



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

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Summary record of the first part (public)* of the 1154th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 22 May 2013, at 10 a.m.

Chairperson: Ms. Belmir (Vice-Chairperson)

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1154/Add.1.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Fifth periodic report of Estonia (CAT/C/EST/5; CAT/C/EST/Q/5; HRI/CORE/1/Add.50/Rev.1)

1. *At the invitation of the Chairperson, the delegation of Estonia took places at the Committee table.*
2. **Mr. Sarapuu** (Estonia), briefly introducing the recent developments that had taken place in his country since the submission of the report under consideration, said that in June 2012, Estonia had been visited by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which had not yet published its report. In September 2011, amendments to the Code of Criminal Procedure to expedite judicial proceedings and enhance the protection of minors had entered into force. Minors were no longer required to attend court as the video recording of the testimony they had given during the investigation could now be used. With the implementation of the Guidelines for Development of Criminal Policy until 2018, adopted by Parliament in 2010, the average length of pretrial investigation in criminal cases involving minors had been halved, from five months in 2008 to two and a half months in 2012. Also, the budget of the justice sector for 2013 had been increased by 10.2 per cent compared to 2012 to enable the judiciary to cope with its increasing caseload. There were further plans to amend the Code of Misdemeanour Procedure with a view to expediting proceedings and enhancing their efficiency.
3. Those legislative and strategic measures, as well as other initiatives, had helped to decrease the prison population by 26 per cent from about 4,600 persons in 2003 to about 3,400 persons in 2013. Moreover, the average number of days of detention in police holding cells had decreased from 5.9 days in 2010 to 4.4 days in 2012. New detention houses had been opened in Kuressaare, in 2012 and in Narva, in 2013. Renovation work on existing centres had begun and four new detention centres were planned for 2019. There was no overcrowding in the prisons that were opened in Tartu in 2002, and in Viru in 2008. At the beginning of 2013, Murru Prison had been closed down and repairs had been made to Tallinn Prison — the last remaining Soviet era prison — to improve conditions of detention.
4. In 2011, nearly 2,000 cases of domestic violence had been registered, representing one quarter of cases of violence registered in Estonia. A comprehensive review of the Criminal Code was under way and there were plans to incorporate specific provisions on domestic violence. Combating domestic and gender-based violence involved an array of activities ranging from violence prevention, victim support, rehabilitation for perpetrators to strengthening cooperation between the professionals and institutions concerned. Training seminars on domestic violence had been held for police officers, as well as judges and prosecutors specializing in that area, as part of the Development Plan for Reducing Violence 2010–2014. Since 2008, seminars on the prevention of sexual violence had been held for prison officials and, in 2012, medical staff working in prisons had received training to detect traces of torture. In Estonia, there were currently 11 shelters for women victims of violence, where they could be accommodated and receive psychological and legal counselling. An emergency helpline for women victims of violence had operated continuously since 2008.
5. Since April 2012, trafficking in human beings had been criminalized as a distinct provision in the Criminal Code and its definition was now consistent with that contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women

and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). As a result of the legislative amendment, new guidelines on cooperation between the different stakeholders in fighting human trafficking were being developed. In 2012, 671 victims of trafficking had received assistance from a helpline set up in 2008 by an NGO and funded by the Ministry of Social Affairs. In 2012, the number of persons convicted of trafficking was 31. Informational materials had been developed for specific target groups and the general public in order to provide information on ways of receiving support.

6. **Ms. Gaer** (Country Rapporteur) noted with satisfaction that, despite the problems it faced, the State party submitted its reports to the Committee regularly and in a timely manner and that it had provided replies on its follow-up to the previous concluding observations. According to the State party's introductory statement, there were further plans to amend the Code of Misdemeanour Procedure. She wished to know what the amendments comprised and when they were expected to be adopted. She also wondered whether the proposal to amend the Criminal Code, referred to in paragraph 1 of the report, had been adopted and, failing that, whether other draft proposals to amend the relevant section had been submitted. Noting that acts of torture continued to be tried under the provisions punishing abuse of authority and other provisions of the Criminal Code, she wished to know whether any proposals to amend national legislation to bring it into line with article 1 of the Convention had been submitted since consideration of the previous periodic report. It appeared from the report under consideration that national legislation also punished individual acts of torture. The Committee would welcome the delegation's confirmation that such was the case and an explanation of the circumstances in which the State's liability could be established when the perpetrator of acts of torture was not one of a State official.

7. She would like to know why the State party had not implemented the Committee's recommendation in its previous concluding observations that the provisions of the Criminal Code should be amended to ensure that acts of torture were punishable by penalties commensurate with the gravity of the acts. Furthermore, why had the Convention not yet been directly invoked before the courts while the European Convention on Human Rights had been? It would be interesting to learn what initiatives had been taken since the submission of the report to seek the Chancellor of Justice's accreditation with the International Coordinating Committee of National Human Rights Institutions. Noting that suspects could be denied the right to inform their relatives of their detention, she requested clarification of the reasons for such a denial. She also wished to know whether the fundamental guarantees protecting the rights of suspects — the right to contact a lawyer, to be examined by a doctor and to inform relatives — applied not only to individuals who had committed criminal offences but also to those guilty of misdemeanours. Information would be welcome on situations in which detention could be replaced by the use of electronic monitoring devices and on the reasons for the decrease in the number of pretrial detainees. Such statistics covering the period following the submission of the report would be welcome.

8. With regard to article 3 of the Convention, while noting that the State party had not established a list of countries to which it was considered safe to return individuals, she understood that a set of criteria was used to divide them into categories, and requested an explanation. Was it true that all asylum applications submitted by persons who had transited through the Russian Federation were automatically rejected by the Estonian border guards? According to information before the Committee, the border guards had not received the necessary training to enable them to process asylum applications, and no remedy was available for asylum seekers whose applications had been rejected at the border. She requested the delegation to comment on those allegations and to state whether there had ever been cases in which asylum seekers had not been expelled when there was a

risk of torture in the country of return. She would appreciate information on the percentage of asylum seekers from the Russian Federation in 2011 and 2012.

9. With regard to domestic violence, the delegation might indicate what progress had been made on the debate regarding the drafting of a specific law on domestic violence, referred to in paragraph 87 of the report. According to information received from an NGO, the number of reported cases of domestic violence had fallen significantly between 2005 and 2008, allegedly as a result of victims' mistrust of police and the judiciary. The delegation could perhaps comment on that information, describe how such cases were investigated and prosecuted, and explain the nature of the penalties imposed on the perpetrators. It would also be useful to know whether the State party had provided any training, since the submission of the report, to raise police awareness of the issue and what progress had been made on the research that was to be conducted on the causes of domestic violence.

10. She would like to know whether any guarantees were provided to ensure that children born of stateless parents did not themselves become stateless. She also requested information on the content of the programme for the integration of third-country nationals, launched in 2009, and on its results. According to information provided by the Legal Information Centre for Human Rights, detainees were required to wear an identification badge showing not only their name but also their level of language proficiency, which they reportedly considered to be discriminatory and offensive. The delegation was invited to comment on those allegations and to describe the steps taken to ensure that such categorization did not lead to misconduct by prison staff. The same NGO had also reportedly been subjected to harassment and retaliation by security police officers as a result of its activities, which called for an explanation.

11. In 2011, under pressure from the international community, the competent Estonian authorities opened an investigation to shed light on the alleged participation of a former member of the Waffen SS, Mikhail Gorshkov, in the massacre of 3,000 Jews in Belarus during the Second World War. However, the investigation had been closed a few months later and the man reportedly continued to take part in neo-Nazi demonstrations held in the country, where several Nazi criminals were said to live. The delegation was requested to explain what action the State party had taken to investigate alleged breaches of the Convention committed in the past by persons living in Estonia and whether any steps had been taken to compensate survivors of those crimes still living in the country. Lastly, given that the table in paragraph 41 of the report showed only the number of persons convicted of the offences listed therein, the delegation could perhaps state the number of complaints filed for each offence.

12. **Mr. Wang Xuexian** (Country Rapporteur) asked what obstacles had prevented the State party from establishing a mechanism for assessing the efficiency of training regarding the Convention. Noting that, according to the statistics provided in paragraph 41 of the report, some 450 persons had been punished for torture between 2008 and 2010, he requested additional information on the nature of the penalties imposed and on the reparation made to the victims. He wished to know if all detainee complaints referred to the Chancellor of Justice since 2007 had been investigated, and, if so, what the outcome had been. He also wished to know if the State party intended to establish an independent mechanism to investigate cases of torture. How many of the 266 persons compensated in 2010 for offences had been victims of violations of the Convention?

13. Information before the Committee indicated that in June 2012 the Chief Justice of the Supreme Court had criticized in Parliament the additional security systems that had been introduced and the fact that the right of detainees to be brought before a judge would not be guaranteed. Furthermore, the conditions of detention in punishment cells were allegedly inhumane. The delegation was invited to comment on that information and to

explain what follow-up action had been taken on complaints about detention conditions at the Harku Detention Centre, which gave cause for considerable concern. It would also be useful to know if the number of victims of human trafficking had increased or decreased since 2010 and to have more detailed information on the processing of citizenship applications for children under 15 years filed by their parents or by other accompanying adults. Lastly, he would like to know whether the State party had a national human rights institution in compliance with the Paris Principles.

14. **Mr. Bruni** requested information on the current status of the proposed amendment to section 122 of the Criminal Code which had been submitted by the Ministry of Justice to the other ministries and to Parliament in order to align the definition of torture set out in that section with its definition under article 1 of the Convention. With regard to the prison system, the Committee was pleasantly surprised to note that the State party was one of the few countries to have reduced the occupancy rate of detention centres, which had fallen from 90 per cent in 2009 to 40 per cent in 2013, as well as the total number of detainees. It would be useful to know what measures had led to that outcome. The delegation was also requested to state whether solitary confinement was one of the punishments provided for in the prison regulations and, if so, on what grounds it could be used and what was the maximum period of such punishment. Lastly, was the Government still considering the possibility of recognizing the competence of the Committee under articles 21 and 22 of the Convention?

15. **Mr. Tugushi** asked what had been done to reduce the period of detention in police stations and what the current situation was in that regard. He also wished to know if the bill to eliminate the possibility of keeping individuals who had served their sentence in detention on the ground that they posed a threat to society had been adopted. With regard to prison conditions, he wondered whether the State party envisaged raising the standard regarding the space available to each detainee. The State party was also requested to indicate whether it planned to further regulate the use of restraints in psychiatric institutions and whether the plan to provide police officers with taser devices had been maintained, despite the criticism it had attracted.

16. **Mr. Mariño Menéndez** said that he understood that the State party considered the Chancellor of Justice to be the national body for the prevention of torture. The delegation might confirm that information and clarify the ways in which the Chancellor discharged his or her duties and to say whether the State party had progressed towards ratification of the Optional Protocol to the Convention. On the subject of asylum, the Committee wished to know whether, in accordance with the relevant European Union legislation, persons who had not been granted asylum received subsidiary protection on humanitarian grounds and whether there was an accelerated procedure for asylum applications. The Committee also understood that the reception of asylum applicants was sometimes entrusted to private companies. The reception arrangements and the prerogatives of those companies in examining asylum applications should be clarified.

17. **Ms. Sveaass** asked if there were plans to provide specific training on the Istanbul Protocol for prison doctors and for all medical personnel, law enforcement personnel, judges and immigration officials to enable them to detect signs of torture. The State party had declared that measures had been taken to compensate and rehabilitate victims of violence, including domestic violence. She wondered whether such measures had also been taken for victims of violence or ill-treatment by State officials. In that regard, the delegation could perhaps state whether victims of excessive use of force by law enforcement personnel during the Tallinn disturbances in April 2007 had received reparation, and what the results of the investigations conducted into those acts had been. In 2012 the State party had adopted a law expressly criminalizing human trafficking. It would be useful to know to

what extent that law had enabled the State party to punish that offence more effectively and what penalties had been imposed to date for such acts.

18. **Mr. Gaye** requested clarification of the provisions of the Criminal Code relating to the access of detainees to a lawyer. Noting that prosecutors could deny a suspect the right to inform a relative of his or her arrest if they considered it likely to interfere with the proceedings, he asked whether to determine cases in which such a decision could be made any criteria had been established. Furthermore, the prosecution could extend pretrial detention after the initial 6-month period without any justification. That was a peculiar provision since, while in many countries the prosecution could request the judge to extend pretrial detention, it was unusual for the prosecution to be able to take that decision itself. It would be useful to know whether the State party intended to review that provision to ensure that any decision to prolong pretrial detention rested solely with the judge. It would also be useful to have information on the concepts of administrative arrest and administrative detention, in particular their implementation and the guarantees provided to the persons concerned.

19. **Mr. Domah** asked for clarification of the procedures for granting legal aid and the provisions guaranteeing access for all persons deprived of their liberty to medical care. In what percentage of cases were suspects denied permission to inform their relatives of their arrest? In the light of the information provided by the State party that persons in custody were immediately brought before a court of first instance for a hearing, the delegation could perhaps specify whether those persons were informed of their rights before appearing in court for the first time and how their right not to be subjected to torture was guaranteed. Could the delegation also state whether health professionals who detected traces of torture reported them to the judicial authorities? Lastly, it should also be specified who was responsible for determining causes of death in detention and whether violent or unexplained deaths were the subject of a judicial investigation in accordance with the relevant international standards.

20. **Ms. Belmir** pointed out that the administrative authorities (police, customs, municipal authorities) were responsible for identifying breaches of the Criminal Code and establishing penalties. She wondered whether the relevant procedures were reviewed by professional judges and whether they were consistent with the principles governing criminal justice. She observed that the adversarial nature of criminal proceedings in the State party could not justify the fact that the court was not allowed to continue proceedings if the prosecutor decided to drop the charges. It was also important to regulate the powers of prosecution, in particular, by enabling the complainant to bring a private action. Any comments on the subject would be appreciated. Moreover, the conditions required for a person deprived of liberty to be able to challenge an act or measure of the prison administration, provided in paragraph 44 of the written replies, were unreasonable and likely to deter detainees from making use of available remedies, which also called for comment. The delegation should also specify whether persons with mental disabilities or disorders were criminally responsible for their acts, and provide information on the protection and guarantees for child victims of trafficking and on the arrangements for their return to their countries of origin.

21. **Ms. Gaer** (Country Rapporteur) said that she understood that in 2012 the authorities had filed complaints against 17 police officers and 7 prison guards for abuse of authority. She asked the delegation to confirm those figures and to provide information on the outcome of the complaints. The report published on the visits carried out by the Chancellor of Justice to places of detention in 2011 highlighted various problems relating to living conditions in some institutions, in particular the absence of hot water, the lack of sanitary facilities, breaches of fire safety regulations and inadequate health care. Those problems were particularly acute in the Rakvere and Haapsalu centres and in the short-stay prisons of

Narva, Valga and Voru, to the point where the Chancellor of Justice considered that they should be used as little as possible and that the persons detained there should be transferred elsewhere as soon as possible. The Chancellor of Justice also referred to the lack of guidelines on the use of restraints and the severe shortcomings in the registration system, particularly with regard to police records. She would like the delegation to comment on all those points, to state whether measures had been taken to address the problems reported by the Chancellor of Justice and to clarify the State's role in implementing its recommendations.

22. **Mr. Wang** Xuexian (Country Rapporteur) asked whether citizenship was automatically granted to stateless children born on the territory of the State party. He also wished to know whether Estonia had acceded to the Convention relating to the Status of Stateless Persons and to the Convention on the Reduction of Statelessness.

23. **Mr. Sarapuu** (Estonia) thanked Committee members for their questions, to which the delegation would reply at a later meeting.

The public part of the meeting rose at 12.05 p.m.