

## **Summary Record of the dialogue between the Human Rights Committee and the Official Delegation of Slovenia (Geneva, 14<sup>th</sup> – 15<sup>th</sup> July 2005)**

This summary record underlines the concerns of the Human Rights Committee's (HRC) that were raised during the dialogue with the Slovenian Delegation held during the 84<sup>th</sup> session in Geneva, on 14 and 15 July 2005.

This dialogue was focused on the list of issues<sup>1</sup> that had been prepared by the HRC, and submitted beforehand to the Slovenian Delegation with the aim to obtain complementary information to the second periodic report<sup>2</sup> of the State Party.

In introduction to this dialogue, the Slovenian Delegation specified its will to continue an effective dialogue with the HRC.

The Delegation recalled that Slovenia is a young state of 14 years old, and despite of this age, many things have been done in the field of Human Rights. The Committee congratulated the Delegation for its elaborate report and its complete delegation with experts from a wide governmental range. However the Committee did emphasize the delay of 5 years and noted the fact that there have been little communications concerning Slovenia.

### **Constitution and Legal Framework within which the Covenant is implemented; Right to an effective remedy (Art. 2)**

Concerning the status and use of the Covenant, the Delegation explained how ratifications adopted prior to independence of the Republic of Slovenia are also a part of Slovene legal order, since the Republic of Slovenia is a successor state of the former SFR Yugoslavia. The International Covenant on Civil and Political Rights (ICCPR) was ratified by the former SFR Yugoslavia in 1971 and succeeded by the Republic of Slovenia as a successor state of the former SFR Yugoslavia in 1992. After ratification and publication, the Covenant, like all international treaties, became a part of the (internal) Slovene legal order. The Covenant has been applied directly by the courts several times since 1992.

The Slovenian delegation had been asked to provide more information on the competence and activities of the human rights ombudsman. The Delegation explained that the parliament elects the Ombudsman with a 2/3<sup>rd</sup> majority, and can dismiss him/her with an equal majority, but only if the Ombudsman has committed a criminal offence for which he is punished and imprisoned, or if permanent incompetence is proven. The Ombudsman is appointed for a period of six years, with the possibility of reappointment. He is immune from prosecution and can inspect all relevant documentation he needs for his investigations.

### **Gender Equality and protection of the child (arts. 3 and 24)**

The police define violent behaviour within the family as a misdemeanour or crime depending on the manner and severity. There is presently a research project that is looking into the benefits of letting domestic violence constitute a separate criminal offence in the future. The Delegation nevertheless explained on the matter of domestic violence that police does intervene, but that it has more powers when the use of violence is proven.

The Delegation was asked to provide statistics on domestic violence, which they did. In 2000 a total of 3,084 criminal offences were recorded that had elements of domestic

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<sup>1</sup> See the "List of Issues", UN document CCPR/C/84/L/SVN.

<sup>2</sup> See Second Periodic Report of Slovenia, UN document CCPR/C/SVN/2004/2.

violence, in 2001 there were 3,844 such offences, in 2002 there were 4,441, in 2003 the number grew to 5,224, and in 2004 a total of 5,066 were recorded. One of the main measures of the state in tackling the issue of domestic violence is the amended Police Act, which provides the police force with the option of issuing restraining orders. From 26 September 2004 to 6 June 2005 police officers issued 52 restraining orders. Moreover there are awareness-raising campaigns in the area of internal affairs, social protection and family conducted by governmental and non-governmental organizations. As prevention of violence against women and children there are many programs and social work possibilities. There are special centres for abused children and 250 places for mothers and children in safe houses for battered mothers and shelters are planned to be provided by the end of 2005. The Delegation explained that only in the worst cases of child negligence or abuse, a child is taken away from its parents. According to Article 56 of the Constitution of the Republic of Slovenia, children enjoy special protection and care. They are also guaranteed special protection from economic, social, physical, mental or other exploitation and abuse. In Slovenia corporal punishment of children within the family is not explicitly prohibited. Pursuant to Article 183 of the Penal Code (sexual assault on a person under 15 years old), children below the age of 15 years are protected from sexual abuse and sexual violence. The maximum threatened punishment is 15 years' imprisonment.

On the matter of increasing women's participation in employment, the Delegation explained that indeed the representation of women and men in government bodies and public administration bodies is unbalanced, as is the case with women's participation in political decision-making and in the commercial sector, although the share of women is slightly higher here than in the political sphere. Slovenia adopted the Equal Opportunities Act regulating the criteria for implementation of the principle of balanced representation of women and men, which entered into force in September 2004.

**Right to life; freedom from torture and cruel, inhuman or degrading treatment;  
right to be free of arbitrary arrest and detention; treatment of prisoners  
and other detainees (arts. 6, 7, 9 and 10)**

The Committee had requested Slovenia additional information about police violence and arbitrary detention. In the period from 2000 to 2004 a total of 536 acts by police officers were dealt with. Of these, 59 cases were confirmed and charges were brought. The Delegation explained that regardless of the level of democracy, no state is immune from excesses of police powers but that with a wide range of measures, Slovenia is striving to reduce such violations to a minimum. Police education is meant to contribute to this: in all courses at both the police academy and for police already in service, there are elements about human rights, ethics, social skills and anti-stress.

Cases of police violence, investigation are undertaken, of which several examples are given by the Delegations in their written response. Both the Police Act and the Criminal Procedure Act and the Code of Obligations make several legal remedies available in cases of police violence.

The statistically significant major increase in the use of force in recent years is primarily because the police started recording the use of force electronically. Moreover, an increase in the police force (because of the new Shengen borders) has also increased the number of incidents of police violence.

Torture is not defined in Slovenian law. A draft of new Article 271.a of the Criminal Code was made by the Ministry of Justice in 2003, but it was retracted later that year, because external legal experts criticised its structure, and it was decided that more detailed work and research on this issue is needed. In 2006 the Act containing the Definition will be finalized. Torture is now not made a specific offence, but is prescribed in criminal offences,

and by Articles 270 (Violation of Human Dignity by Abuse of Official Position or Official Rights) and 271 (Extortion of a Statement) of the Criminal Code. Punishment for torture range from 3 months up to 10 years. Slovenia is preparing to ratify the Facultative Protocol of the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

The Committee has posed a range of questions on pre-trial detention. The Slovenian Delegation explained firstly that in Slovenia the police does not have the right to detain an individual for more than 48 hours. There is a problem of overcrowding in the Slovenian prisons, irrespective of numerous spatial improvements. In the year of 2004 on the average day there were 280 detained persons, which is 9% more then the officially prescribed spatial capacity.

Everyone detained in Slovenia has the right to a lawyer. If the person does not have the material means for one, a lawyer is appointed by the authorities.

The Committee wanted to know more about the crimes that have been decriminalized (under the minor offences act of 1-1-2005) and are now punishable only with a fine. These crimes are along the lines of traffic offences, offences against law and order, data protection, some narcotics offences, and prostitution. It should be noted that, as prostitution is now decriminalized, the act of human trafficking is labelled as a crime.

#### **Prohibition of slavery or forced or compulsory labour (art. 8)**

Slovenia is a transit country for human traffickers, though it is also increasingly a final destination. An influential Interdepartmental Working Group on the Fight against Trafficking in Persons has been drafting a plan based on three years of research. All relevant actors have been trained, there is good cooperation with countries in the region and a first safeplace for victims of human trafficking has been established in Ljubljana. The Delegation considers all of this a solid base for future work on the matter. Trafficking human beings has been labelled as a new crime under Slovenian law (from 5 may 2004). This has up to now resulted in criminal procedures against twelve people.

#### **Freedom of movement (arts. 12 and 13)**

*The Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia* regulates the issuance of permanent residency permits for citizens of countries that were members of the former Yugoslavia. It specifies that a citizen of a country that was a member of the former Yugoslavia may receive a permanent residency permit if the person was registered as having a permanent residence in the area of the Republic of Slovenia as of 23 December 1990 and continued to actually live in Slovenia thereafter. By 31 May 2005, the Ministry of the Interior had received 13,235 requests for issuance of permanent residency permits on the basis of this Act; of these, 11,001 permits were granted. In total around 200.000 foreigners resign in Slovenia, of which 98% is from the Former Yugoslavia (mainly Bosnia-Herzegovina). The head of the Slovenian Delegation added to this, that it should be kept in mind that Slovenia has a population of 2 million, of which 200.000 is one tenth.

In the year 2004 there were 1173 persons who applied for asylum in the Republic of Slovenia. This year there were 674 persons (that is until 1 June 2005) who applied for asylum, and the number is increasing each year.

#### **Right to a fair trial (art. 14)**

The Delegation was asked to elaborate on the problem of backlogs in Slovenian Courts. On this matter, the Delegations could explain that since the year 2002 this backlog was decreasing.

### **Right to freedom of expression (art. 19)**

The Committee had posed questions regarding the case of Miran Petek, a journalist that has been seriously attacked, for which no one has been prosecuted. The Delegation explained that the case of the attack of Mr. Petek has turned out to be complex, that 57 witnesses have already been heard, and that the examination is still ongoing.

### **Right to take part in public affairs; non-discrimination; protection of national minorities (arts. 25, 26 and 27)**

Many questions were posed on the position of minorities in Slovenia. The country introduced minority protection for the Italian and Hungarian national communities and for the Roma ethnic community in the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia. There are elaborate frameworks and projects to improve the position of both Roma, Italian, Hungarian and Former Yugoslavian minorities.

On the position of the Roma in Slovenia, the Delegation told the Committee there are between 7000 and 10.000 Roma in Slovenia. Of them, 40% lives in built houses, 20% in flats, and 40% still in temporary dwelling. Slovenia would like all the Roma to become sedentary. There is special funding and many projects on education, housing and employment. There has been an increase in the number of Roma children that attend school. Roma children are in class with non Roma children, though there are special classes when the children do not speak Slovenian. The Delegations emphasised there are no special Roma classes or schools, as in some other Eastern European countries.

The Slovenian government makes a distinction between autochthonous and non autochthonous Roma (a distinction inherited from the Former Yugoslav Republic), about which questions arose with the Committee. The Delegation explained that the concept of autochthonous appears twice in the Constitution of the Republic of Slovenia but that no final definition is provided. In most cases a autochthonous or historical settlement exists if it has been present in a territory for at least two generations. Discussions about the specification of the individual areas where Roma are supposed to be historically or traditionally settled (autochthonous) in Slovenia are still continuing.

Members of the Italian and Hungarian national communities enjoy collective rights in addition to individual rights (these include representation in the National Assembly). The Delegation explained this had to do with a range of international agreements established after World War II. Members of other nationalities enjoy individual rights under the Constitution. These rights enable them to preserve their national, linguistic and cultural characteristics in various ways. The Roma community does not have the position of a national minority. A member of the Committee pointed out that the distinction between ethnic minorities (the Roma) and national minorities (the rest) could lead to discrimination.