meaning that the applicant could then be deported, except where the principle of non-refoulement applied. The number of accelerated procedures had fallen significantly in comparison with normal procedures in the previous two years.

13. Turning to the issue of special care for child asylum-seekers, she said that unaccompanied minors, single women and women with children were entitled to separate accommodation and special facilities. A programme of assistance to vulnerable people with special needs had been in place in asylum-seeker centres since 2006 and was co-financed by the European Refugee Fund. It was aimed especially at youth with special needs and unaccompanied minors. Younger children received preschool education in the centres and older children went to Slovene schools, and all children had the same access as Slovenes to health care.

14. Applications for international protection under the accelerated process, including appeals, took an average of 150 days to process, as opposed to 570 days under the normal procedure. Persons not permitted to enter the Schengen area who declared their intention at the border to apply for international protection were entitled to enter Slovenia in order to do so. It should be noted that Slovenia was essentially a transit country for asylum-seekers.

Few applications for asylum were made in the State party and about half the application procedures launched were not completed because applicants moved on to other countries. Of procedures completed in 2009 and 2010, 19 per cent and 18 per cent respectively had been approved, in line with European Union averages.

15. Victims of human trafficking were apprised by the police and specialized NGOs of their right to apply for international protection and the option of receiving legal status under the Aliens Act. Under a project run in conjunction with NGOs, asylum-seekers were interviewed by specialists in an effort to identify possible victims of human trafficking and to take the appropriate protection measures.

16. Procedures were in place to identify and protect asylum-seekers who had been victims of sexual and gender-based violence. They were jointly administered by the Ministry of Justice, the United Nations High Commissioner for Refugees and NGOs.

17. **Mr. Vrabec** (Slovenia) said that there was virtually no backlog of criminal cases in Slovenian courts and that the Lukenda project had been largely successful. However, a tightening of the definition of what constituted a court backlog meant that the phenomenon had not been completely eliminated by the end of 2010. Legislative changes since 2008 meant that, while 18 months had been considered a reasonable period for certain types of case in 2008, that period had been reduced to just 6 months in 2010.

18. In addition, the number of new cases had risen steadily in the previous few years. In 2009 alone, the courts had received nearly 1 million new cases, the highest number in 20 years and a 20 per cent increase on the previous year. The increase, given that Slovenia had a population of 2 million, was truly shocking and had been triggered largely by the global economic and financial downturn. Bankruptcies and labour law cases had multiplied as a result, but it was also true that Slovenians had a tendency to be litigious: even the most minor cases could be taken through all appeal stages and on to the Constitutional Court. Legislation had been passed recently to limit the use of extraordinary legal remedies and efforts had been made to promote alternative methods of dispute resolution.

19. The growing efficiency of the Slovene justice system was amply demonstrated by the fact that, between 1998 and 2010, the number of resolved cases had risen by 62 per cent. The number of cases remaining unresolved at the end of 2010 was half the number for 1998. More importantly, the time taken to resolve cases had fallen from an average of 14 months in 1998 to 6 months in 2009, and from 22 months to 9 months for major cases.

20. In 2004, more than 40 per cent of cases that made up the judicial backlog had been related to land registry matters. As a result of computerization, the number of unresolved cases had dropped by almost 80 per cent since 2003. The average time taken by the courts to resolve land registry cases had fallen from almost 18 months in 2001 to the current level of less than 45 days.

21. Civil enforcement procedures currently accounted for approximately two thirds of the judicial backlog. A fully automated central department had been set up recently and worked exclusively in electronic form, enabling it to resolve 90 per cent of enforcement cases involving authentic documents within five days. It was therefore expected that the backlog in enforcement cases would decrease sharply. The project had been a finalist for the Council of Europe's Crystal Scales of Justice award in 2010.

22. **The Chairperson** asked how many petitions for residence had been submitted by "the erased" and of those applications how many had been granted, rejected or remained pending. How many asylum applications had been denied under the accelerated procedure, and how many had been rejected under the normal procedure? Why had as many as a million legal cases been filed, and how many individuals were involved in those cases?

23. **Ms. Gregori** (Slovenia) said that according to the most recent statistics, published on 2 May 2011, 155 applications for residence permits had been lodged by persons who had been erased from the Register of Permanent Residents. Of those applications, 26 had resulted in the granting of residence permits, 79 were still pending and 50 had been rejected, dismissed or stopped. Of the applicants who had applied for residence permits before the entry into force of the amendment of the Act Regulating the Legal Status of Citizens of The Former Socialist Federal Republic of Yugoslavia Living in the Republic of Slovenia, 60 had been granted residence permits. In 2009, there had been 25,000 people on the register of erased persons. Supplementary decisions had been issued for 6,300 people in 2003, who had been granted legal residence status in Slovenia. The deadline for applying for residence was 24 February 2013, by which time the Government would be able to report the total number of applications. In 2010, 120 asylum applications had been rejected and 27 applications had been dismissed.

24. **Mr. Vrabc** (Slovenia) explained that not all of the 1 million cases filed had been or would be heard by the courts. Two thirds were civil enforcement cases, and one fifth related to the land register. The number of court cases also included corporate cases.

25. **Mr. Mariño Menéndez** (First Country Rapporteur) asked whether Slovenian law differentiated between protection for asylum-seekers and protection for other individuals applying for permanent residence.

26. **Ms. Gregori** (Slovenia) said that the amended International Protection Act provided for the granting of international protection, which constituted permanent refugee status in line with the Geneva Conventions. Subsidiary protection, which could also be granted under that Act and in line with directive 2008/115/EC of the Council of Europe, could be granted for a period of three years, with the possibility of an extension if circumstances so required. Subsidiary protection would be granted if the applicant faced torture or execution on return to his or her country of origin. Under the new Aliens Act, illegal aliens in Slovenia would be returned to their country of origin. Article 51 of the Act contained a non-refoulement clause, pursuant to which an illegal alien could not be returned if there was a danger of torture or execution upon return. In 2009, of the 202 refugee applications submitted, 50 per cent of applicants had left Slovenia before their applications had been considered, and of the remaining applications 20 had been granted refugee status. In 2010, 246 applicants had applied for refugee status, 120 of whom had left Slovenia before their applications had been considered, and 23 of whom had been granted refugee status or subsidiary protection.

27. **The Chairperson** asked whether Slovenian legislation referred to “illegal” or to “undocumented” aliens.

28. **Ms. Gregori** (Slovenia) confirmed that Slovenian legislation, in line with directives of the Council of Europe, referred to “illegal” aliens.

29. **Mr. Čurin** (Slovenia) said that trafficking in persons, enslavement and sexual exploitation were defined as criminal offences under articles 113, 112 and 175 respectively of the Criminal Code. In 2010 complaints had been filed against 5 suspects of trafficking in persons, in comparison with only 1 complaint in 2009, and against 7 suspects of sexual exploitation, in comparison with 12 in 2009. In 2010, two perpetrators of trafficking in persons had been convicted and sentenced to deprivation of liberty. A number of pending cases had been completed in 2010, and seven convictions had been made for sexual exploitation. In 2009 two convictions had been made for trafficking in persons and sexual exploitation. The convicted parties had been sentenced to deprivation of liberty, fined and stripped of the proceeds of their offences.

30. **Mr. Kropc** (Slovenia) said that arrests came exclusively under the competence of the civil police. Deprivation of liberty was regulated by the Criminal Procedure Act, the

Minor Offences Act and the Police Act. In order to ensure that they were recorded properly, all arrests must be reported by radio to the officer on duty at the relevant police station or the operations and communications centre. In complex cases, a special arrest plan must be prepared by the officer in charge. All follow-up procedures were conducted by the civil police in cooperation with the other competent authorities.

31. Regarding police custody, he said that remand in custody began from the moment the arrest was pronounced. Those remanded in custody remained under police supervision at all times. The officer on duty was responsible for guaranteeing that the arrested person was informed of and able to enjoy his or her rights. Internal regulations governing the exercise of police powers listed the obligations of the officer supervising detention. Those regulations had been published in the Official Gazette. Detention procedures were scrutinized by the Human Rights Ombudsman and relevant NGOs. The Ombudsman had issued a special brochure on detainees' rights, which was available at police detention facilities.

32. The arresting officer did not interrogate the person arrested. All suspects being questioned by the police must be informed of their right to legal counsel. Counsel must be present within two hours. If a suspect chose not to contact a lawyer, questioning would proceed, but the suspect had the right to request the presence of a lawyer at any time, in which event the questioning would be interrupted for up to two hours pending the arrival of legal counsel. The Criminal Procedure Act provided for audio-visual recording of police interrogations, and the appropriate equipment had been installed in police questioning facilities. The regulations on police questioning had been amended to recommend recording.

33. Human rights protection was part of regular police training, which included three hours per year of human rights education provided by the Human Rights Ombudsman. The reduction in the number of complaints filed against police officers was testament to the effectiveness of that training. In 2010, 666 complaints had been filed against police officers, 626 of which had been unfounded. The Slovenian Code of Police Ethics was due to be revised and renamed the Code of Police Ethics and Human Rights.

34. Statements made before the police were not considered evidence in a court of law unless recorded as part of an interrogation conducted by the police in line with article 148 of the Criminal Procedure Act. Most suspects, even in the presence of a lawyer, chose to remain silent. Brochures were available in several languages to inform suspects about the conditions of deprivation of liberty, and posters detailing suspects' rights were displayed in all police detention facilities.

35. Although the recommendations of the Istanbul Protocol were not applied as such, the majority of them were implemented through other mechanisms. A special prosecution department had been established, which was responsible for investigating complaints against the police, in order to guarantee that all allegations of misconduct by police were processed by an independent and unbiased authority.

36. In response to recommendations made by the Subcommittee on Prevention of Torture, the standards in police detention facilities had been improved. Information about the number of vacancies in remand facilities was available online, and could be consulted by police officers on duty and by the Human Rights Ombudsman. Police officers received eight hours of compulsory training per month given by a police instructor and based on case studies of complaints, situational training and training in martial arts. Police officers' skills and competence were regularly assessed, and officers who had not received adequate training must pass an examination, which, if failed twice, could result in their being dismissed from duty.

37. Witness protection was governed by the Witness Protection Act, which provided for protection during and after criminal proceedings. Inclusion in the witness protection programme was voluntary and based on the written consent of the person at risk, and a decision by the competent authority.

38. There were no cases of discrimination against the Roma committed by the police. The police were trained to work with mixed ethnic groups, and were provided with Roma language courses. There were between 70 and 90 police officers in Slovenia who spoke the Roma language, and a specialized Roma dictionary for the police had been published.

39. On 19 May 2010 a large crowd of young people had protested in front of Parliament. The police had decided to remove the most violent individuals from the crowd, using the mildest means possible. Minimal restraints had been used, and there had been no injuries. None of the protesters had filed complaints against the police.

40. **Mr. Valentinčič** (Slovenia) said that the situation of overcrowding in detention facilities had improved over the past three years owing to amendments to legislation, which provided for increased use of alternative sanctions as well as the expansion of existing prison facilities. Although the total prison population had decreased by 8 per cent since 2009, on average prisons were still overcrowded by 17 per cent in excess of their official capacity. The standards for prison capacity were, however, relatively high, with single cells measuring 9 square metres, and shared cells providing 7 square metres per inmate. Convicts would be transferred to newly opened wings in existing prisons, and a new prison would be built in the coming five years.

41. Further measures had been introduced to improve living conditions in Ljubljana Prison, including more time outside the cell and more frequent sports and telephone calls. In addition, the Government was introducing alternatives to prison sentences, including for instance by expanding opportunities for community service, introducing new forms of house arrest and broadening the scope of the weekend prison scheme.

42. Under article 12 of the Penal Sanctions Enforcement Act, the prison governor could allow convicted persons who met certain statutory conditions to continue their regular employment or education and reside at home, except for two to three days per week, when they must stay in prison. The reintegration of convicted persons into society was easier and more successful under such circumstances. The number of weekend prisoners had doubled since 2008, with good results and no abuses recorded.

43. With regard to suicide in prisons, all new prison officers received obligatory initial training on a broad range of practical and theoretical aspects of suicide. During the past two years, prison officers and other personnel involved in the treatment of suicidal inmates throughout the prisons system had participated in two intensive 54-hour training courses, with a focus on case studies. Participants had then formed a supervision team, headed by an expert and representative of all prisons, to exchange information on good practices.

44. In addition, a number of suicide prevention measures were in place. All new inmates were required to undergo an initial suicide risk assessment on admission to prison. Considerable efforts were made to find suitable accommodation for suicidal inmates, taking into consideration appropriate cellmates and levels of supervision and monitoring. Moreover, such inmates were allowed additional calls, visits, fresh air time and supervised activities and had access to crisis intervention, physicians, psychiatrists and, as appropriate, hospitalization. Good communication with staff and respectful treatment were of great importance, as was a low ratio of treatment staff to inmates.

45. The prisoner who had committed suicide by hanging at Dob Prison in 2008 had served 4 years of his 10-year sentence. He suffered from numerous health problems, including diabetes and mental illness, for which he received regular treatment. He had been

placed in a patient department with a relatively open regime and had hanged himself in the smoking room. The investigation had concluded that the cause of death had been asphyxiation, with no sign of violence. Staff had been surprised by the suicide and had discussed it at length. Despite the best effort of staff, it proved difficult to provide the right level of supervision over a long period.

46. Psychiatric care for inmates had improved since 2008, when health legislation had been amended to allow all inmates the same access to public health services as citizens with compulsory health insurance. In 2009, prison infirmaries had become part of the public health network, staffed by external experts. Every prison now had its own infirmary and a psychiatrist, who monitored and, as appropriate, referred inmates for examination or hospitalization. Most importantly, the special forensic psychiatric hospital project had been agreed by the Ministry of Justice and the Ministry of Health and would be established at the University Medical Centre in Maribor by the end of 2011.

47. **Mr. Škrlec** (Slovenia) said that prison overcrowding was being addressed by improving and expanding existing prison facilities and by introducing alternative sanctions, such as weekend prison. In addition, the Criminal Code was being amended to facilitate the use of fines as an alternative to prison sentences in criminal cases. Health care in prisons was an important issue, but the situation had considerably improved since prisoners had been covered by the public health-care system. The forensic psychiatric department would provide a complete solution for prisoners suffering mental illness, in that it would make their life easier and ensure better results.

48. **Ms. Curk** (Slovenia) said that under the Ratification Act, whereby Slovenia had ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the tasks of the national preventive mechanisms for the prevention of torture at the domestic level were performed by the Human Rights Ombudsman and, with his agreement, by national non-governmental and humanitarian organizations. Non-governmental organizations were selected on the basis of a call for applications, which was published in the Official Gazette, and the reimbursement and reward of such organizations was regulated by the Ombudsman.

49. Corporal punishment was prohibited under article 135 of the Criminal Code; furthermore, the proposed Family Code included a general prohibition of corporal punishment.

50. Although the Human Rights Ombudsman could lodge a constitutional complaint on behalf of an aggrieved person, subject to consent, that had happened only once and not in a case related to torture. Such recourse was rare because the Constitutional Court was very accessible. However, the Ombudsman had contested a number of laws in the Constitutional Court, claiming that they violated human rights and fundamental freedoms.

51. The right to equality in judicial proceedings enshrined in article 22 of the Constitution had been consistently and intensively developed through the case law of the Constitutional Court, which was respected by the lower courts. The Constitutional Court could review any infringement of that right through a constitutional complaint and annul the judgements of lower courts.

52. The Constitution protected the right to ethnic identity and privacy of information; it was therefore not possible to gather data on the ethnicity of either victims or perpetrators of criminal offences. Moreover, the legal system favoured human rights to the extent that it was not possible to produce personality profiles. An independent survey conducted by non-governmental organizations had found no evidence of discrimination against Roma by the Slovenian law enforcement and justice system – indeed, the findings indicated a slight bias in their favour. No complaints of discrimination on grounds of ethnic origin had been

registered with the Human Rights Ombudsman since the office had been established in 1994.

53. Finally, the Slovenian Criminal Code provided that in determining sentences, the courts must consider all relevant circumstances, including the motive for the offence, such as racial or other forms of hatred. In addition, it specifically provided for a harsher penalty for murder if committed in breach of equality.

54. **Ms. Vouk-Železnik** (Slovenia), referring to corporal punishment and family and domestic violence, said that the Family Violence Prevention Act adopted in 2008 provided special protection for children from domestic violence. However, the new Family Code prohibited any form of corporal punishment by parents or any person responsible for the care of the child. The Government had co-financed a publication opposing corporal punishment with the Slovenian Association of Friends of Youth and had participated actively in preparing the Council of Europe recommendation on positive parenting.

55. Slovenia had drafted a resolution on the prevention of domestic violence and a two-year action plan for the prevention of family violence. An expert council within the Ministry of Labour, Family and Social Affairs drafted secondary legislation and reviewed implementation of the Act. In addition, 12 regional coordinators appointed by the Ministry organized, assisted and maintained a network of providers and programmes on family violence.

56. The statistics of social work centres indicated that in 2010 some 290 elderly persons had been victims of domestic violence. Social work centres offered a range of services in such cases and a free anonymous telephone line had been set up for that group.

57. **Ms. Čobal** (Slovenia) said that there had been two suicides on the premises of Ljubljana Psychiatric Clinic over the previous four years. A further two patients, who were not in the closed part of the unit, had committed suicide whilst outside the clinic. The law required that the police or investigating magistrate must be informed of every case of suicide and that the Institute for Forensic Medicine must issue a forensic pathology certificate; in both of the suicide cases that had occurred on the premises of the clinic, those requirements had been met and it had been concluded that there had been no suspicious circumstances or grounds for further investigation. In all four cases, an internal investigation had been conducted, which had determined that the persons concerned had received appropriate treatment and that the suicides could not have been prevented.

58. The Mental Health Act of 2008 sought to protect the dignity, human rights and fundamental freedoms of persons with mental disorders, in accordance with the Council of Europe recommendation on that issue, and provided for special protection for persons subject to involuntary placement or treatment. A fundamental principle of the Act was the principle of least restriction, which meant that patients could be moved to less restrictive environments in accordance with their health needs. Moreover, the Mental Health Act was the legal framework for the treatment of persons with mental health difficulties in their local community.

59. Special protection measures, such as physical restraints or confinement to one room, could be prescribed only by a physician, or in emergencies by medical staff, who were required to inform a physician, and then only for extremely limited periods of time. At Ljubljana Psychiatric Clinic, nurses and medical technicians received special education on the use of such measures in accordance with clinical guidelines and the Mental Health Act and all staff were required to demonstrate on an annual basis that they met the required standard.

60. Special medical treatments, defined in article 9 of the Mental Health Act, were administered on an exceptional basis and only in psychiatric hospitals. Although the Act

specified a range of special medical treatments, including lobotomy or hormonal treatment, such treatments were not actually applied in Slovenia: it was therefore logical that there were no complaints about their use. If they were to be used, it would be on the basis of medical necessity and informed consent. Her delegation had no information regarding the enforced sterilization of Roma women, or of any other group. Enforced sterilization did not occur in Slovenia and involuntary hospitalization could occur only if all the conditions set out under article 39 were met.

61. **Mr. Mariño Menéndez** (First Country Rapporteur) said he would like more information on how the statements of persons detained by the police when their detention was not registered were used and whether they were important to the proceedings. In addition, he requested an explanation of the ethnic distinction drawn in a document submitted by the Council of Europe Commissioner for Human Rights to the universal periodic review regarding Slovenia, in which he expressed concern at discrimination between autochthonous and non-autochthonous Roma. He wondered whether such a distinction was made and, if so, whether it was reflected in Slovenian law.

62. **Mr. Wang Xuexian** (Second Country Rapporteur) said he would like to suggest that the functions of the Human Rights Ombudsman could be broadened to include the promotion of human rights. In addition, he wished to know whether the victims of human trafficking received any form of compensation. He welcomed the establishment of a special department for independent investigation, as the Committee had previously recommended that Slovenia strengthen that mechanism. It had done so in the wake of a case in 2003, in which police had alleged that a man whom they had stopped had hit himself against a car, sustaining self-inflicted injuries to his lip and a broken tooth, and in which the investigation had been inconclusive. Slovenia was to be commended for its good practices, such as the weekend prison regime, and the policy of training and testing staff.

63. **Mr. Bruni** said that he would like further information on the urgent measures to be taken in five specific Slovenian prisons, rather than on the phenomenon of overcrowding as such, because it was apparent from the statistics that despite the reform measures those prisons had remained overcrowded from 2006 to 2010 and the situation was urgent.

64. In addition, he asked whether statistical information covering complaints from detainees was available, as such information could indicate whether the training given to police officers on lawful and professional conduct in interrogations was effective.

65. **The Chairperson** noted that the Commissioner for Human Rights of the Council of Europe had urged the Slovenian Government to abolish the use of the terms “autochthonous” and “non-autochthonous” and had encouraged the authorities to pursue consultations relating to the enactment of a specific law devoted to the rights of the Roma. He had further urged the authorities to do their utmost to actively assist Roma who were entitled to citizenship but had not yet obtained it. The European Commission against Racism and Intolerance had called on Slovenia to combat prejudice against and stereotyping of the Roma more actively, especially in cases that were translated into manifestations of discrimination and incitement to hatred. He invited the delegation to comment on those recommendations.

66. According to the delegation, harsher penalties were imposed in the case of homicide when the crime was committed in breach of equality. He asked whether they could cite any judgement concerning the murder of a member of the Roma community or of some other minority in which the court had found the offender to be in breach of equality. He gathered that the legislation against hate crime was confined to cases of homicide.

67. The State party claimed that, according to one NGO, the judicial system actually favoured minorities. Could the delegation identify the NGO in question?

68. **Ms. Sveaass** asked whether the compensation awarded to victims of human trafficking or other forms of abuse included health-care or rehabilitation measures. Had there been any cases of asylum-seekers or refugees who had sought to file complaints of torture against their country of origin? She welcomed the information that electroconvulsive therapy was almost non-existent in Slovenia, as well as the statistics on detention procedures involving compulsory psychiatric hospitalization. However, she was somewhat puzzled by the very small number of complaints regarding such restraint measures.

69. **Mr. Škrlec** (Slovenia) said that all arrests were registered, regardless of whether they were planned or executed in cases of *flagrante delicto*. With regard to statements made to police by suspects in criminal proceedings, according to the Code of Criminal Procedure information given to the police in an interview after suspects had been informed of their Miranda rights were of no evidentiary value in a court of law. Statements made during an official interrogation under article 148 of the Code were made in the presence of defence counsel and had some procedural value, but in more than 90 per cent of cases suspects exercised their right to remain silent.

70. **Mr. Bardutzky** (Slovenia) said that the Constitution, as interpreted by the Constitutional Court, guaranteed equal rights to autochthonous Roma. Such rights were exercised, for instance, in the area of political representation in local communities. All members of the population enjoyed the right to express their cultural identity and to use their native language. The distinction between autochthonous and non-autochthonous Roma was unrelated to the question of citizenship. In its July 2010 judgement in the *Kurić and others v. Slovenia* case, a Chamber of the European Court of Human Rights had found that Slovenia had given rise to statelessness in the case of “erased” persons. Slovenia had appealed and the judgement was to be reviewed by the Grand Chamber. He knew of no case in which a member of the Roma community had complained of statelessness.

71. **Mr. Pavlin** (Slovenia) said that very detailed registers had been kept in the entire area of the former Yugoslavia since the 1980s. It was virtually impossible to live in any of the countries concerned as a stateless person. On the question of hate crimes, he read out article 141 of the Criminal Code concerning violations of equal status and article 297 on public incitement to hatred, violence or intolerance.

72. With regard to statistics on ethnicity that might be used to identify the motive for a criminal offence, he argued that it would be improper for members of the police or the judiciary to question victims or perpetrators about their ethnicity. Statistics regarding convicted offenders were another matter. The NGO that had undertaken a study of the Roma community was mentioned in footnote 2 to the replies of the Slovenian Government to the list of issues (CAT/C/SVN/Q/3/Add.1). The study was entitled “Equality and discrimination, contemporary challenges for the justice system”.

73. The compensation awarded to victims of human trafficking or other forms of abuse rarely included provisions for health care or rehabilitation, because the victims normally received assistance for physical or mental ailments under the public health system. However, if they suffered persistent health problems, the offender might be required to pay a long-term monthly or annual fee. There was also a special scheme for European Union nationals who were victims of violent crime. It was based on relevant European Union guidelines.

74. **Mr. Hočevar** (Slovenia) said that the Human Rights Ombudsman was mandated under the Constitution and the Human Rights Ombudsman Act to monitor public institutions and officials. As the mandate failed to cover the private sector, the Government had recently approved a study of the institutional structures required to address cases of discrimination and xenophobia in both the public and private sectors. Unfortunately, the

Council of Europe had closed down its Information and Documentation Centre in Ljubljana on account of financial problems. The Centre had played an important promotional role in the area of human rights. The Ministry of Foreign Affairs now planned to establish a centre for human rights, which might be attached to the Ombudsman's Office.

75. With regard to the role of NGOs in the preparation of national human rights reports, he said that five representatives of civil society organizations were about to be appointed to the Government's interdepartmental Commission on Human Rights. The other members represented different ministries and departments. The Commission discussed every draft report as well as all legislation concerning human rights.

76. **Mr. Škrlec** (Slovenia) said that the case mentioned by Mr. Wang Xuexian graphically illustrated the changes that had occurred since 2003. A different approach would currently be adopted to the investigation of such an incident. A specialized department of the Public Prosecution Service would conduct an impartial investigation that would lead to an entirely different conclusion.

77. **Mr. Valentinčič** (Slovenia) said that the entire prison population of Slovenia amounted to about 1,300 detainees. The question of occupancy and overcrowding was complicated by the fact that different facilities were required for women, men, juveniles, inmates serving short and long sentences, and remand prisoners. Two facilities that were not overcrowded were Radeč Correctional Home for juveniles and Ig Prison for women. Only two prisons were seriously overcrowded: Dob Prison for inmates serving sentences of up to 18 months and Ljubljana Prison's remand wing. Additional staff had been assigned to Ljubljana Prison and convicted prisoners were transferred on a daily basis to other locations. He emphasized that standards were nonetheless relatively high and each inmate of Ljubljana Prison was guaranteed a minimum living space of 4 square metres.

78. **Mr. Bruni** warned that if no serious action was taken, the situation would become untenable and prison insurrections might ensue.

79. **Mr. Škrlec** (Slovenia) said that a new facility for some 245 inmates would be opened during the current year.

80. **Mr. Krope** (Slovenia) said that the number of complaints concerning the police had declined from 59 in 2009 to 40 in 2010. The use of force, tear gas, batons and physical restraints by the police had also decreased. Firearms had not been used on any occasion in 2010.

81. **Ms. Čobal** (Slovenia) said that she was unable to account for the lack of complaints regarding detention procedures involving compulsory psychiatric hospitalization. However, two pieces of legislation had been enacted in 2008 concerning patients' rights and mental health. The former simplified procedures for resolving disputes between patients and health-care professionals. The Mental Health Act had established a mental health advocacy service. When the service was fully implemented, the number of complaints lodged was likely to increase. The staff, who were appointed by the Ministry of Labour, Family and Social Affairs, had attended a training course in 2010 and had begun work in 2011. The possibility of transferring the service to the Ombudsman's Office was under discussion.

82. **Mr. Škrlec** (Slovenia) assured the Committee that Slovenia would welcome all recommendations on improving its compliance with the Convention.

The meeting rose at 6 p.m.