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COMMITTEE AGAINST TORTURE

Thirtieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 559th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 6 May 2003, at 3 p.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.559/Add.1.

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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 (agenda item 4) (continued)

Second periodic report of Slovenia (continued) (CAT/C/43/Add.4)

1. At the invitation of the Chairman, the members of the delegation of Slovenia took places at the Committee table.

2. Mr. GOSNAR (Slovenia) said that his delegation would try to answer all the questions asked by members of the Committee during its consideration of Slovenia's second periodic report.

3. Mr. MEKINC (Slovenia) said that a question had been asked regarding the contents of the human rights training courses provided for police officers. Human rights education was, in fact, incorporated into several training programmes. The basic police training programme not only included subjects such as introduction to law, criminal law, police powers, traffic safety, police ethics and communication skills; it also taught the trainee police officers how to respect human individuality and behave humanely towards offenders. The more advanced courses for active police officers focused more closely on human rights issues, and included components such as border control operations and international peacekeeping. All active police officers attended monthly training sessions to develop theoretical and practical skills in the areas of self-defence and police procedures. All programmes placed emphasis on dealing with complaints against police officers and eliminating the reasons for such complaints.

4. Mr. GOSNAR (Slovenia), replying to a question as to whether persons in police custody had access to a doctor, said that the situation had improved in recent years. In 2001, an explicit reference to the right of detained persons to request a medical examination by a doctor of their choice had been included in the official detention form that all detainees had to read and sign. Furthermore, a regulation adopted in 2000 stipulated that any ill or injured person in obvious need of medical assistance must not be kept in detention facilities but must be transferred to a medical institution. It further stipulated that police officers were obliged to make arrangements, on request, for detainees to receive medical assistance in detention or to be taken to the nearest medical facility. However, in cases where there were no visible symptoms, it was possible that delays could occur. It was the responsibility of the selected doctor to estimate the urgency of the request.

5. While there were no strict rules stipulating that medical examinations of persons in custody had to take place in private, that was almost always the case in practice, unless there was a security risk, or the doctor or patient requested otherwise. All examinations were carried out by independent medical personnel, as Slovenian law-enforcement authorities did not employ special police doctors.

6. The fact that there was no single regulation governing procedures for conducting police interrogations did not mean that there were no safeguards. In addition to the usual rights such as the right to a lawyer and the right to remain silent, which were regulated by the Code of Criminal Procedure and the Police Act, the Code provided that all interrogations had to be conducted in

respect for human dignity and that force or threats must not be used to extort statements. Misleading and suggestive questions were also prohibited. The police regulations stipulated that anyone subjected to custodial interrogations by the police must be allowed at least eight hours of uninterrupted rest and must be provided with appropriate food and drink.

7. Pursuant to a recommendation by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the General Police Directorate had recently set up a working group with the specific task of drafting a set of regulations on police interrogations. It was hoped that those regulations would be adopted by the end of 2003.

8. The Committee had asked for further clarification of the statistical data provided by the delegation on the review of police detention. The statistics, in fact, related to the extraordinary procedures governing the judicial review of police custody, which existed in addition to the normal habeas corpus procedure. Under article 148 of the Code of Criminal Procedure, all persons held in police custody had to be given, within six hours of arrest, a written statement by a senior police officer, outlining the grounds for detention and explaining that the detainee could appeal. If the detainee exercised that right, a special panel of three district court judges had to review the appeal and issue a decision within 48 hours. Furthermore, according to a legal and constitutional requirement, the police could hold a suspect in custody for up to a maximum of 48 hours, after which the person concerned had to be brought before a judge. If the panel rejected the appeal, or if no appeal was filed, the police would be obliged to bring the suspect within 48 hours of arrest to the investigating judge so that a ruling could be given on the lawfulness of the police custody.

9. The use of firearms by police officers was regulated by both the Police Act and the Rules on Police Powers. According to article 52 of the Police Act, police officers could use firearms only if there was no other way to protect human life or to prevent the escape of a person caught *in flagrante delicto* for a crime punishable by eight or more years' imprisonment or a person for whom an arrest warrant had been issued for a similar crime and the warrant expressly provided for the use of firearms. They could also be used in response to a direct attack. Every instance of firearm use had to be recorded. In cases where the use of a firearm resulted in bodily injury or death or where a firearm had been used more than once, the Director of the Regional Police Administration had to be notified and had to appoint a three-member commission to examine the legality of the incident. There were no special provisions or procedures allowing the use of firearms in cases of civil disobedience and there had been no such cases in the last decade.

10. The use of firearms by the police was extremely rare. In 2002, for example, firearms had been used only twice and in 2001 no instances had been recorded. The use of force by police officers was also rare. The information provided in the report related to the total number of instances in which any police powers were used, including the use of identification procedures, searches and interrogations. In 2002, for example, police officers had used force in just over 7,000 cases, over half of which involved the use of handcuffs.

11. In the period between 1999 and 2002, there had been no cases of death in police custody. On four occasions, detainees had attempted suicide but had been prevented by police officers. All four had received medical treatment and the Public Prosecutor had been informed.

12. As for other police procedures, only seven people had died in the course of police action since 1999. Four had died as a result of firearm use; two persons had committed suicide with their own weapons during an attempted arrest; and one had died as a result of an acute asthma attack while being arrested. Whenever anyone died in the course of police action, an internal police inquiry had to be carried out and reviewed by the Public Prosecutor. In some instances, further criminal proceedings were initiated against the police officers involved.

13. Several members of the Committee had asked about the procedures followed when investigating the use of excessive force by the police and the procedures used to address complaints about the use of police powers. Various procedures were available. Under the Police Act, any person who believed that the police had violated his or her rights could file a complaint to the police authorities within 30 days of the violation. Under the Code of Criminal Procedure, a person could complain within three days of the violation to the Public Prosecutor on any action taken by the police during a crime investigation. In addition, the police authorities and the Public Prosecutor were obliged by law to initiate a criminal investigation if they suspected that a police officer had committed an offence. Failing that, a victim or anyone else could file a crime report to the police or the Public Prosecutor. All those procedures were separate legal remedies and were not mutually exclusive. The outcome of the police complaint procedure or disciplinary procedure in no way affected the criminal prosecution or civil action. In addition, the institution of a subsidiary prosecutor allowed the injured party of a criminal offence to take over the criminal prosecution if the Public Prosecutor, for whatever reason, dropped the case.

14. Police complaints commissions were not entitled to grant compensation to victims of police abuse. However, a victim suffering from unjust material or immaterial damages as a result of police action could either file for financial compensation within the criminal procedure or start a civil action against the police officer or the Republic of Slovenia. Unfortunately, no precise statistical data were available on indictments and convictions, or on compensation provided in civil proceedings following an abuse of police powers.

15. However, statistical data were available on the nature of the complaints. Only 84 of the 2,263 individual complaints filed against the police had been found to be justified by the complaints commissions. Less than 5 per cent of them involved the use of coercive measures. The others involved operations such as the issuance of on-the-spot traffic fines, breathalyser tests and identity checks. Of the complaints relating to the use of force, only seven had been found to be justified. Further statistical information regarding the complaints could be provided to the Committee on request.

16. His Government was firmly committed to improving the current police complaints system, which deserved some of the criticism it had received from non-governmental organizations (NGOs). When established under the Police Act, the system had been seen as an important step in the right direction, especially as it introduced the concept of public participation in proceedings. After its implementation, however, a number of problems had arisen. Consequently, Parliament had issued a special declaration in 2002 calling for a review of the system. The Ministry of the Interior had already prepared some amendments to the Act, which were awaiting adoption by the National Assembly. The Ministry was also drafting a separate regulation for the implementation of the new amendments and had consulted a number of interested NGOs.

17. The proposed changes were aimed at ensuring a more objective approach to addressing complaints against police officers and at strengthening the participation and influence of the general public in the process of external independent representatives. A special reconciliation procedure involving the police officer concerned and the victim would be introduced for cases not involving a criminal offence or a violation of discipline. The work of the newly formed complaints commissions would be public and all concerned parties would be given the opportunity to attend their sessions and submit evidence. Moreover, a right of appeal would be introduced. The amendments also required that the Minister of the Interior be informed promptly of all complaints concerning the use of firearms. The Ministry of the Interior would be responsible for supervising the processing of such complaints. Although the details of the new procedure were still currently under discussion in the National Assembly and the implementing regulation was still being drafted, it was expected that the new system would be adopted before the end of 2003.

18. The Chairman of the Committee had asked for clarification of the use of the term "lapsed" in paragraphs 112 and 115 of the report. Those paragraphs referred to the disciplinary procedures and sanctions against police officers and the statute of limitations thereon. Under the legislation governing all public servants, including police officers, disciplinary violations were subject to a short statute of limitation set at six months. That, however, did not preclude criminal or civil actions against such police officers or other public servants.

19. Further information had been asked about specific cases of complaints against police officers. A police officer found guilty of unlawful deprivation of liberty had been suspended from duty for a period of three months (para. 112, subpara. (i)). Regarding the case mentioned in paragraph 112, subparagraph (a), of the report involving a police officer who was said to have stepped on the neck of a person, the disciplinary body had found that the police officer had not been in breach of his official duties as he had been off duty at the time of the offence. However, a separate criminal report had been filed and proceedings were pending. In another case, where a police officer was said to have mistreated a juvenile (para. 112, subpara. (d)), disciplinary proceedings had been halted as the statutory limit had expired due to the inaction of the victim, who had failed to attend the hearings of the disciplinary board.

20. Referring to several cases brought to the attention of the Committee by Amnesty International, he said that his delegation could not dispute all the cases and that there were definitely some areas of concern. He provided updated information on each of the cases.

21. Mr. PAVLIN (Slovenia) said that some questions had been asked about the criminal offence of torture. In 2002 and 2003, the Ministry of Justice had formally discussed with legal experts the question of incorporating the crime of torture into the Penal Code. The working draft of the text, which was based on article 1 of the Convention, had been finalized in April 2003 and would be opened to public debate over the coming months. However, much work was needed before the text could be submitted to the National Assembly. NGOs would play an important role in that regard, as the Government was obliged to consult them on all matters relating to human rights.

22. Seven persons had died in prison in 2002; four had committed suicide by hanging, two had died from natural causes, and one had died from an overdose of a prohibited drug. If there were reasonable grounds for suspicion, a criminal investigation and an autopsy were carried out. Whenever someone died in prison, the prison director was obliged, by law, to inform the competent court and the deceased person's next of kin. The court would set up a commission, comprising an investigating judge, a State prosecutor, the prison director and a medical doctor, to investigate the cause of death. The Ministry of Justice was currently conducting a special programme for prison personnel on suicide prevention and a booklet would be published in the near future.

23. In relation to the overcrowding of prisons, he said that the prison population had declined slightly in 2002, partly as a result of the Amnesty Act of 2001 and the use of alternative punishment measures to incarceration. Prison directors could allow prisoners sentenced to up to six months' imprisonment for a criminal offence committed through negligence to live at home and work at their regular workplaces, residing in the prison only at weekends and on public holidays.

24. Inter-prisoner violence had fallen by 15 per cent between 2001 and 2002. Criminal proceedings had been initiated in 10 cases and 66 disciplinary proceedings had been instituted against inmates in 2002.

25. In answer to a question about the treatment programme, he said that, when a person first entered the penal system to start serving his or her punishment, he or she was enrolled in a special programme known as the reception period. Prison officials discussed with the person concerned a range of issues such as his or her education, health and personality and, at the end of the reception period, the prisoner could sign a written agreement on his or her treatment in accordance with the Enforcement of Penal Sanctions Act of 2000. The agreement stated what the prisoner would do while serving the sentence and outlined his or her capabilities. If the person refused to sign the agreement, the prison director adopted a treatment programme on his or her behalf. A report was written at the end of the treatment, which could be inspected and amended at the prisoner's request.

26. With regard to the question asked about court backlogs, he pointed out that the statistics for 2002 showed a major decrease in backlogs at all levels below the Supreme Court, as a result of a special ("Hercules") programme introduced in 2001. The increased backlog of the Supreme Court was a by-product of the success of the "Hercules" programme.

27. Regarding the question of the disrespectful treatment of a group of female soldiers in a military unit, he informed the Committee that there was no connotation of sexual harassment; the commanding officer of the unit had not respected the military rules on the respectful treatment of subordinates. The proceedings had stopped when the women concerned had withdrawn their statements.

28. In response to a question about the handcuffing of detainees while transferring them to the courts, he confirmed that the practice was widespread in Slovenia because there had been several cases of public officials being attacked by non-handcuffed detainees. Handcuffing was at the discretion of the directors of individual prisons; detainees were not handcuffed during the trial itself or during the criminal investigation.

29. Replying to a question on the Government's relationship with the Human Rights Ombudsman, he said that most criticisms by the ombudsman were justified and had in many cases led to changes in Slovenian legislation.

30. With regard to the Government's relationship with NGOs, he mentioned that a directive had been issued in 2003 stating that all Government ministries should cooperate closely with NGOs in the preparation of human rights legislation.

31. Mr. ZIDAR (Slovenia), replying to several questions on the protection of the rights of the Roma population, said that law-enforcement institutions had no legal basis for collecting and processing data on nationality and ethnicity; it was, consequently, impossible to provide any specific data regarding possible criminal acts committed against Roma. However, awareness-raising measures had been introduced for police officials with regard to Roma and other ethnic groups, such as the introduction of guidelines for police districts with Roma populations. Slovenia was a State party to the Framework Convention for the Protection of National Minorities of the Council of Europe under which Roma enjoyed minority protection; the Slovenian Constitution also protected the rights of the Roma population.

32. On the question of the expulsion of aliens and respect for the principle of non-refoulement, he said that, following changes to Slovenian legislation in 2002, it was no longer possible to deport a foreigner on the grounds that he or she was a threat to national security. Consequently, under article 51 of the Aliens Act, the principle of non-refoulement had absolute validity and it was not possible to return a foreigner to a country in which he or she would be subjected to torture. If aliens entered Slovenia illegally, the decision to expel them was taken by the police. An alien could submit a complaint which would be considered by the Ministry of Interior. If the complaint was unsuccessful, he or she would then be deported.

33. His Government had concluded bilateral agreements with all the neighbouring countries on the return of aliens under which the police could return a national of a third country to a neighbouring country within three days of his or her illegal entry into Slovenia, provided that there was evidence that the person had come to Slovenia from that country. However, no person could be directly repatriated to his or her country of origin, at the request of a neighbouring country, if there was a threat that he or she would be subjected to torture.

34. In reply to a question on the publication of the reports and of the Committee's conclusions and recommendations, he said that his Government had made its initial report (CAT/C/24/Add.5) and the Committee's conclusions available on the home page of Slovenia's Ministry of Foreign Affairs in English and Slovenian. A financial allocation had been made to print the report together with the Committee's conclusions and recommendations.

35. In reply to a question whether his Government intended to sign any bilateral agreements on the extradition of citizens of States not party to the Rome Statute of the International Criminal Court indicted under the Rome Statute, he said that his Government supported a strong, independent and efficient International Criminal Court and was thus unlikely to adopt any decision that would weaken the functioning of the Court.

The public part of the meeting rose at 4 p.m.