



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

Distr.: General
21 May 2008
English
Original: French

COMMITTEE AGAINST TORTURE

Fortieth session

SUMMARY RECORD (PARTIAL) OF THE 822nd MEETING*

Held at the Palais Wilson, Geneva,
On Wednesday, 7 May 2008, at 10 a.m.

Chairperson: Mr. GROSSMAN

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* No summary record was prepared for the rest of the meeting.

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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 (agenda item 7)

Second periodic report of the former Yugoslav Republic of Macedonia (HRI/CORE/MKD/2006, CAT/C/MKD/2, CAT/C/MKD/Q/2, written replies from the State party (unnumbered document, distributed in English only))

1. *At the invitation of the Chairperson, Mr. Manevski, Mr. Avramchev, Ms. Gekeva, Mr. Mihajlovski, Mr. Avramovski, Mr. Zafirovski, Mr. Uzunovski, Ms. E. Zdravkovska, Ms. S. Zdravkovska, Ms. Atanasova and Mr. Putilov (former Yugoslav Republic of Macedonia) took places at the Committee table.*

2. Mr. MANEVSKI (Former Yugoslav Republic of Macedonia), presenting the report, said that his country had used the conclusions and recommendations of the Committee following the consideration of its initial report as a basis for its policy on matters relating to the eradication of torture. The recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment had also been useful. The former Yugoslav Republic of Macedonia was in continuous communication with the CPT , and the openness shown by the Macedonian Government by publishing of the reports of the CPT and its own observations bore witness to its determination to overcome the problems arising in the sphere of torture. In the same vein, the reports of the former Yugoslav Republic of Macedonia to the different treaty bodies, including those to the Committee against Torture, had been published on the website of the Ministry of Foreign Affairs.

3. Since the initial report was submitted a number of reforms of a general nature had been introduced in criminal law and procedure affecting the machinery of justice, the police, the struggle against corruption and trafficking in humans. Article 11 of the national Constitution guaranteed the right of all individuals to respect of their physical and psychological integrity and prohibited all forms of torture or cruel, inhuman or degrading punishment or treatment and also forced labour. Implementation of the Optional Protocol to the Convention against Torture would also add to the array of national legal instruments to combat torture. A draft Act to ratify the Optional Protocol had been prepared by the Ministry of Foreign Affairs and was currently being considered by the Government; it provided that the Ombudsman and an NGO registered in the country, together with other concerned institutions to be designated by the Ombudsman, would act as preventive institutions.

4. In accordance with the Convention, the elements constituting the offence of torture had been incorporated in the Criminal Code in 2004. During the period 2004-2006 the Public Prosecutor had instituted proceedings against 40 persons, 18 of whom had been convicted of torture and of the offence of ill-treatment committed in the course of their official duties. The 2006 Act on the reform of the police service defined the remit and the obligations of the police; the applicable European standards had been incorporated in it. The Ministry of Internal Affairs had prepared a plan for the implementation of the recommendations of the CPT. The plan provided for specific activities, indicators of results, an implementation schedule and financial resources. The Act on Criminal Procedure prohibited acts of torture of all kinds and the extortion of testimony or confessions. A draft law on non-

discrimination, which would deal with the subject in comprehensive terms, was expected to come into force in the near future.

5. A strategy for the prevention of domestic violence was currently in course of implementation; five reception centres, all fully operational, had been established for victims. An emergency telephone line had also been opened. The public authorities cooperated closely with the NGOs in that area to promote awareness of the problem among the population and to assist victims. Under the strategy for judicial system reform, in-depth reforms of the system had been continuing since 2004 and the law had been amended in order to depoliticize and strengthen the independence of the judiciary. The previously existing machinery of justice had been rounded out by the Act on the courts, the Act on the Council of the Judiciary, the Act on the judiciary budget, the Act on the training school for judges and prosecutors, the Act on the Council of Prosecutors and other legislative instruments. A strategy involving the overhaul of criminal legislation was also in course of application. It was anticipated that the new Act on Criminal Procedure and the amendments to the Criminal Code would come into force during the first half of 2009. A new Act on juvenile justice, codifying the texts on the subject already in force, and a plan of action providing for activities and measures to implement the Act, had also been adopted.

6. The training of the first generation of candidates for posts of judges and prosecutors had been completed, and the process of selection of the second generation was under way. During 2007 alone, 54 seminars on different aspects of legislation, attended by 45 judges, prosecutors and officials of the Office of the Public Prosecutor had been organized. At the beginning of 2008 the Criminal Code had been amended to strengthen the protection of the law against trafficking in human beings (especially migrants), terrorism and the electronic distribution of paedophile or pornographic material. Trafficking in children had been made a specific offence.

7. The priority for the Government in the coming years was the implementation of the laws adopted in order to ensure that the judicial system would be independent and impartial and accessible by all Macedonian citizens. The Government was fully committed to changing the physiognomy of its penal and prison institutions. The reform of the prison system was one element in a wider reform of criminal law and took into account the dictates of that law – for instance, the need to work towards attainment of the standards necessary for a better execution of prison sentences and the integration of the country in European and Atlantic structures. The international rules and standards on which the regulations governing the management of the prison system were based had been incorporated in the new Act on the execution of sentences. That Act provided for the establishment of a network of prisons designed to improve the conditions under which prison sentences were served, the security and living conditions of inmates and the working conditions of prison staff. The programme for the improvement of prison conditions adopted in 2007 was currently being implemented; 14 million euros had been allocated for the construction, renovation and refurbishment of prison infrastructures. Of that amount 10 million euros had been provided by the European Bank for Reconstruction and Development (EBRD) and 4 million by the Government. Plans existed for the construction of a new prison with a capacity of 750 inmates, and a health-care unit with a capacity of 250, at Idrizovo. A new prison was to be built at Kumanovo, and plans existed for the expansion of the prison in Skopje, the pretrial detention

quarters of which were to be rebuilt. All the prisons in the country would be modernized between 2008 and 2011. During 2007, 71 new employees were engaged; this permitted an improvement in working conditions, particularly in the health sector. Recruitment of an additional 300 employees during the period 2008-2010 was planned. Training had been given to 110 prison guards in 2007; it was planned to build a training centre for all prison staff and to link all prisons by EDP. Measures to improve health care for inmates were in course of adoption, and steps had been taken to prevent all inhuman or degrading treatment of inmates. The Office of the Ombudsman, together with the service responsible for the execution of sentences, was conducting a programme of training on the rights of inmates.

8. The former Yugoslav Republic of Macedonia was fully convinced that the prevention of torture and other cruel, inhuman or degrading treatment or punishment required continuous effort on the part of all actors in society and continuous monitoring by competent expert bodies such as the Committee against Torture, with which the delegation intended to proceed to an open exchange of views. The recommendations of the Committee would be extremely important for the future efforts of the former Yugoslav Republic of Macedonia in the combat against torture.

9. Mr. GALLEGOS CHIRIBOGA (Rapporteur for the former Yugoslav Republic of Macedonia) thanked the delegation for its presentation and congratulated it on the openness and readiness for dialogue with which it had approached the consideration of their second, and extremely important, report. Having spent time in the Balkans in the 1980s, he appreciated the scale not only of the reforms undertaken by the countries of the region but also of the tasks remaining to be accomplished.

10. On the subject of the incorporation of the elements of the definition of torture in Macedonian legislation, he asked whether, in the view of the delegation, article 142 of the Criminal Code was fully in line with article 1 of the Convention. He drew attention to General Comment No. 2 of the Committee (CAT/C/GC/2), concerning the implementation of article 2 of the Convention, which contained very clear provisions on the obligations incumbent on States parties in that area and asked what measures had been taken to guarantee in practice the right of every person held in police custody – the right to communicate with counsel, to be examined by a physician and to make speedy contact with his family or relations.

11. The European Court of Human Rights had considered that the absence of sufficient inquiries by the Public Prosecutor's Office into allegations of ill-treatment was contrary to the obligations of the former Yugoslav Republic of Macedonia under article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The speaker insisted on the overriding need to prevent the enjoyment of immunity by persons committing acts of torture and ill-treatment; that was the only way to prevent continuance of those offences. Likewise, the principle of prohibition of torture was an absolute one, and it would be useful to have information on the amnesty law and its implementation.

12. A number of actors in Macedonian civil society had expressed concern over the new Act on the Police of 2006, pointing out that there was no provision for independent control of Ministry of Internal Affairs officials. Comments by the delegation on that point were necessary. It would also be interesting to know whether measures had been taken to bring the terms of reference of the Ombudsman fully into line with the Principles relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights (Paris Principles).

Information on the Ombudsman's investigatory powers and on the effect given to his recommendations (an essential element) would also be welcomed. On the subject of the prohibition of the plea of orders received from a superior or a public authority as justification of torture, he asked the delegation whether the provisions of article 352 of the Criminal Code, concerning criminal offences committed by members of the armed forces, were also applicable in cases where the orders were given by a civil authority. With reference to article 3 of the Convention the Committee wished to know whether Macedonian legislation guaranteed a stay of execution in the event of an appeal against an expulsion order; concern on the subject had recently been expressed by the Human Rights Committee and the Committee on the Elimination of Racial Discrimination. Explanations on the case of the illegal transfer of Mr. El-Masry, which raised problems relating to the principle of *non-refoulement*, would be welcomed. In connection with article 4 of the Convention, the speaker expressed astonishment that the crime of torture was punishable by only one to five years' imprisonment (article 142 of the Criminal Code), whereas persons committing offences against the legislation on trafficking in human beings were liable to up to 10 years' imprisonment.

13. The Committee wished to know what measures had been taken by the State party to establish its universal competence over the crime of torture in accordance with its obligations under article 5 of the Convention.

14. One of the principal concerns of the Committee was the problem of sexual violence. Information on measures taken by the State party to deal with the problem, especially in Idrizovo prison, would be welcomed.

15. Ms. SVEAASS (Co-rapporteur for the former Yugoslav Republic of Macedonia) welcomed with satisfaction the second periodic report and the written replies, but observed that they had been distributed to Committee members only on the previous day. The information in those documents clearly showed that the reforms undertaken in the State party were making rapid progress, particularly in the legislative sphere. New laws and measures were being introduced so rapidly that some of the Committee's questions might prove outdated. But what mattered most was the problem of ascertaining whether the many amendments made to the legislation had led to tangible results within the country.

16. With respect to the implementation of article 10 of the Convention, the speaker noted with satisfaction the evidence, in the report and the written replies, that the State party was laying considerable emphasis on the training of police officers and prison personnel in the subject of human rights and that that training was being provided with the assistance of international agencies. Information on the content of that training would be welcomed; it would be useful to know if it included the subject of the right of women and children to protection against violence. That element was of vital importance, for according to some sources many acts of violence committed against women and children were not reported to the police, either because the victims were unaware of their rights or because they dared not complain for fear of being stigmatized by society.

17. According to its reply to question 12 in the list of issues, the State party planned to build a new training centre for prison staff as part of the Idrizovo detention centre. The Committee wished to know when the training centre would open and whether it was intended for the exclusive training of prison staff in the Idrizovo centre or whether it would train prison personnel from all over the county.

In the same reply there was a statement that one of the specialized training courses to be given would be on the reinstallation of minors and adults; but there was no indication of what that term covered in that particular context.

18. Turning to the subject of training of State officials responsible for border control, the Committee wished to know whether they received training on the provisions of national legislation on asylum and whether they were informed of the rights of asylum-seekers. It also desired more information on training in the detection of the sequelae of torture. In particular, it desired to know whether the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (Istanbul Protocol) was used for that purpose; whether health personnel received training in that area and that of assistance in the rehabilitation of torture victims; and whether any evaluation of the effectiveness of the training had been carried out.

19. As regards implementation of article 11 of the Convention, the Committee had studied reports by non-governmental organizations, and also the report prepared by the European Committee for the Prevention of Torture (CPT) following its visit to the State party in 2006, which stated that the prisons, and particularly those in Idrizovo, Tetovo and Skopje, were overcrowded. The Government had planned the construction of new blocks and detention centres and the renovation of run-down ones, the Committee desired to know when the plans would be executed and whether the authorities were contemplating recourse to substitute penalties, or methods of serving sentences in the community, as a means of remedying the problem of overcrowding in prisons. According to some sources, women in pretrial detention were held in the same premises as men, and minors had been subjected to ill-treatment while in police custody; that called for explanations. The law stipulated that when a minor was interrogated a relative, or the Ombudsman, must be present; that provision did not appear to be systematically complied with in the State party. The delegation was requested to describe the measures which might be taken to ensure compliance with the relevant provisions of the law. It would be of interest to know if there were medical and educational services present in establishments for delinquent minors, if the machinery for the monitoring of their work was effective and whether the Ombudsman had unrestricted access to those establishments. According to information provided by non-governmental organizations, acts of sexual violence against women and minors deprived of liberty were extremely widespread. A number of cases had been reported where women had been compelled to grant sexual favours in order to be able to recover their property on their release. Information must be supplied on the accuracy of those reports and, if they proved accurate, on the measures taken to prosecute and punish the guilty parties.

20. Notwithstanding the creation in the Ministry of Internal Affairs of a body charged with the handling of complaints against police officers and prison staff alleging torture and ill-treatment (the Sector for Internal Controls and Professional Standards (SCIPS)), the number of complaints leading to convictions was still very small, at least according to the statistics published in the report of the United States Department of State on the human rights situation in the former Yugoslav Republic of Macedonia; that was truly astonishing. Furthermore, two cases of ill-treatment of Roms alleged to have been committed by the police had been brought before the European Court of Human Rights; in both cases the latter had ruled that there had been no violation of article 3 of the European Convention on Human Rights, which prohibits torture, but that, on the other hand, the courts of the former Yugoslav

Republic of Macedonia had not treated the complaints of the victims with the requisite diligence and effectiveness. The report contained but little information on the Code of Police Ethics promulgated by the Ministry of the Interior in 2004 (paragraph 143); more information on its content, its dissemination in civil society and its implementation would be appreciated. On the subject of the Alfa force, according to some sources, a young man had died through the fault of members of the special action section of the police and that, in spite of the intervention of the Ombudsman, the SCIPS had not seen fit to begin an investigation into the facts; that attitude called for explanation. There were numerous references to the SCIPS both in documents drawn up both by the State party and by non-governmental organizations; it had wide-ranging powers and was carrying out a variety of functions, such as surveillance, establishment of the facts in cases of abuse of powers and publication of reports. The Committee had received a number of allegations of a measure of inefficiency in investigations, excessive length of proceedings and a lack of diligence by the courts in cases of violence against women, minors and members of the Rom minority. The Committee failed to understand how the machinery of justice could be inefficient although having the resources necessary to function satisfactorily. The speaker therefore asked the delegation to explain the situation.

21. On the subject of the unsolved cases of persons who had disappeared during the war, information would be appreciated on the state of progress in the investigations, the proceedings instituted against persons believed to be responsible for enforced disappearances and the current position regarding the persons suspected of war crimes and brought before the Criminal Tribunal for the former Yugoslavia in The Hague and subsequently returned to the State party. Had proceedings against those persons begun since their return to the State party?

22. On the subject of the implementation of article 14 of the Convention, the delegation was requested to give examples of court rulings in which compensation had been awarded to victims of torture or ill-treatment, the numbers of cases of that kind considered and the amounts of the compensation paid to the victims. It was also asked whether the activities facilitating the rehabilitation of victims of torture were conducted by non-governmental organizations or public bodies. It would also be of interest to know whether women who had suffered ill-treatment and sexual violence while in detention and victims of trafficking in human beings could seek compensation in the courts.

23. Regarding article 15 of the Convention, which laid down the principle of nullity of evidence obtained through torture, the speaker observed that the reply to question 31 in the list of issues differed slightly from paragraph 225 of the report and did not debar quite so categorically the use of statements extorted by torture. Explanations on that point were desirable.

24. A number of treaty bodies and non-governmental organizations had referred to the situation of Roms regarding housing and education and, more generally, the discrimination they suffered from; how did the authorities combat that discrimination? Corporal punishment was prohibited in schools and public establishments. It appeared that a proposal had been made to prohibit corporal punishment in the home. The Committee would like more information on the subject. Admittedly, the law treated domestic violence as a distinct offence; but it appeared that violence against women was still extremely widespread, even if many

cases were not reported by the victims. The situation should be improved by training and by measures to facilitate the lodging of complaints by victims. On a different subject, it appeared that strategies and plans of action to combat trafficking in human beings were in course of preparation. The former Yugoslav Republic of Macedonia had signed the Additional Protocol to the United Nations Convention against Transnational Organized Crime seeking to prevent, suppress and punish trafficking in persons, particularly women and children, and the delegation had stated that the Criminal Code had recently been amended and expanded to combat that traffic. That development indicated that the problem was taken seriously. It would be useful to learn how the new measures were being applied in practice.

25. The Committee wished to know whether the provisions punishing rape of women and minors also covered acts of cruelty and humiliations suffered during sexual assaults. It appeared that rape had been defined in an extremely traditional manner; had that definition been amended to cover sexual violence generally?

26. Ms. BELMIR returned to some points regarding article 2 of the Convention. The report stated that a number of amendments had been made to the Constitution to bring it into line with international instruments and to consolidate the position of the State party in the European legal order. The third amendment to the Constitution stipulated that pretrial detention could last up to 180 days, while article 204 of the Act on Criminal Procedure stated that “the total period of pretrial detention, including the time of duration of the period of deprivation of freedom before the decision on detention has been made, shall not exceed 180 days”. The period of detention could be prolonged during the investigation; in extreme cases, as stated in paragraph 25 of the report, it might last as long as two years in cases of crimes punishable by life imprisonment. Since it was not impossible that the person concerned might be found innocent or acquitted, one might wonder what remedy that person had against the prospect of such a long period of detention. A State party wishing to become an integral part of the international and regional legal order should envisage shorter periods except where there were special grounds for the anomaly. According to paragraph 26 of the report, under the “shortened” procedure custody could last for “as long as it is necessary ... but no longer than eight days”. It would be useful to know if all those provisions reflected an intermediate stage in the reforms, in other words, a transitional phase in a State which had undertaken to come into line with the international and European legal order.

27. Concerning the role of the judiciary, the report stated that a redefinition of the status of judges and prosecutors, affecting their selection, removal, promotion, etc., was under way. Ms. Belmir asked whether the status of judges had been unclear during the previous period ; in other words, what was the added value resulting from the reforms introduced?

28. The draft Act on the Police authorized police officers to resort to a number of measures, which were listed in paragraph 65 of the report. It was important to know who controlled recourse to those measures; whether the police had discretionary powers; whether the consequences of recourse to those measures were assessed by the police themselves; and whether administrative or judicial remedies existed. The European Court of Human Rights had issued decisions confirming excessive use of force by the police. Lastly, it would be useful to know whether police officers were authorized to use stun pistols firing electric discharges.

29. Minors could be imprisoned for offences punishable by imprisonment for up to 10 years and placed in reformatory institutions for less serious offences. The Committee on the Rights of the Child had requested the State party to come into line with the European legal order in the sphere of juvenile justice. It was difficult to accept that a minor who had committed even a serious offence could be imprisoned for 10 years, whereas a police officer committing acts of torture was liable to only 1 to 5 years' imprisonment and might even escape sentencing. In a State governed by the rule of law all persons should be equal before the law.

30. On the subject of mass graves and amnesty measures, information would be appreciated on the manner in which past events were handled in the State party, particularly in view of the problems met by vulnerable persons such as the Roms.

31. Mr. KOVALEV returned to the subject of trafficking in human beings, and particularly women and children. That traffic was organized for three purposes – slavery, prostitution and the removal of organs for medical purposes; every effort must be made, as a matter of urgency, to put an end to those practices. He asked whether the former Yugoslav Republic of Macedonia had signed the European Convention on Action against Trafficking in Human Beings, which had recently come into force, or intended to do so.

32. Mr. MARIÑO MENÉNDEZ noted with satisfaction the progress made by the State party in the implementation of the Convention. He asked for further information on what happened when the police made an arrest without a warrant. It appeared that a procedure existed whereby a judge could take a detainee into charge within hours of the arrest. He also asked whether legal aid existed for persons of modest means and whether the State party was contemplating ratification of the important International Convention on the Protection of the Rights of All Migrant Workers and the Members of Their Families.

33. It appeared that civil society, and particularly non-governmental organizations defending the rights of women, were extremely active in the State party. He asked whether their activities extended into the large Albanian minority, a substantial proportion of which was probably Moslem, and whether that gave rise to difficulties. In other words, were the NGOs defending the rights of women able to act freely in all ethnic and religious contexts?

34. The speaker returned to a point already mentioned relating to article 3 of the Convention. Mr. El Masry, who had been extradited to the United States, had apparently instituted civil proceedings in the United States courts to obtain compensation, which had been refused. In the light of the recommendations of the Council of Europe and various United Nations bodies, it was permissible to ask whether a claim for compensation for arbitrary detention could be brought before the Macedonian civil courts, a claim supported, where appropriate, by evidence that a Macedonian authority had been involved in the capture or the illegal transfer of the person concerned to another country. The Macedonian authorities had handed several individuals over to the Criminal Tribunal for the former Yugoslavia in accordance with their obligations under a Security Council decision. It would be useful to know whether the State party also cooperated with the International Criminal Court, bearing in mind the fact that it had concluded an extradition treaty with the United States under which it undertook not to hand United States citizens over to that body, since the United States sought to debar all courts other than their own from trying their officials accused of war or other crimes. The envisaged entry

of the former Yugoslav Republic of Macedonia into the European Union might lead to a change in its position on the subject, since the European Union cooperated with the Court.

35. In the European context there was a fast-track procedure for the granting of asylum. Could a foreigner whose application was rejected by the authorities of the State party appeal against a decision taken by the administration under the fast-track procedure? Moreover, the wording of paragraph 29 implied that a foreign detainee did not have the right to ask for the assistance of his consulate; he asked whether the detainee was – or was not – guaranteed that right under Macedonian law as required by article 36 of the Vienna Convention on Consular Relations.

36. In paragraph 47 of the report it was stated that detainees were entitled to a full medical check-up every year. In the circumstances it might be asked whether a once-yearly examination was sufficient to keep track of the state of health of a person; alternatively, was the annual examination a minimum, examinations being more frequent in practice? Finally, paragraph 67 described the conditions under which the police could use firearms; in particular, their use was permitted “to prevent escape of an individual caught committing [a] crime...or for whom a search warrant has been issued”. A firearm could thus be used against a person escaping or a wanted person after only two warnings; but it was not clear whether those rules were official.

37. Mr. GAYE had received similar information from both NGOs and the Ombudsman to the effect that the living conditions of the population had not improved notwithstanding the innovative and progressive legislation adopted by the State party. He asked whether that was due to the fact that those laws were not properly implemented by the State party. He asked for reasons why in torture cases it frequently occurred that decisions were not taken within the allowed time and whether in such cases the victim could apply to the courts to obtain a decision.

38. It would be of interest to know why only 18 of the 40 persons put on trial for torture had been convicted and whether the particularly high rate of acquittals was due to the fact that under domestic law it was difficult for the victim to prove that he or she had been subjected to acts of torture or ill-treatment or to other factors. He also asked whether decisions taken in torture cases were final or susceptible of appeal in accordance with the principle of international law that everyone had the right to request a review by a higher court of a decision handed down in first instance.

39. The speaker understood that judges, prosecutors and lawyers were all trained in the same school. He asked whether lawyers were State officials, like judges and prosecutors, or whether they worked as members of a liberal profession – an absolute precondition for a credible judicial system.

40. Ms. KLEOPAS, referring to information received from NGOs to the effect that children were victims of acts of violence in the family as well as at school, asked whether the State party intended to amend its legislation on violence against children to make it applicable not only in schools but also in the family. In addition, she would welcome additional information on the measures the State party intended to take to combat conjugal violence within the strategy it was currently introducing in that field and which NGOs considered would help to prevent such cases.

41. The delegation was asked to confirm or disprove reports that, notwithstanding the prohibition on marriage below the age of 18 years, no legal proceedings were initiated when girls in the Rom community married before reaching the legal age for marriage.

42. The powers conferred on the Ombudsman under article 32 of the Act on the Ombudsman were described in the written reply to question 27 in the list of issues. In particular, it was stated that the Ombudsman could ask the Public Prosecutor's Office to start legal proceedings where there were grounds for believing that a person deprived of liberty had been the subject of excessive use of force. The speaker asked how many such requests made by the Ombudsman had been accepted; she also asked for information on the nature of the acts of violence reported.

43. The CHAIRPERSON asked if the Convention could be directly invoked in the national courts. The reply to question 11 in the list of issues stated that the criminal law of the State party applied to foreigners in the country who had committed an offence against a foreign State or a foreign national which under the legislation of the State concerned carried a penalty of 5 years' imprisonment or more. He concluded from that statement that the State party could not prosecute a foreign national present on its national territory who had committed an offence covered by the Convention if the State of which the person concerned was a national had not ratified the Convention, did not treat the offence as punishable or stipulated a penalty of less than 5 years' imprisonment. There was in some doubt concerning the compatibility of that rule with article 5 of the Convention, which required each State party to establish its jurisdiction over the offences covered by the Convention where the presumed offender was present in any territory under its jurisdiction and it did not extradite him or her. The solution would certainly be the extradition of the offender, but there might be other reasons for not doing so. Comments on that point would be welcomed.

44. Finally, it might be asked whether the legislation on trafficking in human beings was appropriate and whether the resources allocated for its prevention were sufficient and commensurate with the scale of the traffic in the State party.

45. Ms. SVEAASS asked whether a national register was kept of cases of use of means of restraint, such as fetters, which were sometimes ordered by doctors in psychiatric establishments; such a register would enable an estimate to be made of the extent of the practice in the State party.

46. It would be interesting to know what were the rights of persons compulsorily hospitalized in psychiatric institutions, and particularly whether they had access to the services of counsel, the period elapsing before the decision to hospitalize was reviewed, the mechanisms for follow-up on those decisions and whether everything was done to ensure that hospitalization was effected with the consent of the patient. The delegation might state whether the competent authorities were contemplating the provision of a wider range of treatments for patients, and particularly the placing of more emphasis on the psychiatric monitoring of all patients, whether hospitalized or not, requiring it rather than simply prescribing medicines for them. The delegation might also indicate whether it was planned to keep persons with schizophrenia and persons suffering from severe depression separate from mentally handicapped persons in psychiatric establishments. Lastly, she asked whether the State party was contemplating ratification of the Convention on the Vocational

Rehabilitation and Employment of Handicapped Persons, which it had signed in 2007.

47. Mr. MANEVSKI (The Former Yugoslav Republic of Macedonia) thanked the Committee members for their questions, to which the delegation would endeavour to reply, describing all the measures taken in the legislative and institutional spheres to prevent torture. The Constitution of the former Yugoslav Republic of Macedonia itself prohibited all forms of torture and cruel, inhuman or degrading treatment. Great progress had already been made in the implementation of European standards on human rights; the Criminal Code and the Family Code were being amended; and the reform of the judicial system had already begun.

48. The CHAIRPERSON said that the Committee would continue consideration of the second periodic report of the former Yugoslav Republic of Macedonia at a later meeting.

The discussion ended at 11.50 a.m.