



International Covenant on Civil and Political Rights

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Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on Slovenia

<i>Concluding observations (116th session):</i>	CCPR/C/SVN/CO/3, 24 March 2016
<i>Follow-up paragraphs:</i>	8, 16 and 20
<i>Follow-up reply:</i>	CCPR/C/SVN/CO/3/Add.1, 8 November 2017; and CCPR/C/SVN/CO/3/Add.2, 27 June 2016
<i>Committee's evaluation:</i>	Additional information required on paragraphs 8[A][C], 16[C] and 20[C]
<i>Information from non-governmental organizations and national human rights institutions:</i>	Human Rights Ombudsman ¹

Paragraph 8: Racism and xenophobia, including hate speech

The State party should strengthen its efforts to prevent and eradicate all forms of racism and xenophobia, including by:

- (a) Establishing an independent and effective body to respond to cases of discrimination and reforming the Advocate of the Principle of Equality to this end;
- (b) Adopting a clear strategy on the prevention and elimination of discrimination, in consultation with civil society representatives;
- (c) Ensuring that there is an easily accessible system of transparent and effective legal remedies for victims of discrimination and improving the reporting of and legal responses to cases of racial discrimination, including the prosecution of those involved in serious cases of hate speech amounting to incitement to hostility or violence;
- (d) Condemning racial discrimination and conducting campaigns aimed at promoting respect for human rights and tolerance for diversity and at raising awareness of the fact that hate speech is prohibited under law.

* Adopted by the Committee at its 128th session (2–27 March 2020).

¹ See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGS%2fSVN%2f40941&Lang=en.



Summary of the State party's reply

(a) The Advocate of the Principle of Equality was established by the Protection against Discrimination Act of 21 April 2016;

(b) No information provided;

(c) The Government drafted a proposal for an act amending the Minor Offences Act to allow the identification of perpetrators of hate speech on the Internet. However, the National Assembly unanimously rejected the proposal;

(d) The Media Act was amended in 2016. The Act requires publishers to set up rules for public comments, and to remove any comments violating them. It also stipulates that respect for the principles of cultural diversity, gender equality and tolerance is one of the criteria for applications for co-funding of media programmes. The Radiotelevizija Slovenija Act requires the national public broadcasting organization to support awareness of other cultures. The State party reiterates the information provided in its third periodic report (CCPR/C/SVN/3, para. 146) on the *Spletno Oko* (Web Eye) reporting point. A project entitled "Responding to hate speech: launch of an independent connecting body", launched in 2014, established the Anti-Hate Speech Council.

Information from the Human Rights Ombudsman

(b) Despite numerous calls, the State party has not adopted a national strategy and action plan for the prevention and elimination of discrimination.

Hardly any disaggregated data are collected in the State party. The most common argument against the collection of disaggregated data is the importance of protecting personal data.

Committee's evaluation

[A] (a): The Committee welcomes the adoption of the Protection against Discrimination Act and the establishment of the Advocate of the Principle of Equality.

[C] (b), (c) and (d): The Committee regrets that no information was provided about whether a strategy on the prevention and elimination of discrimination had been adopted. The Committee reiterates its recommendations. It regrets that no information was provided on the measures taken since the adoption of the concluding observations to ensure that there is an easily accessible system of legal remedies or to improve the reporting of and legal responses to cases of racial discrimination. The Committee reiterates its recommendations.

The Committee notes the amendment of the Media Act, but regrets the lack of information provided on the measures taken since the adoption of the concluding observations. The Committee reiterates its recommendations.

Paragraph 16: Asylum seekers, migrants and refugees**The State party should:**

(a) **Ensure that any response to the influx of asylum seekers and migrants is in line with its obligations under the Covenant, and regularly review the necessity and proportionality of the measures adopted;**

(b) **Take effective steps to allow persons in need of international protection access to the relevant procedures for international protection, and ensure that any measures taken by the State party, including in relation to bilateral and regional agreements, do not discriminate on the basis of country of origin, arrival or transit;**

(c) **Ensure that the procedure for international protection allows for an individual assessment based on the circumstances of each case by trained professionals with legal expertise;**

(d) **Ensure that legal representation of adequate quality is systematically made accessible throughout the entire procedure for requesting international protection;**

(e) **Ensure full respect of the principle of non-refoulement;**

(f) Consider steps to facilitate the process of family reunification for beneficiaries of international protection.

Summary of the State party's reply

(a) The Resolution on the National Security Strategy of the Republic of Slovenia is in accordance with the obligations of the State. The relevant authorities regularly monitor the migration situation and assess any risks on the basis of which the necessity and the proportionality of the measures are reviewed.

The State party reiterates the explanation given during the dialogue with the Committee in 2016 that, on the basis of an assessment of needs, the Government decided to erect temporary technical barriers to ensure effective State border control and prevent uncontrolled crossing of the border. The main objective of the temporary technical barriers was to prevent dispersed illegal border crossing and direct migrants to entry points.

The joint statement of the heads of police services of 18 February 2016 did not limit the entry of migrants solely on the basis of nationality. Any foreigner wishing to enter the country is assessed individually by the Slovenian police.

The State party also reiterates the explanation provided in the dialogue concerning the amendments to the Defence Act, that the amendments did not grant the Slovenian Armed Forces any powers with regard to crowd control;

(b) The Ministry of the Interior is in charge of processing all requests for international protection in accordance with the International Protection Act. Protection is refused when the applicant does not meet the conditions under the Act, most frequently owing to lack of credibility;

(c) International protection procedures are managed by public employees with suitable knowledge and experience. The State party reiterates the information provided in its replies to the list of issues (CCPR/C/SVN/Q/3/Add.1 and Corr.1, para. 64) on fundamental procedural guarantees for applicants;

(d) The State party reiterates the information provided in its replies to the list of issues (ibid., para. 64) regarding access to legal representation;

(e) The International Protection Act does not violate the principle of non-refoulement;

(f) The Foreigners Act sets out the procedure for family reunification. The Ministry of the Interior endeavours, within available human resources, to carry out procedures in the shortest time possible or within the statutory deadlines. If the persons reunifying with their families wish to facilitate and, as a result, expedite the procedure, they must strictly observe deadlines and their duties, and provide officials with documentary evidence showing a family relationship and the authenticity of their family members. Their request should state in detail all important facts that could facilitate and expedite the entire procedure.

Information from the Human Rights Ombudsman

(b) A number of asylum seekers claim to have been forcibly returned to Croatia, even though they expressed to police officers their intention to claim asylum.

The Ombudsman's findings showed the seriousness of the allegations of irregularities in some police procedures, including the implementation of collective expulsions. Foreign nationals who are caught entering Slovenia irregularly and who do not or cannot apply for asylum are returned to Croatia as part of the so-called "informal returns" arrangement under the bilateral readmission agreement between Slovenia and Croatia, with no procedural safeguards against refoulement.

The excessive length of asylum procedures is a systemic problem in the Slovenian asylum system.

Committee's evaluation

[C] (a), (b), (c), (d), (e) and (f): The Committee regrets to observe that no information has been provided on measures taken to ensure that any response to the migration situation is in compliance with the Covenant. The Committee reiterates its recommendations.

The Committee regrets the lack of information provided on steps taken since the adoption of the concluding observations to allow access to relevant procedures for international protection and to ensure that any measures taken do not discriminate on the basis of country of origin, arrival or transit. It requires information on the details received regarding the practice of collective expulsions. The Committee reiterates its recommendations.

The Committee regrets the lack of information provided on the measures taken since the adoption of the concluding observations to ensure that the procedure for international protection is carried out by trained professionals and allows for individual assessments. The Committee reiterates its recommendations.

The Committee regrets to observe that the State has reiterated the information that it provided in its replies to the list of issues on legal representation throughout the procedure for requesting international protection. The Committee reiterates its recommendations.

The Committee regrets the lack of information provided on the measures taken since the adoption of the concluding observations to ensure full respect of the principle of non-refoulement. It requires information on the details received about the "informal returns" of foreign nationals who are caught entering Slovenia irregularly, under the bilateral readmission agreement between Slovenia and Croatia, with no procedural safeguards against refoulement. The Committee reiterates its recommendations.

The Committee regrets the lack of information provided on the measures taken since the adoption of the concluding observations to facilitate the process of family reunification for beneficiaries of international protection. The Committee reiterates its recommendations.

Paragraph 20: Persons in vulnerable situations in the migration flow

The State party should establish a uniform and formal mechanism to identify persons in vulnerable situations in the migration flow, including unaccompanied minors and victims of sexual and gender-based violence and trafficking, as well as a common referral mechanism to ensure their protection and rehabilitation. It should also ensure that law enforcement officials and other relevant professionals are fully trained in the appropriate standards and procedures to effectively identify and assist victims. It should further ensure that victims of trafficking are provided adequate assistance regardless of whether they cooperate with law enforcement authorities in investigations and criminal proceedings.

Summary of the State party's reply

Under the International Protection Act, the identification of vulnerable persons is part of a preliminary review. The State party reiterates the information that it provided in its third periodic report (CCPR/C/SVN/3, para. 176) on the project regarding a mechanism for the identification of victims of human trafficking or sexual abuse.

In July 2016, the Government adopted Decision No. 21400-6/2016/8 on the provision of suitable accommodation for unaccompanied minors who are residing in Slovenia illegally and who have the status of an applicant for international protection or a person under international protection. The purpose of the project was to provide unaccompanied minors with suitable accommodation, including 24-hour care, and to allow them to be treated by experts and to be accommodated separately and safely. As the pilot project was hugely successful, it has been continued as a permanent project at the Postojna Dormitory.

Information from the Human Rights Ombudsman

Despite provisions in national legislation that unaccompanied minors and families with children should primarily be accommodated in institutions that are adequate for the

accommodation of children, in practice families with children and some unaccompanied minors are detained in the Postojna Centre for Foreigners, which is a closed facility.

The Ombudsman acknowledges the efforts made by the Government in recent years to provide alternative solutions to accommodate unaccompanied minors in the Postojna Dormitory. However, a systemic approach to accommodating and treating unaccompanied minors as a separate unit for the purposes of their comprehensive treatment has yet to be established. Furthermore, no alternative accommodation has been found for families with children.

Committee's evaluation

[C]: The Committee takes note of the Government's decision to provide suitable accommodation for unaccompanied minors, but notes the information received that families with children and some unaccompanied minors are detained in the Postojna Centre for Foreigners, which is a closed facility. It regrets the lack of information provided on the measures taken since the adoption of the concluding observations to establish a mechanism to identify vulnerable persons and a referral mechanism to ensure their protection and rehabilitation. It further regrets to observe that information has not been provided on measures taken to ensure the training of law enforcement officials and to provide adequate assistance to victims of trafficking. The Committee reiterates its recommendations.

Recommended action: A letter should be sent to inform the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.
