

CZECH REPUBLIC

CAT A/47/44 (1992)

Czech and Slovak Federal Republic

126. The Committee considered the initial report of the Czech and Slovak Federal Republic (CAT/C/7/Add.12) at its 93rd and 94th meetings, on 14 November 1991 (CAT/C/SR.93 and 94).

127. The report was introduced by the representative of the State party, who informed the Committee that the November 1989 revolution in his country had led to the establishment of a democratic social system and of a State governed by the rule of law. Supplementing the information contained in the report, he noted that two bills were currently under preparation, one concerning the terms of custody and the other relating to the establishment of a primarily civilian police guard to replace the Correction Corps, which had until now been in charge of enforcement of custody and prison terms. An evaluation of the skills and moral aptitude of prison staff had also been undertaken in 1990 since some of them had been involved in human rights violations before the November 1989 revolution. As a result of the evaluation, some 7 per cent of prison staff had left the prison service in the Czech Republic and a similar process was under way in the Slovak Republic. Act No. 179/1990 on the Execution of Prison Sentences, which stressed the need for greater protection of the human dignity of convicts, had also been adopted. An investigation into the situation in corrective institutions in Czechoslovakia by Helsinki Watch in late 1990 had found that despite some shortcomings in the material conditions of detention, efforts were being made by the prison system's managerial bodies to reform the conditions in prisons and no instances of violations of human rights or treatment which would be inconsistent with the provisions of the Convention had been found. The representative also stated that major reorganization of the police force was under way, involving the establishment of a Police Corps at both the Federal and the Republic level. The aim of the reorganization was to bring the police source under efficient public control which was to be exercised by members of special committees in the Federal Assembly and in the national parliaments. Recent legislative changes relating to the obligations and the duties of police officers included the principle that an order from a superior officer could not justify torture and that the offender could not evade responsibility for the crime.

128. Finally, the representative informed the Committee that his Government intended to withdraw the reservation, made at the time of ratification, to article 20 of the Convention to make the declaration required by article 22 of the Convention and to ratify the European Convention for the Prevention of Torture and Other Cruel or Degrading Treatment or Punishment. His Government also intended to support the elaboration and adoption of an additional protocol to the Convention against Torture, establishing international monitoring machinery similar to that of the European Convention for the Prevention of Torture.

129. Members of the Committee, while commending the report and the oral introduction of the representative of the Czech and Slovak Federal Republic, sought clarifications on numerous matters, particularly details of any specific provisions concerning the prohibition of torture in various pieces of legislation, including the Charter of Fundamental Rights and Freedoms of 9 January 1991. They

also wished to know how the laws governing the police were to be amended; how judges were appointed and how the independence of the judiciary was guaranteed; how the activities of the National Security Corps were regulated; how the National Councils of the Czech and Slovak Republic and of the Federal Assembly on the police would regulate the latter's activities in combating torture; how the principle of the rule of law was to be guaranteed; whether any complaints of torture or ill-treatment had been made in recent years; whether the perpetrators had been punished either by court convictions or disciplinary measures; and whether compensation had been provided for the victims.

130. Concerning the reporting State's intention to withdraw its reservation to article 20 and to make the declaration under article 22, members wished to know what legislation was to be adopted and what administrative measures would be taken to give full effect to the Convention in that regard.

131. With reference to articles 1 and 4 of the Convention, members of the Committee noted that there was no definition of the specific offence of torture in Czechoslovak penal law and they observed that the legislation cited in the report was not adequate to satisfy the requirements of those articles. They, therefore, wished to receive extracts of various penal provisions relating to the Convention in order to assess whether Czechoslovak law fully covered acts of torture as defined in the Convention.

132. In connection with article 2 of the convention, members of the Committee wished to know whether there were any specific cases in which a member of the National Security Corps had refused to obey an order from a superior on the grounds that it would mean committing a criminal offence.

133. Regarding article 3 of the Convention, members noted that the inclusion in the Convention of that article was intended precisely to cover cases that were not within the scope of the 1951 Convention relating to the Status of Refugees and asked what legal measures had been taken to implement, in particular, paragraph 2 of that article.

134. In connection with article 5 of the Convention, it was asked whether the provision contained in section 20 (a) of the amended Penal Code, whereby Czechoslovak law would be applicable in cases where international treaties applied, had precedence over the provision contained in article 20, paragraph 1, of the Penal Code, which provided that Czechoslovak law would be applicable in the case of offences committed abroad by aliens only if the offence was also punishable under the law in force in the territory where it had been committed.

135. With regard to article 7 of the Convention, clarification was requested in respect of a number of exceptions, listed in the report, to the institution of proceedings for criminal offences.

136. Concerning article 10 of the Convention, members recalled that the article required medical as well as law enforcement personnel to be educated about the prohibition against torture.

137. In connection with article 11 of the Convention, members of the Committee wished to know specifically what guarantees detained persons enjoyed and how rules and practices in that regard were kept under review; what was the duration of pre-trial detention; and what control was exercised over the conduct of investigations by the police.

138. With regard to article 13 of the Convention, members wished to know what machinery existed for making petitions, and requested specific examples of the outcome for those who had availed themselves of that right.

139. Concerning article 14 of the Convention, members noted that full rehabilitation of victims of torture should include medical rehabilitation and that a rehabilitation centre for victims of torture had recently been set up in Prague which, it was hoped, would receive the Government's support.

140. In his reply, the representative of the State party stated that he would transmit to the competent authorities of his country the suggestion that a definition of torture in conformity with that contained in article 1 of the Convention should be introduced into domestic law. He pointed out that now was an appropriate time to do so as a completely new penal code and code of penal procedure were being prepared. As those codes were still in the drafting stage, it was difficult to give an answer to questions relating to the application of particular articles of the Convention. However, with regard to article 4 of the Convention, the representative informed the Committee that an official guilty of assault in the exercise of his duties was liable to imprisonment from two to eight years, in accordance with article 222 of the Penal Code. Legal proceedings were under way in connection with 40 cases of torture or inhuman treatment in prisons that had occurred before 1989. In connection with the events of November 1989, 35 police officers has been charged with assault.

141. With regard to the independence of the judiciary, he stated that under the legislation adopted in 1991, judges were appointed for life by parliament and could be dismissed only for disciplinary reasons.

142. In connection with article 2 of the Convention, the representative said that a police officer who refused to obey an order from a superior was required to give his reasons for doing so in a written report, which was considered by a disciplinary board or by the prosecutor.

143. Referring to article 10 of the Convention, the representative agreed that it was desirable that the supervisory and medical staff of prisons should be more familiar with the Convention and indicated that that issue was one of the authorities' concerns.

144. With regard to article 11 of the Convention, the representative said that the maximum duration of custody was 24 hours and that the police were required to inform the family of the person arrested that he was in custody. In addition, detainees could have contact with priests, representatives of humanitarian organizations or their lawyers without the presence of a third person. A detainee could only be isolated if his fitness to withstand isolation had been confirmed by a medical examination. The present maximum length of pre-trial of two months was too long and the new rules on the execution of sentences, now under consideration, would guarantee conditions of detention in conformity with international instruments.

145. Concerning article 13 of the Convention, the representative said that the Act on the Execution of Prison Sentences of 1964, as amended by Act No. 178/1990, authorized detainees to lodge complaints which were to be considered by the competent authorities as expeditiously as possible.

146. In connection with article 14 of the Convention, the representative informed the Committee

that thousands of persons who had been arrested on political grounds had suffered from torture or inhuman or degrading treatment under the previous régime. Under a court ruling, such persons were having their rights restored and were receiving compensation, although Czechoslovak law did not yet provide for the award of compensation for personal injuries sustained during the earlier period.

Concluding observations

147. In its concluding remarks, the Committee welcomed the efforts being made by the Czechoslovak Government to fully implement the Convention. It also expressed the hope that the new Czechoslovak penal code would place greater emphasis on action to combat torture and inhuman and degrading treatment and punishment and that it would, in particular, include a definition of torture. Similarly, the new code of penal procedure should also be as much in line with the Convention as possible. The Committee expressed the hope that those parts of the penal code providing for the participation of doctors in decisions to place detainees in solitary confinement would be fully implemented so that no one was so detained without prior medical examination. It further suggested that the Czechoslovak authorities should draw up a programme which would enable lawyers, doctors and concerned officials to become familiar with the Convention. Finally, the Committee hoped that the replies which the Czechoslovak delegation had not been able to provide would be contained in the next periodic report. That report should indicate, in particular, whether the public prosecutor continued to monitor the administration of justice and contain further details on the question of the conformity of Czechoslovak legislation with the Convention, particularly its articles 3, 4 and 5.

CAT A/50/44 (1995)

86. The Committee considered the initial report of the Czech Republic (CAT/C/21/Add.2) at its 197th and 198th meetings, held on 11 November 1994 (see CAT/C/SR.197 and 198 and Add.2), and adopted the following conclusions and recommendations.

Introduction

87. The Czech Republic transmitted its report within five months of its due date, which is quite timely. The Committee notes with satisfaction that the Czech Republic has adopted most of the protections available under the Convention and has developed its own institutions to give effect to its obligations under the Convention.

88. The initial report was not accompanied by the core document providing general information on the State party, as requested in the Committee's guidelines, but apart from this, it met all the reporting requirements of the Convention.

Positive aspects

89. The Committee is pleased to recognize that the Czech Republic has adopted a definition of torture which is close to that in the Convention and has taken the steps necessary to ensure that it is a crime in that country.

90. The Committee also notes that in the Czech Republic all the necessary democratic institutions and safeguards are in place to ensure the implementation of the Convention.

91. The Committee also takes note of the expeditious and effective way in which the Czech authorities have dealt with allegations of abuse by police and prison officers, have set up a system of compensation and rehabilitation and take their educational responsibilities seriously.

92. The Czech Republic is a good example of a democratic State that has taken its commitments under the Convention seriously, and this is reflected in its institutions and practices.

Subjects of concern

93. There are no serious matters currently of concern to the Committee regarding implementation by the Czech Republic of the Convention.

Conclusions and recommendations

94. Even though the Czech Republic has not declared in favour of articles 21 and 22 and maintains its reservation on article 20 of the Convention, the Czech delegation explained that this was due to the weight of business in the legislative and executive fields and in no way reflects a lack of political will to remedy the situation. The Committee is confident that the Czech Republic will move to reform its situation in this regard and looks forward to its second periodic report.

CAT A/56/44 (2001)

106. The Committee considered the second periodic report of the Czech Republic (CAT/C/38/Add.1) at its 466th, 469th and 476th meetings, held on 7, 8 and 14 May 2001 (CAT/C/SR.466, 469 and 476), and adopted the following conclusions and recommendations.

A. Introduction

107. The Committee welcomes the excellent quality of the State party's second periodic report, which is in conformity with the guidelines, its frankness and its exhaustiveness, while observing that it was submitted more than two years late. It greatly appreciates the extensive additional update provided by the delegation of the Czech Republic both orally and in writing during consideration of the report and the clear, earnest and transparent answers to the questions raised by the Committee.

B. Positive Aspects

108. The Committee welcomes the ongoing efforts by the State party to reform its legal system and revise its legislation on the basis of universal human values in order to safeguard fundamental human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, including:

- (a) The adoption of the new Aliens Law and the new Asylum Law, both effective from 1 January 2000;
- (b) The amendment to the Citizenship Law adopted in September 1999, which resolved most problems of statelessness that had disproportionately affected the Roma population;
- (c) The amendment to the legislation and the introduction of a special detention facility for foreigners, which resolved the problems arising from the detention of foreigners prior to expulsion.

109. The Committee welcomes the creation of the post of Government Commissioner for Human Rights and the Council of Human Rights, as well as the institution of Ombudsperson.

110. The Committee notes the efforts described by the representatives of the State party to comply with the recommendations of the Committee on the Elimination of Racial Discrimination (A/55/18, paras. 271-288).

111. The Committee welcomes the compensation provided to 208,000 former political prisoners.

112. The Committee welcomes the declarations made on 3 September 1996 recognizing the competence of the Committee under articles 21 and 22 and the withdrawal of the reservation on article 20.

C. Subjects of concern

113. The Committee expresses concern about the following:

- (a) Instances of racism and xenophobia in society, including the increase in racially motivated violence against minority groups, as well as the increase in groups advocating such conduct;
- (b) While welcoming the measures taken to address the problems faced by Roma, the Committee remains concerned about continuing incidents of discrimination against Roma, including by local officials, and particularly about reports of degrading treatment by the police of members of minority groups; and continuing reports of violent attacks against Roma and the alleged failure on the part of police and judicial authorities to provide adequate protection and to investigate and prosecute such crimes, as well as the lenient treatment of offenders;
- (c) Allegations of the excessive use of force by law-enforcement officials during and after demonstrations, particularly alleged instances of cruel, inhuman and degrading treatment of persons arrested and detained as a result of the demonstrations during the International Monetary Fund (IMF)/World Bank meeting in Prague in September 2000;
- (d) The lack of a mechanism of external control of the work of the police;
- (e) The lack of adequate guarantees of the rights of persons deprived of liberty to notify a close relative or third party of their choice, to have access to doctors of their choice and to have access to counsel from the outset of their custody;
- (f) The lack of legal regulation of external inspections of the prison system, in particular the rescinding of the legal provisions on civil inspection without replacement during the period under review, as well as the lack of an effective mechanism for processing prisoners' complaints;
- (g) Inter-prisoner violence and bullying in various institutions, including prisons, the military and educational institutions, as well as the presence of male guards in prisons for women where that may lead to an abuse of their authority.

D. Recommendations

114. The Committee recommends that:

- (a) The State party continue its efforts to counter all forms of discrimination against minorities and to implement its long-term policy aimed at the integration of the Roma population through legal as well as practical measures and, in particular, to increase efforts to combat and adequately sanction police ill-treatment of minorities and the failure to provide adequate protection;
- (b) The State party ensure the independence and thoroughness of investigations of all allegations of ill-treatment in general and in connection with the IMF/World Bank meeting in September 2000 in particular, and to provide the Committee in its next periodic report with information on the findings and measures taken, including prosecutions and compensation to victims, as appropriate;

(c) The State party take appropriate measures to ensure the independence of investigations of offences committed by law-enforcement officials by introducing a mechanism of external control;

(d) All persons deprived of their liberty be guaranteed the right to notify a close relative or third party of their choice, the right to have access to a lawyer of their choice from the very outset of their custody, and the right to have access to a doctor of their choice in addition to any medical examination carried out by the police authorities;

(e) The State party set up an effective and independent system of control over prisoners' complaints and for the external and civic inspection of the prison system;

(f) Information be provided about the possibilities for redress and the rehabilitation services available for victims of torture and other forms of cruel, inhuman or degrading treatment or punishment;

(g) The State party accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;

(h) The Committee's conclusions and recommendations, and the summary records of the review of the State party's second periodic report, should be widely disseminated in the country.