



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

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Committee against Torture

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Consideration of reports submitted by States parties under article 19 of the Convention

Concluding observations of the Committee against Torture

Slovakia

1. The Committee against Torture considered the second periodic report of Slovakia (CAT/C/SVK/2) at its 899th and 901st meetings (CAT/C/SR.899 and 901) held on 3 and 4 November 2009, and adopted, at its 916th meeting (CAT/C/SR.916), held on 16 November 2009, the concluding observations as set out below.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of Slovakia, which covered the period from 1 January 2001 to 31 December 2006 and was in compliance with the reporting guidelines, as well as the replies to the list of issues (CAT/C/SVK/Q/2/Add.1), which provided additional information on the measures taken by the State party to implement the Convention. The Committee also notes with satisfaction the constructive dialogue held with the high-level delegation of the State party.

B. Positive aspects

3. The Committee notes with appreciation:

- (a) That international treaties take precedence over the laws of Slovakia;
- (b) The ratification of the optional protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2004, and on the involvement of children in armed conflict, in 2006;
- (c) The ratification of the Rome Statute of the International Criminal Court, on 11 April 2002;
- (d) The reviews of legislation aimed at improving the fulfilment of the State party's commitments under the Convention, such as the new Criminal Code No. 300/2005,

the new Criminal Procedure Code No. 301/2005, Act No. 475/2005 on the Execution of Custodial Sentences and Act No. 221/2006 on the Execution of Remand in Custody;

(e) The creation of the Public Defender of Rights (Ombudsman's Office), in 2001.

4. The Committee also welcomes the decision by the Constitutional Court on 26 June 2008 not to send Mr. Mustapha Labsi to Algeria on the ground that he might be in danger of being subject to torture.

C. Principal subjects of concerns and recommendations

1. Definition of torture

5. While noting the broad definition of torture in the Slovak Criminal Code, the Committee is concerned that this definition does not include the purpose of discrimination, nor that instigation, consent or acquiescence of a public official or other person acting in an official capacity are elements of the definition (art. 1).

The State party should bring its definition of torture into line with article 1 of the Convention by including the element of discrimination and by criminalizing instigation, consent and acquiescence of a public official or other person acting in an official capacity.

2. Fundamental safeguards

6. The Committee is concerned that persons in police custody may exercise their right to contact a member of their family and have access to an independent medical doctor and to legal counsel only "as soon as practical", not from the outset of their detention (art. 2).

The State party should ensure that persons in police custody can exercise their right to contact a member of their family and have access to an independent medical doctor, if possible of their choice, and to legal counsel from the outset of their deprivation of liberty.

3. Independence of the judiciary

7. The Committee is concerned that judges are appointed by the President of Slovakia on the basis of a proposal by the Judiciary Council, as some of the members of the Judiciary Council are appointed and dismissed by the President of the Republic and the Government (art. 2).

The State party should guarantee the full independence of the Judiciary Council in order to ensure the independence of the judiciary. In this respect, the Committee recalls the Basic Principles on the Independence of the Judiciary adopted in Milan in 1985 and endorsed by the General Assembly in its resolutions 40/32 and 40/146.

4. Non-refoulement and risk of torture

8. The Committee is concerned that, according to section 13 of the asylum law, persons considered to be a threat to national security or a danger to the community are not protected by the principle of non-refoulement, which may expose them to a risk of torture or other cruel, inhuman or degrading treatment or punishment. It is also concerned at the very low rate of successful asylum applications (art. 3).

The State party should adopt urgently the measures, especially legal ones, necessary to ensure protection of the rights of all asylum-seekers and persons seeking refugee

status. Furthermore, the State party should apply the non-refoulement principle without any discrimination or exception.

5. Complaints, investigations, prosecutions and convictions

9. While noting that the Inspection Service Office is managed by the Minister of the Interior and allegedly independent of the police, the Committee is concerned that alleged unlawful acts committed by the police, including torture and ill-treatment, are investigated by police officers of the Inspection Service Office. In this respect, the Committee is concerned that very few complaints against police officers are accepted and investigated and lead to prosecution and convictions (arts. 12 and 13).

The State party should further strengthen the independence of the Inspection Service Office by, inter alia, including independent experts drawn from outside the police so as to ensure that allegations of torture and other cruel, inhuman or degrading treatment or punishment are promptly, impartially, thoroughly and effectively investigated.

6. Independent monitoring

10. The Committee regrets the lack of information on whether there is an independent body in the State party that has the right to, inter alia, undertake unannounced visits to all places of deprivation of liberty, including police stations and pretrial detention facilities (arts. 2, 11 and 16)

The State party should ensure that fully independent monitoring, including unannounced visits, of all places of deprivation of liberty takes place on a regular basis. It should also ensure that any mechanism established for this purpose, at the local or national level, has an appropriate mandate and adequate resources.

7. Training

11. The Committee notes the State party's efforts with respect to training of law enforcement officers. However, it is concerned at the effectiveness of this training in the light of the high number of alleged cases of harassment and ill-treatment during both arrest and police custody, particularly of Roma suspects. It is also concerned that training programmes for medical personnel for the identification and documentation of cases of torture in accordance with the Istanbul Protocol may be inadequate (arts. 10 and 11).

The State party should:

(a) Include in its training modules on rules, instructions and methods of interrogation information on all provisions of the Convention, especially on the absolute prohibition of torture;

(b) Ensure that personnel involved in the treatment of detainees are trained on how to identify signs of torture and cruel, inhuman or degrading treatment, in accordance with the Istanbul Protocol, and strengthen the training on the Istanbul Protocol for all professionals involved in the investigation and documentation of cases of torture;

(c) Regularly evaluate the training provided to its law enforcement officials.

8. Juvenile justice

12. The Committee is concerned about the conditions of detention for juveniles, such as solitary confinement for periods up to 10 days, and the placement of juvenile detainees in pretrial detention together with adults (arts. 11 and 16).

In line with the concluding observations of the Committee on the Rights of the Child of 2007 (CRC/C/SVK/CO/2, para. 68), the Committee recommends that the State party:

(a) Implement the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) adopted in 1985, and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), adopted in 1990;

(b) Ensure that juveniles are held in detention only as a last resort and in strict compliance with the law, and ensure regular review of the conditions of detention of juveniles;

(c) Set up a training programme for judges to specialize in juveniles, including on the application of non-custodial measures;

(d) If necessary, seek technical assistance and other cooperation from the Interagency Panel on Juvenile Justice.

9. Allegations of torture and ill-treatment in police custody

13. The Committee is concerned about significant allegations of ill-treatment of detainees by law enforcement officers, including slaps, punches, kicks or blows with hard objects, as well as of the death of a man in 2001 after brutal police questioning. It is also concerned about the practice of handcuffing detainees for extended periods to fixtures in corridors or offices (arts. 12 and 16).

The State party should take appropriate measures to ensure that all allegations of torture or cruel, inhuman or degrading treatment are promptly and impartially investigated, perpetrators duly prosecuted and, if found guilty, convicted to penalties taking into account the grave nature of their acts, and that the victims are adequately compensated, including their full rehabilitation. It should also end the practice of handcuffing detainees for extended periods and any other ill-treatment of suspects while they are in detention.

10. Sterilizations of Roma women

14. The Committee is deeply concerned about allegations of continued involuntary sterilization of Roma women.

The State party should:

(a) Take urgent measures to investigate promptly, impartially, thoroughly and effectively all allegations of involuntary sterilization of Roma women, prosecute and punish the perpetrators and provide the victims with fair and adequate compensation;

(b) Effectively enforce the Health-care Act (2004) by issuing guidelines and conducting training of public officials, including on the criminal liability of medical personnel conducting sterilizations without free, full and informed consent, and on how to obtain such consent from women undergoing sterilization.

11. The Roma minority

15. The Committee is concerned about reports of mistreatment of Roma by police officers during arrest and while in custody. It is also concerned about the high percentage of Roma children in schools for children with mental disabilities. It is further concerned about discrimination against the Roma minority, which has led to violations of the rights protected under the Convention (arts. 10 and 16).

In the light of its general comment No. 2 on the implementation of article 2 (CAT/C/GC/2), the Committee recalls that the special protection of certain minorities or marginalized individuals or groups especially at risk is part of the State party's obligations under the Convention. In this respect, the State party should:

(a) Strengthen its efforts to combat ill-treatment of Roma detainees by ensuring the exercise of their legal rights from the outset of detention;

(b) Enforce the School Act No 245/2008 by ensuring that Roma children are admitted to mainstream education, unless a proper assessment concludes that the child has a mental disability and the child's legal guardian has requested placement in a special school. In particular, it should decouple the term "socially disadvantaged" from the term "mental disability".

12. Redress and compensation, including rehabilitation

16. The Committee regrets the lack of implementation of the rights of victims of torture and ill-treatment to redress and compensation, including rehabilitation. The Committee also regrets the lack of available information regarding the number of victims of torture and ill-treatment who may have received compensation and the amounts awarded in such cases, as well as the lack of information about other forms of assistance, including medical or psychosocial rehabilitation, provided to the victims (art. 14).

The State party should ensure that victims of torture and ill-treatment are entitled to redress and compensation, including rehabilitation, so that victims of torture and other cruel, inhuman or degrading treatment or punishment may be provided with fair and adequate compensation, including the means for as full rehabilitation as possible. It should also collect data on the number of victims who have received compensation and other forms of assistance.

13. Violence against women and children

17. The Committee is concerned about the insufficient measures taken to protect women and children against violence. In this regard, it shares the concern of the Committee on the Elimination of Discrimination against Women (CEDAW/C/SVK/CO/4, para. 20) about the high rate of violence against women and girls, including feminicides in the context of domestic violence (art. 16).

The State party should:

(a) Strengthen its efforts to ensure that urgent and efficient protection measures are put in place, and investigate promptly and impartially all allegations of violence against women and girls, including feminicides in the context of domestic violence, and prosecute and punish the perpetrators;

(b) Provide shelters and counselling services for women victims of violence in sufficient numbers and with adequate standards;

(c) Conduct broader awareness-raising campaigns and training on domestic violence for officials (judges, prosecutors, lawyers, law enforcement agencies and social workers) and the public at large;

(d) Increase cooperation with non-governmental organizations working to protect women and girls from violence.

14. Corporal punishment

18. The Committee is concerned that prohibition of corporal punishment is not explicitly stipulated in the act on the family, and that corporal punishment is widely accepted in society (art. 16).

The State party should explicitly prohibit corporal punishment in the family. It should also ensure that legislation prohibiting corporal punishment is strictly enforced and that awareness-raising and educational campaigns are conducted to that effect.

15. Trafficking in persons

19. The Committee is concerned about reports of cross-border trafficking in women for sexual and other exploitative purposes, and of Roma children trafficked abroad, especially for forced begging. The Committee is also concerned by internal trafficking of Roma women and children. The Committee regrets the lack of statistics on these issues, the low number of prosecutions and the frequent use of suspended sentences for perpetrators. The Committee is further concerned that reintegration and rehabilitation services are insufficient for victims of trafficking (art. 16).

The State party should:

(a) Investigate promptly and impartially all allegations of human trafficking, especially of women and children, prosecute the alleged perpetrators and punish those found guilty with appropriate penalties;

(b) Intensify its efforts to provide reintegration and rehabilitation services to victims;

(c) Conduct nationwide awareness-raising campaigns and conduct training for law enforcement officials, migration officials and border police on the causes, consequences and incidence of human trafficking.

16. Psychiatric facilities

20. The Committee is concerned about the ill-treatment of psychiatric patients, including the use of net-beds, as well as at the lack of independent monitoring of such places of deprivation of liberty (arts. 11 and 16).

The State party should improve the living conditions for patients in psychiatric institutions and ensure that all places where mental-health patients are held for involuntary treatment are regularly visited by independent monitoring bodies to guarantee the proper implementation of the safeguards laid down to secure their rights, and that alternative forms of treatment are developed.

17. Data collection

21. The Committee requests the State party to provide in its next periodic report detailed statistical data, disaggregated by crime, sentence, ethnicity, age and sex, on the number of persons deprived of liberty; on the complaints relating to torture and ill-treatment allegedly committed by law enforcement officials; on the related investigations, prosecutions and penal or disciplinary sanctions; and on pretrial detainees and convicted prisoners. The Committee also requests information on the compensation and rehabilitation provided to victims.

22. The Committee encourages the State party to ratify the Optional Protocol to the Convention against Torture.

23. The Committee invites the State party to become a party to the core United Nations human rights treaties to which it is not yet a party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities. The Committee invites the State party to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

24. The State party is encouraged to disseminate widely the reports it has submitted to the Committee and the concluding observations and summary records of the Committee through official websites, to the media and non-governmental organizations.

25. The Committee invites the State party to submit its core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, as approved by the international human rights treaty bodies (HRI/GEN/2/Rev.5).

26. The Committee requests the State party to provide, within one year, information in response to the Committee's recommendations contained in paragraphs 8, 13, 14 and 15 above.

27. The State party is invited to submit its next periodic report, which will be the third, by 20 November 2013 at the latest.
