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SUMMARY RECORD OF THE 2288th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 14 July 2005, at 3 p.m.

Chairperson: Ms. PALM
(Vice-Chairperson)

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT AND OF COUNTRY SITUATIONS (continued)

Second periodic report of Slovenia

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT AND OF COUNTRY SITUATIONS (agenda item 6)
(continued)

Second periodic report of Slovenia (CCPR/C/SVN/2004/2; CCPR/C/84/L/SVN;
HRI/CORE/1/Add.35/Add.1)

1. At the invitation of the Chairperson, the members of the delegation of Slovenia took places at the Committee table.
2. Mr. GORENAK (Slovenia), introducing his country's second periodic report (CCPR/C/SVN/2004/2), said that since the submission of the report several constitutional and legislative changes had been enacted in order to improve the enjoyment of the rights guaranteed by the Covenant: the Constitution had been amended to prohibit discrimination against disabled persons; the Law on Equal Opportunities for Women and Men had been passed; and article 43 of the Constitution, which defined the right to vote, had been amended to promote equal opportunities for women and men standing as candidates for election to State and local government. As a result of the latter amendment, 43 per cent of the Slovenian members of the European Parliament were women. In view of the experience and practice of other States, and proposals submitted by NGOs, the Penal Code had been amended to criminalize trafficking in persons. The Police Act had also been amended to enable police officers to provide immediate and effective protection to victims of domestic violence.
3. Since 2004, complaints against police officers had been subject to external investigation. The police force cooperated successfully with representatives of the Government and NGOs, and as a result of an agreement concluded between the police and an NGO, joint training schemes had been established. Police officers were trained in social skills, police ethics, human rights and police authority, and special training was given to officers working in multi-ethnic environments, with particular attention to the needs of Roma communities.
4. Over the past year, the Government had increased its efforts to protect cultural rights, a model having been developed for the protection of the cultural rights of vulnerable groups, such as ethnic minorities. Two research projects had been carried out to identify the needs of nationals of other States of the former Socialist Federal Republic of Yugoslavia who had become Slovenian citizens. The Government had contact with those members of the population, and supported the protection of their cultural and linguistic identity.
5. NGO activities were funded by government ministries, and in 2004 funds had been granted for 24 programmes for the prevention of domestic violence, which had been implemented by 21 NGOs and 3 public institutions. The Government was striving to protect civil and political rights in accordance with the Covenant and other international and European instruments.

6. The CHAIRPERSON invited the delegation to respond to questions 1 to 12 of the list of issues.

7. Ms. PONIKVAR-DECMAN (Slovenia) said that article 5 of the Constitution defined the obligation of the Republic of Slovenia to protect human rights and fundamental freedoms throughout its territory. Under the Constitution, any international treaty that had been ratified by Slovenia and published in the official gazette became part of the Slovenian legal order. Since the Covenant had been ratified by Yugoslavia in 1971, Slovenia had succeeded to it in 1992. The Covenant had immediately become part of Slovenian law by virtue of the Constitutional Act on the Implementation of the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia of 1991. The Constitution also stipulated that laws and regulations must comply with generally accepted principles of international law and with international treaties binding on Slovenia.

8. The Covenant had been applied directly by the Supreme Court and the Constitutional Court. In 1992, for example, the latter Court had ruled that the provisions of the Criminal Procedure Act of the former Socialist Federal Republic of Yugoslavia were not in conformity with article 14, paragraph 7, of the Covenant and the Act had therefore been amended in 1994. In 1998, the Supreme Court had ruled that the Matrimonial and Family Relations Act must be brought into line with the Covenant, since it did not guarantee equal rights to judicial protection and treated children differently, depending on whether or not their parents were divorced. The Act had been repealed, and a new law had been adopted in 2004.

9. Mr. PAVLIN (Slovenia) said that the Human Rights Ombudsman had jurisdiction over all human rights and fundamental freedoms, as set forth in domestic and international legislation, and therefore had competence to investigate cases in which complaints had been made about violations of covenant rights. Continuous efforts had been made since 2001 to solve the problem of court backlogs, and the Supreme Court was conducting a project which involved the temporary transfer of experienced judges to lower courts. In 2004, the Courts Act had been amended to provide a special remedy known as supervisory appeal, in accordance with which concerned parties could file complaints if their cases were not resolved within a reasonable time. Slovenian procedural law contained several provisions according to which parties involved in cases could request the exclusion of judges who were considered to be lacking in impartiality. Juvenile prisoners could only be held in detention with adults if they were thought to be at serious risk of committing suicide. The Ombudsman had competence to investigate such situations.

10. Turning to question 3 of the list of issues, he said that although domestic violence did not constitute an individual criminal offence under the Penal Code, Slovenian criminal law made several references to violence in the family and violence against children and spouses. The law faculty of the university of Ljubljana was currently carrying out research on the drafting of guidelines on substantive criminal law, which would include a debate on whether domestic violence should be specifically defined as a criminal offence. In 2003, the Police Act had been amended to include a provision on restraining orders in cases of domestic violence. The police had begun to enforce that provision, and in many cases it had proved successful as a temporary solution. Other projects were under way and included research into legislative amendments on family violence. Further information was included in the written replies to the Committee's list of issues, which had been distributed to all members of the Committee.

11. Ms. NEUBAUER (Slovenia), referring to the question of female participation in public administration, said that constitutional and legislative changes had been enacted as awareness-raising, education and cooperation with NGOs had not achieved specific results. Since it was particularly difficult to change the culture of State administration, positive measures had been introduced into domestic legislation, such as the Law on Equal Opportunities for Women and Men, which provided for respect for gender balance and equal participation of women and men in public institutions. That law must be taken into account for the purposes of the establishment of bodies within the executive and the legislature. It also obliged political parties to adopt plans of action for the promotion of women's participation in political decision-making and as candidates in elections. A slow increase had been noted in the percentage of women who were members of government bodies and delegations, or government representatives appointed to joint-stock and limited-liability companies.

12. Binding legislation had been introduced stipulating that 40 per cent of candidates for posts related to Slovenia's membership of the European Parliament must be women. Although that measure had been a last resort and was not the ideal means of achieving gender balance, it had been successful. A decree had been issued on compulsory procedures for the establishment of government bodies, councils and working bodies, under which ministers were obliged to explain any impediments to observance of the principle of equal representation of the sexes. Further information could be found in the written replies submitted by her delegation.

13. It was difficult to introduce legal provisions to enhance women's representation in private-sector employment when gender equality had not yet been fully achieved within public institutions. While the Equal Opportunities Act contained no specific provisions concerning the private sector, it was applicable to all sectors of employment. The persisting gender-based occupational segregation was reflected in segregation at all levels of the education system. Consequently, measures had been taken to promote women's empowerment within education and to facilitate their access to formerly male-dominated fields. Women continued to be mostly employed in low-paid sectors of the economy and few held senior positions. The resulting gender pay gap remained a cause for concern. Measures adopted to address that problem included the implementation of capacity-building programmes for women to enhance their access to higher-skilled and better-paid jobs. Such measures were a constituent part of the Government's overall gender equality policy.

14. Mr. PAVLIN (Slovenia) said that the Slovenian Constitution, the Penal Code and the Marriage and Family Relations Act contained specific provisions for the protection of children. Detailed information on those provisions was contained in both the report and the written replies.

15. Mr. ZABERL (Slovenia) said that detailed data on criminal offences against children were contained in table 8 of the written replies. In recent years, sexual assaults against children under 15, and neglect and maltreatment of children, had been increasing.

16. Ms. ZELEZNIK (Slovenia) said that in cases of neglect or abuse, children could be placed in the care of a foster-family or an institution. The social work centres were competent to impose and implement special protection measures, provided that they were in the best interest of the child. The centres also provided personal assistance and counselling for child victims of abuse. A number of so-called "refuges" had been established for women and children who had been victims of domestic violence and abuse.

17. Mr. MEKINC (Slovenia) said that a series of measures had been taken to prevent the use of excessive force by the police, ill-treatment of detainees in police custody and inhuman conditions of detention. Those included: ongoing training for law enforcement officials; the monitoring and overseeing of police procedures; and training in the lawful and proportionate use of means of restraint. Police officers also received training in communication and social skills and participated in anti-stress programmes. Information material had been produced and disseminated in over a dozen languages on lawful detention procedures and the rights of detainees for use by both law enforcement officials and detainees. All police officers had received training in the use of means of restraint to prevent the excessive use of force. The issuance of detention orders was subject to strict regulation and monitoring, and the detainee had the right to appeal against such orders. Each detention was placed on record.

18. Information on the investigation and outcome of the case concerning the death that had occurred during a house search was provided in section 7.3.3 of the written replies.

19. Mr. ZABERL (Slovenia) said that victims of human rights abuses by law enforcement officials were eligible for compensation. A person who believed that his or her human rights or freedoms had been violated by the action - or lack of action - of a police officer could submit a complaint, which was then assessed by an independent complaints panel comprising a representative of the Ministry of the Interior and two representatives of the general public. Complaints of alleged incorrect or unlawful pre-trial procedures could be filed with the competent State prosecutor. Persons who believed that their rights had been violated could also seek the assistance of the Human Rights Ombudsman. Detailed information on recourse and compensation for such violations was contained in the written replies to question 8 of the list of issues.

20. Mr. PAVLIN (Slovenia) said that relevant case law indicated that compensation was provided for confirmed human rights violations perpetrated by law enforcement officials. Compensation was also awarded for damage caused by the use of excessive force on the part of the police.

21. Mr. MEKINC (Slovenia) said that the recorded increase in the use of coercive measures was partly attributable to improved recording techniques. Prior to the introduction of electronic records, many cases had gone unrecorded. Currently, each incident involving physical contact with an individual resisting arrest was documented. Furthermore, mass disturbances of law and order had become more frequent, in particular in the context of major sporting events. However, the increased use of instruments of restraint had resulted in a decrease in the use of force.

22. Mr. PAVLIN (Slovenia) said that the reasons for Slovenia's failure to incorporate torture as a specific offence in the Penal Code were described in section 10 of the written replies. A research project was currently being carried out under the auspices of the Ministry of Justice with a view to establishing guidelines on substantive reforms to the Code. In that context, the incorporation of torture as a specific criminal offence was also being examined. Information on punishment imposed on police officers for the use of excessive force was provided in the same section of the replies. Slovenia was currently in the process of ratifying the Optional Protocol to the Convention against Torture.

23. Mr. MEKINC (Slovenia) said that the number of detentions had declined in recent years, and most persons had been detained for less than 12 hours. Considerable efforts had been made to build new cells in police stations and refurbish existing facilities so as to adapt them to needs arising in the context of accession to the European Union (EU).

24. Mr. PAVLIN (Slovenia) said that the average time spent in detention had decreased in recent years. Various alternative sentences had been introduced to reduce the number of persons held in pre-trial detention, including release on bail, house arrest, injunctions against visiting specific places and restraining orders. The cases of seven individuals who had been awarded compensation for unlawful detention were described in detail in section 11 of the written replies.

25. Mr. VALENTINCIC (Slovenia) said that of the nine pre-trial detention facilities, five were for men, one for women and three were mixed facilities. The average daily number of pre-trial detainees in 2004 had been 280, equivalent to 14 detainees per 100,000 inhabitants. The country's total pre-trial detention capacity had been exceeded by 9 per cent. After describing the conditions and care available in those facilities, as detailed in the written reply to question 11, he added that about 80 per cent of pre-trial facilities had been renovated or newly built over the previous 10 years.

26. With reference to overcrowding in prisons, he said the number of inmates had been falling since 2001; overcrowding had decreased from 12 per cent in that year to 2.6 per cent in 2004. Measures to reduce prison overcrowding had been implemented in accordance with the Council of Europe's recommendation No. R (99) 22 of the Committee of Ministers to member States concerning prison overcrowding and prison population inflation. As detailed in the written reply to question 12, several recently adopted laws had had the effect of reducing prison overcrowding. Those laws had introduced sanctions other than imprisonment for minor offences, and had made possible conditional or early release for some prisoners. Over 40 per cent of prison facilities had been renovated and the country's total prison capacity had increased by 4 per cent.

27. Mr. BHAGWATI requested additional information on how the Human Rights Ombudsman planned to handle the increasing number of petitions he received concerning the right to a fair trial and fair treatment by the judiciary. It would be useful to learn how the Ombudsman was appointed, by whom, for what period of tenure, and whether the incumbent could be removed from office at will. Further details on the Office for Equal Opportunities would also be welcome. In particular, the delegation should explain how staff were appointed, what functions the Office performed, how many cases it had handled, and how far any of its decisions or recommendations had been enforced by the courts. The type of cases handled by the advocate for equal opportunities within that Office should be clarified, as well as the extent of his powers. Given that grievous bodily harm was the only basis on which a woman could bring a case of domestic violence before the Ombudsman or the advocate, he requested details of the number of cases of such violence that had been filed.

28. He wished to know what steps were being taken to increase women's participation in public life, especially in government institutions, and how many women had been elected to the European Parliament since June 2003. The delegation should indicate what measures had been taken to correct the imbalance between men's and women's remuneration in all areas of employment, including governmental posts.

29. Given that parental rights could be annulled under certain conditions in accordance with the Marriage and Family Relations Act, it would be useful to learn how many children had been removed from their parents' care under that provision. In the light of the disturbing statistics provided in the second periodic report, the delegation should indicate what steps the Government was taking to prevent corporal punishment and sexual abuse of children. It should specify how many prosecutions there had been for sexual abuse of children and what sanctions had been imposed.

30. Mr. WIERUSZEWSKI regretted that the State party appeared to focus on EU and Council of Europe requirements for the protection of human rights to the detriment of its obligations under the United Nations system. It was difficult to understand why the second periodic report had been submitted so late, and why there had been no NGO report. It would be interesting to know how the Government had disseminated information about the preparation of the report to civil society. It was difficult to understand why the Committee had received no correspondence regarding complaints under the provisions of the Optional Protocol to the Covenant. The delegation should indicate whether lawyers in Slovenia were aware of that complaints procedure, and whether a system was in place to implement any future recommendations the Committee might make regarding communications.

31. He requested that in future, such detailed and useful written replies as those provided by the delegation should be submitted early enough to allow Committee members to read them before the meeting, and in the Committee's three working languages.

32. He asked whether the composition of the complaints panel in the Ministry of the Interior met the requirements of a truly independent body, particularly in the light of the panel's apparent reluctance to admit that police officers had been guilty of misconduct. He asked how long the panel spent reaching a conclusion, and what investigation methods it used. He also wished to know how cases of police corruption were handled and what measures were being taken to prevent such corruption. Additional details on compensation received by victims of human rights violations by the police should be provided.

33. Mr. SHEARER asked whether the tenth annual report of the Human Rights Ombudsman was currently available in English.

34. It would be interesting to have a full account of the Government's reaction to the criticism of the Ministry of the Interior's complaints panel contained in the 2003 report of the Council of Europe's Commissioner for Human Rights. The delegation should explain the relationship between that panel and the Ombudsman.

35. It was unclear whether there was a link between the increase in the use of force by the police (CCPR/C/SVN/2004/2, table 8, para. 43) and the general increase in the incidence of criminality. It would be useful to learn whether there were specific reasons for the increase in criminal behaviour.

36. He requested additional information on police training programmes, particularly their content, how often they were run, and for which ranks they were provided. He asked whether the police used methods similar to those laid down in the rules of engagement for the armed forces.

37. While it was difficult to understand why the Government had encountered such difficulty in criminalizing torture, he commended it for delegating the task of defining torture to the law faculty of the university of Ljubljana.

38. With regard to the issue of pre-trial detention (question 11), he noted that in 2004 the Ombudsman had stated that the revised provision of the Police Act, which stipulated that time spent in detention would not be taken into account with regard to sentencing, could constitute a violation of the protections guaranteed under article 20 of the Constitution. He enquired whether the State party was considering any measures to address that concern.

39. The definition of a refugee contained in the delegation's report (para. 15) was that contained in the original 1951 Convention relating to the Status of Refugees. He wondered if that was a mistake and whether Slovenia was in fact a party to both the original Convention and the Protocol of 1967, which had widened the definition by removing temporal and geographic limitations.

40. Mr. ANDO found it strange that the Committee had not received any communications from Slovenian citizens and hoped that situation would improve, although he acknowledged that could be explained by a tendency to first have recourse to EU institutions.

41. He remained concerned at conditions in prisons, in particular overcrowding and detention of juvenile prisoners with adults, an issue which had been raised by the Committee in its concluding observations on the State party's initial report (CCPR/C/79/Add.40, para. 11). In its written replies to question 2 of the list of issues, the delegation had described the cases of three juveniles who, at their own request, had at first been detained with adults, although the juveniles had subsequently been transferred by the prison service. That proved, however, that such situations still arose and he wondered whether there was any change of policy envisaged to avoid such occurrences in the future. Likewise, in its written reply to question 12, the delegation stated that overcrowding had been addressed by reducing the number of detainees through measures such as alternative sentencing, early release, improved facilities, and the elimination of imprisonment as a punishment for minor offences. In that context, he asked for further information on any new definitions of types of offences which would not carry terms of imprisonment.

42. Sir Nigel RODLEY said the report indicated that, pursuant to article 4 of the Criminal Procedure Act, a suspect who did not have the means to retain a lawyer could have one appointed at the expense of the State if that was in the interest of justice (para. 86). In his opinion, the interest of justice would certainly require that the individual's right to legal counsel be protected and he wondered to what extent that provision of the Criminal Procedure Act was implemented.

43. Turning to question 8 on investigations of law enforcement personnel who had committed human rights violations, he said the report contained a great deal of information on the number of complaints filed (paras. 201 and 202) but no information on the number of convictions. The delegation's written reply to question 8 of the list of issues likewise contained information on complaints made or on the right of citizens to file a complaint, seek civil or criminal prosecution of a police officer and/or receive compensation for any damage suffered. Also according to that reply, a police officer sentenced by a court to more than three months'

imprisonment without probation had his employment terminated, but in recent years there had been no such cases. Furthermore, there was no information on cases in which the police officer had been sentenced to less than three months, because such cases were not reported to the Ministry of the Interior. He was therefore concerned at the lack of information on follow-up to complaints against the police and wondered whether the full force of the law was being used with a view to deterring abuses.

44. The situation involving the use of torture was also unclear. Although the delegation's written reply to question 10 indicated that torture was included under practices prescribed by article 270 of the Penal Code, it was important that torture be clearly defined as a most serious offence and treated accordingly under the law in order to serve as a deterrent against its use and to prevent the police from acting with impunity.

45. Mr. GORENAK (Slovenia) stressed that every citizen had a right to file a complaint about police behaviour with the police themselves, the Ombudsman or the prosecutor; since 1990 there had been ongoing efforts to strengthen safeguards and improve mechanisms for the filing of complaints against the police. The complaints panel established to hear complaints against the police was made up of three members; a representative of the Minister of the Interior and two representatives of civil society who were appointed by the Minister following consultation with civil society groups such as the bar association, who were asked to suggest the names of appropriate candidates. That system ensured regional and local representation on the panel. He acknowledged that since the two civil-society representatives were appointed by the Minister there could be some doubt about their independence but pointed out that the two representatives had been canvassed about their role and had indicated they were quite satisfied they were able to function in a fair and independent manner. Nevertheless, due consideration would be given to finding some new mechanism for naming the two public representatives on the panel. In addition to the complaints procedure, citizens of course also had the right to file civil or criminal charges against police officers before the courts or to appeal to the Ombudsman.

46. Ms. NEUBAUER (Slovenia), addressing the issue of gender equality, recalled that the Office for Women's Policy established in 1992 had been the first government body specifically designed to improve the status of women. In 2001, the mandate and powers of the Office had been strengthened and it had been renamed the Office for Equal Opportunities. The entry into force of the Equal Opportunities Act in 2002 had also been a positive step towards the empowerment of women. Her Government had shifted its priority from concentrating on anti-discrimination measures to a pro-active stance in recognition of the fact that it was not enough to simply prevent discrimination; it was necessary for men and women to work together to actively promote equal opportunity and treatment and to implement, monitor and evaluate policies to that end.

47. The Equal Opportunities Act highlighted the obligation of Government and society to eliminate obstacles to gender equality, including changing traditional and historical perceptions of women's role in society. It provided for binding regulations for areas such as employment and new measures such as the establishment of the office of the advocate for equal opportunities for women and men. The advocate was empowered to hear cases involving alleged gender discrimination submitted by individuals, NGOs or bodies such as unions or other civil society organizations; anonymous submissions could also be accepted if they contained sufficient information. The advocate could request additional information from, for example, an employer,

and issue a written opinion on whether or not there were grounds for a finding of gender discrimination pursuant to the Act. Both parties were informed of the advocate's decision and the advocate could make recommendations to the defendant on action to eliminate any problems identified. While not binding, the recommendations nevertheless carried great moral weight.

48. She had no information on discrimination-related cases before the courts, but said that in 2004 the advocate had dealt with 11 complaints involving areas such as sports, employment and health care. In most cases the defendants had been very cooperative and had often sought advice about how to ensure equal treatment for women because they had not been aware that the measures in question discriminated against women.

49. Mr. GORENAK (Slovenia), in response to concerns raised by the Committee about cases of police corruption highlighted by the Ombudsman, said there might be some confusion about the nature of those cases. They had in fact involved corruption on the part of individuals who were not police officers, and the Ombudsman's criticism was that, at the time of writing of the present report, the police had not yet taken any conclusive action on them, either because there did not appear to be sufficient grounds for prosecution or because their investigation was still under way.

The meeting rose at 5.55 p.m.