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SUMMARY RECORD OF THE 2226th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 18 October 2004, at 3 p.m.

Chairperson: Mr. AMOR

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Fifth periodic report of Finland

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 6)

Fifth periodic report of Finland (CCPR/C/FIN/2003/5; CCPR/C/81/L/FIN)

1. At the invitation of the Chairperson, the members of the delegation of Finland took places at the Committee table.

2. Mr. HALLBERG (Finland), introducing the fifth periodic report of Finland (CCPR/C/FIN/2003/5), said that the opening statement by his delegation on the occasion of the Committee's review of the fourth periodic report had been published together with references to the European Convention on Human Rights as a booklet entitled "Fundamental rights in the Constitution of Finland".

3. The Ministry of Foreign Affairs of Finland had submitted two reports on human rights and foreign policy to Parliament's Foreign Affairs Committee in November 1999 and November 2000. The Government had submitted a report to the same Committee in March 2004 dealing with the priorities of human rights policy and recent developments, including an assessment of policy implementation. Recommendations by human rights treaty monitoring bodies had also been reflected in the report. The principles underlying the country's human rights policy were the universality and indivisibility of human rights, non-discrimination and transparency. Priority was given to the rights of women, children, minorities and persons with disabilities. The Government's reports to Parliament, which were to be submitted at regular intervals, had already resulted in greater attention being given to human rights issues in parliamentary debates.

4. A new Language Act had entered into force in early 2004. The Act drew on legislation in other countries and was designed primarily to guarantee equality between the Finnish and Swedish languages, to remove shortcomings in the previous legislation, to make provisions clearer and to take into account the special needs of individuals. The Government was required to submit a report to each elected Parliament on the implementation of language rights, not only in respect of Finnish and Swedish but also in respect of the Sami and Roma languages and sign language, thereby promoting minority identities. A new Sami Language Act that eliminated difficulties encountered in interpreting the previous Act had entered into force on 1 January 2004.

5. A Non-Discrimination Act implementing two European Community directives listing prohibited grounds of discrimination had entered into force in early February 2004. The directives would shortly also be implemented in the Åland Islands. The Act, which - like the Constitution - prohibited discrimination on grounds of age, ethnic or national origin, nationality, language, religion, belief, opinion, health, disability or sexual orientation, actually contained more prohibited grounds than the directives. It covered both direct and indirect discrimination, and orders or instructions authorizing discriminatory treatment. No one could be subjected to countermeasures such as unfavourable treatment or punishment for having engaged or

participated in activities aimed at promoting equality. The Act was related to the establishment of the independent Office of the Ombudsman for Minorities, who also monitored ethnic discrimination, and of the Ministry of Labour Discrimination Board. Under the Act, in cases where an individual presented factual evidence to the courts or other authorities in support of allegations of discrimination the burden of proof lay with the defendant. A bill to implement Protocol No. 12 to the European Convention on Human Rights concerning non-discrimination had been submitted to Parliament in June 2004.

6. A bill to implement Protocol No. 13 concerning abolition of the death penalty in all circumstances had also been submitted to Parliament earlier in the year.

7. An amendment to the Act on Equality between Men and Women was scheduled to enter into force in early 2005. In the explanatory part of the bill, the Government suggested that employers should be required to promote equal terms and conditions of employment for women and men, especially in respect of remuneration, and that the content of all workplace gender equality plans should be more clearly specified in the legislation. In December 2003, the Ministry of Social Affairs and Health had designated an official to examine the possibility of preparing a joint equal pay programme for the Government and the social partners to eliminate unjustified wage differentials between men and women.

8. The Government viewed violence as both a gender equality and a general safety issue, and intended to intensify action against domestic violence. The National Council for Crime Prevention set up by the Ministry of Justice was preparing a comprehensive interdepartmental national programme to reduce violence. The Ministry of Social Affairs and Health was also preparing an action plan to prevent violence between partners and family violence.

9. The 1999 Restraining Order Act, aimed at preventing offences or threats of offences against a person's life, health or freedom or other serious disturbances, had been supplemented by a provision for a restraining order applicable within families. In 2003, a total of 1,485 orders had been issued under the Act, demonstrating the willingness of the police and courts to take the necessary action.

10. A bill to implement the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, would be submitted to Parliament in 2005. Chapter 25 of the Finnish Penal Code concerning offences against personal liberty had been supplemented with provisions on trafficking, including heavier penalties in the event of aggravating circumstances; they had entered into force on 1 August 2004. A working group to prepare a national plan of action against trafficking had recently been established.

11. A reform of immigration legislation to improve protection for immigrants and asylum-seekers had entered into force in July 2004. Under the new Act, family members of Finnish nationals could apply for a residence permit after entering Finland. Competence for issuing residence permits to persons abroad had been transferred from Finnish embassies and consulates to the Directorate of Immigration. A new residence permit for employed persons had been introduced, so that separate work and residence permits were no longer needed.

12. The Finnish Police Act and the Frontier Guard Act had been amended in 1995 and 1999 respectively to ensure full respect for human rights. A bill on the treatment of persons in police custody also reflected principles governing the treatment of persons deprived of their liberty. The instructions for police treatment of arrested persons, the detention of aliens and the implementation of decisions on deportation had been revised in 2003 and 2004.

13. The new Nationality Act which had entered into force in June 2003 considerably extended the conditions for obtaining dual or multiple nationality, and promoted equality between men and women and hence also the equality of children, regardless of origin.

14. The Ministry of Justice had commissioned several reports on the Sami land rights issue, and they had been used to find an equitable solution to the question. However, the proposed legislation had been criticized by the Sami Parliament. The Ministry of Justice trusted that its step-by-step approach would gradually result in a solution that would be acceptable to all. The Government planned to ratify the ILO Convention on Indigenous and Tribal Peoples of 1989 (No. 169) through constructive dialogue with the Sami Parliament.

15. The President of Finland had launched an initiative aimed at the establishment of a European Roma Forum to represent the Roma at the pan-European level and the Government had contributed to the Council of Europe's work aimed at implementing the initiative. Relevant Roma organizations, the Parliamentary Assembly, the Secretary-General and the Commissioner for Human Rights of the Council of Europe had supported the Finnish initiative.

16. The provisions on fundamental rights in the Finnish Constitution that had entered into force in 2000 included a provision on the right of the Roma to maintain their language and culture. Efforts to reduce discrimination had been made through cooperation among different sectors of the administration. The Advisory Board for Roma Affairs arranged special training courses for the housing and education authorities and the police. Four regional advisory boards had been given permanent status by a government decree of 1 January 2004. The Ministry of Labour had taken steps to improve Roma employment opportunities and the Ministry of the Environment had issued a handbook for officials selecting tenants for public housing facilities to ensure equal treatment for Roma. Information material had also been produced for health-care personnel.

17. The Government's 2001 Plan of Action to Combat Ethnic Discrimination and Racism had been widely disseminated. A comprehensive migration policy programme was to be drawn up by the Government in cooperation with relevant sectors of the administration. It would set out basic principles aimed at ensuring respect for human rights and fundamental freedoms and the strengthening of good governance.

18. The European Community Action Programme to combat discrimination was implemented through a national project called Finland Forward without Discrimination, which focused on raising awareness among entities not actively involved in the prevention of discrimination. Groups facing discrimination had participated in the planning and implementation of the project. Another two-year project - Joint Promotion of Anti-discrimination at Local Level - coordinated by the Ministry of Labour and the Association of Finnish Local and Regional Authorities and partly financed by the European Union had been completed in August 2004. It had focused on providing training and

information on education, health care and police cooperation. School authorities had been involved in cooperation in respect of the Roma minority, and the health authorities and the police in respect of both the Roma and immigrants.

19. Since 2001 the Ministry of Labour had provided training for the ETNA Network, a network of national experts on ethnic equality in working life, which was to be supplemented by representatives of immigrant and Roma groups and communities, the police, teachers, contact persons for equality issues in the labour administration, and social partners.

20. The Advisory Board for Ethnic Relations was an interdepartmental body under the auspices of the Ministry of Labour, which provided expertise for the Government and ministries regarding the planning and monitoring of refugee and immigration policy. It also promoted interaction between the authorities, relevant non-governmental organizations (NGOs) and ethnic minorities.

21. Referring to a recommendation made by the Committee in its concluding observations on Finland's fourth periodic report, he said that a bill would shortly be submitted to Parliament containing new provisions on imprisonment and release on parole. The current system of preventive detention for dangerous recidivists ordered by the Prison Court would be replaced by a system in which the entire sentence was served in an ordinary prison pursuant to a court order. The court could order release on parole after the offender had served two thirds of his sentence provided that he was no longer considered to be extremely dangerous. It was proposed to abolish the Prison Court with effect from 1 January 2006. The reform meant that no prisoner could be kept in detention after serving the sentence handed down by a court.

22. The Government had collaborated closely with NGOs, especially the Finnish League for Human Rights, in preparing its fifth periodic report.

23. The CHAIRPERSON invited the delegation to respond to questions 1 to 12 of the Committee's list of issues (CCPR/C/81/L/FIN).

24. Mr. LINDSTEDT (Finland), replying to question 1, said that Finland maintained its reservation to article 10 (2) (b) and (3) of the Covenant regarding the segregation of juveniles from adults in prisons. Although young people were, as a rule, segregated from adult prisoners in Finland, it was considered inappropriate to prohibit more flexible procedures under all circumstances. Under the Finnish Penal Code, a sentence passed for an offence committed when the offender was under the age of 18 was usually conditional. There were currently fewer than 10 remand and convicted prisoners in Finland under the age of 18. An unconditional segregation requirement would mean that those prisoners would serve their sentences in isolation or that substantial staff increases would be needed. Moreover, their placement in an open institution would be virtually impossible. A bill relating to a new Imprisonment Act and a new Remand Imprisonment Act was about to be submitted to Parliament. The former would not contain a special provision for the placement and segregation of young prisoners under the age of 21, owing to the practical difficulty of segregating young offenders and because it was felt that the placement of prisoners should be based on an individual plan comprising risk and needs assessment. Although the two new Acts would contain provisions regarding the segregation of prisoners under 18 years of age, there were at present no plans to withdraw Finland's reservations to article 10 of the Covenant.

25. Finland's reservation to article 14 (7) made it possible to change a sentence to the detriment of a convicted person, if it was found that a court official, prosecutor or legal counsel had secured acquittal or a substantially more lenient penalty through criminal or fraudulent activities, or if false evidence had been presented with the same effect. An aggravated criminal case could be taken up for reconsideration if previously unknown evidence which would have led to conviction or a substantially more severe penalty was presented. While the reservation had rarely been applied, it would be maintained in order to ensure that a final conviction or acquittal could be reversed, for the sake of the victims of crime. A bill currently under consideration proposed reducing the period during which reconsideration was allowed from 12 to 6 months.

26. Finland had made a reservation to article 20 (1) on the grounds that the provision in that paragraph was not in conformity with the principle of the freedom of expression, referred to in article 19. Since the enactment of legislation on the freedom of expression of the mass media, the Government was, in principle, able to consider withdrawing the reservation and amending domestic legislation. Given that the worst forms of propaganda for war had been established as criminal offences, and that there had been no need to extend the scope of application of the relevant provisions, Finland did not currently consider it necessary to take the legislative measures required for the withdrawal of the reservation.

27. In response to question 2, he said that the Finnish Tort Liability Act contained general provisions on the right of an injured party to damages, which were payable for suffering arising from an offence against liberty, honour or domestic peace, or another comparable offence. Damages were payable in relation to a violation of the right of assembly or the right of association mainly when the violation could be considered discriminatory. Activities which fell within the scope of the Non-Discrimination Act entitled the injured party to maximum compensation of 15,000 euros for suffering caused by discrimination or victimization.

28. Ms. ROTOLA-PUKKILA (Finland), in response to question 3, said that Finland had acted in accordance with the Committee's recommendation regarding the collection of legal expenses. The matter had been reconsidered, in accordance with the Committee's recommendation, and the Chancellor of Justice had reached the decision that extraordinary appeal was not possible in that case.

29. Ms. JOUTTIMÄKI (Finland), answering question 4, said that an amendment to the Finnish Act on Equality between Men and Women had been submitted to Parliament. The amendment included proposals to require employers to promote equality between men and women in all terms of employment, particularly equal pay, and to clarify the content of the gender equality plans in every workplace. The plans would be prepared in cooperation with the staff, and would contain an inventory of the classifications of men's and women's tasks, their wages and wage differentials. The wage inventories and their impact on the reduction of unjustified wage differentials would be monitored. Other efforts to address the question of equal pay included a working group, to be appointed by the Ministry of Social Affairs and Health, which would set up an equal pay programme in conjunction with social partners.

30. In response to question 5, the National Council for Crime Prevention, which had been established by the Ministry of Justice, was preparing a comprehensive national programme to reduce violence, including a working group on the prevention of violence against women. The

Ministry of Social Affairs and Health was preparing an action plan to prevent partner violence and family violence, which would complement the measures taken by the National Council. The action plan placed emphasis on preventive measures based on social policy and on the development of the social and health service system. The plan's main objectives were to improve the national network of primary and specialist services for victims and perpetrators of violence, to increase early intervention, particularly to help children and young people who witnessed and experienced violence, and to develop the professional skills needed to deal with issues of violence.

31. Mr. LINDSTEDT (Finland) added that a revision of the Penal Code had made almost all sexual offences subject to public prosecution, and had spelled out in greater detail the penalties for rape, including an increase in the minimum prison sentence for rape from six months to one year.

32. The Restraining Order Act had made it possible to place a restraining order on a person in order to prevent offences against life, health, freedom or peace, or threats of such offences or other serious acts. In addition, it would be possible to enforce intrafamily restraining orders, in accordance with legislation that would enter into force in 2005, enabling a person to be protected from another person living in the same dwelling. An amendment to the existing legislation had given officials with the power of arrest the power to impose temporary restraining orders ex officio, in circumstances that called for immediate protection of a person who could not apply for an order himself.

33. The provision for the waiving of action in cases involving the basic form of assault had been repealed, making it more difficult for a person guilty of such assault to avoid punishment by pressurizing the complainant.

34. Victims of sexual and family violence had had the right to a legal counsel or support person financed by the State, regardless of the victim's financial situation, since 1997. It had been proposed that such support should be available to victims of offences against a person's life, health or freedom, except in the case of family violence.

35. In response to question 6, he said that the relevant domestic legislation had been amended in 1998, allowing for the prosecution of Finnish citizens for sexual abuse of children, regardless of the law of the place of commission. A new provision on human trafficking had entered into force in August 2004, bringing the essential elements of a human trafficking offence into line with international conventions. The minimum penalty for human trafficking was four months' imprisonment and the maximum six years. The minimum penalty for aggravated trafficking was 2 years and the maximum 10 years. Finnish law applied to human trafficking offences committed by Finnish citizens regardless of the law of the place of commission. A working group of the Ministry of Justice had proposed that Finland should ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. A bill on ratification would be submitted to Parliament in 2005. Efforts had been made to increase cooperation with the Russian and Baltic judicial authorities, including the appointment of liaison prosecutors in Tallinn and St. Petersburg. A working group was preparing a national plan of action against trafficking which would deal with the prevention of trafficking and the status of victim.

36. In answer to question 7, he said that while the Incarceration of Dangerous Recidivists Act made it possible to keep people in prison after the end of their sentence, there had been no such cases since 1971. The relevant provision was, however, due to be reformed in 2006, making it impossible to keep a person in prison beyond the total sentence passed by a court. Prisoners placed in preventive detention were held in ordinary prison cells together with other prisoners, but had no possibility of release on parole. There were currently 22 people in preventive detention in Finland. New legislation on imprisonment and release on parole was to be submitted to Parliament shortly. Under that legislation offenders who were serving their entire sentence in prison could be released on parole after three quarters of the sentence if a court decided they no longer posed a danger to other people's lives or health.

37. Ms. SINKKANEN (Finland), answering question 8, said that, under the Criminal Investigations Acts, a person in pre-trial detention, had the right to legal counsel and had to be informed of that right by law. In line with the Remand Imprisonment Act, the authorities were required to take care of remand prisoners' health. People who were detained were searched and checked before being placed in the detention room. Any medical certificates indicating illness, prescriptions, medicines, or treatment instructions were noted and the detainees were asked about illnesses, medication, injuries and their causes. In general, the police ordered medical examinations of detainees at public health centres.

38. In response to question 9, she said that provisions on detention orders and on the placement of detained aliens were laid down in the Aliens Act, under which a detained alien should, as soon as possible, be placed in the detention unit in Helsinki. If the detention unit was full, or if the alien was being held in detention over 100 kilometres away from Helsinki, he or she could be held in police detention facilities for a maximum of four days. Information on all persons detained on police premises was recorded in the police automatic data system. In 2003, in the case of the 200 people detained on police premises, the average duration of that detention had been slightly longer than a day. Those detentions were effected in order to establish whether the requirements for an alien's entry into or residence in the country had been met, and to carry out other investigations in accordance with the Aliens Act. The Act on the Treatment of Aliens and Detention Units made it possible for a person initially detained in a detention unit to be placed outside the unit. A detained alien could, at the request of the head of the unit, be transferred to police premises if he displayed threatening or dangerous behaviour. Attempts were made to avoid such measures, through dialogue with the detainee concerned. In 2003, 14 people had been transferred from the detention unit to police premises.

39. Mr. LINDSTEDT (Finland), answering question 10, said that there were only two prisons that had facilities for segregating remand prisoners from other prisoners. A remand prisoner could, however, only be placed in a cell with a non-remand prisoner with his or her consent. Except in the two specialist prisons, remand prisoners took part in outdoor recreation and other activities together with other prisoners. The segregation requirement in article 10 had, however, been taken into account in the Remand Imprisonment Bill currently under preparation. Under the proposed legislation, remand prisoners would be placed in prisons or sectors other than those reserved for convicted prisoners, apart from in exceptional cases. While the new provision would not contain an unconditional obligation to segregate remand prisoners from convicted prisoners, remand prisoners could apply to participate in work, training, education and other

activities together with convicted prisoners. It would be impossible to provide sufficient staff and premises to enable remand prisoners to have those opportunities separately from convicted prisoners.

40. Responding to question 12 on reports that Roma prisoners attacked by other prisoners were separated for their own safety, he said that according to information from the Prison Service, that situation had arisen in at least four prisons. As the victims were afraid of worsening their situation, they did not report the incidents and the perpetrators could not be caught.

41. The prisons concerned had dealt with the problem by placing Roma prisoners in sectors which were considered safe and in which they had no contact with prisoners in other sectors. The prison authorities had made efforts to improve the prisoners' living conditions by organizing a variety of courses and physical training. Education training for Roma prisoners were funded separately.

42. As part of overall reforms, the Imprisonment Act and the Remand Imprisonment Act would be supplemented with provisions to protect prisoners who were afraid of other prisoners. Under the revised Imprisonment Act, a prisoner would have the right to request complete or partial separation from other prisoners if he or she had reasonable cause to believe that his or her safety was threatened, or if there was another acceptable reason. The rights of prisoners separated at their own request must not be restricted more than was necessary. Corresponding provisions were also proposed for the Remand Imprisonment Act.

43. The CHAIRPERSON invited members of the Committee to put questions to the delegation on the report and the replies to the list of issues.

44. Ms. CHANET commended the delegation for its report and oral replies. She welcomed the fact that the delegation included a specialist in criminal justice.

45. Regarding the reservation to article 20 of the Covenant, she said that while the reasoning that linked that article to article 19 was understandable, it was not clear why a differentiation was made between peacetime and times of international conflict. Was she correct in believing that the purpose of the reservation was to apply the thinking behind article 19 to article 20? If the country was at risk of becoming involved in a conflict, the problem would be the same if not worse.

46. Regarding the reservation to article 10 in respect of juveniles, she understood that the concern arose from a literal reading of that article. While it was true that, in general, contact between juveniles and adults was not desirable, it was conceivable that with modern methods of rehabilitation it might not necessarily be detrimental to mix adults and juveniles.

47. She remained concerned about the reservation to article 14 (7) which was unnecessary and potentially dangerous, and could be considered contrary to the objectives of the Covenant. It was unnecessary in cases where fraudulent activities had been committed, as the paragraph prohibited the retrial or punishment of a person for an offence for which he had already been finally convicted or acquitted in accordance with the law. If fraud had taken place, the case

could be considered to fall outside the field of application of that article. However, in the absence of fraud or extortion, if cases were reopened, a reservation to article 14 (7) could leave the system open to dangerous abuse.

48. Regarding the follow-up of communication No. 779/1997, while the matter of costs appeared to have been resolved, the issue of the re-examination remained vague. An extraordinary appeal had been mentioned, which was a real legal remedy. Would there be recourse to that extraordinary appeal or would the Chancellor of Justice be asked to give his opinion? She would welcome clarification of the situation.

49. Regarding the Act on Equality between Men and Women, the revised version of which would come into force in 2005, it seemed that progress had been made but it was difficult to comment on draft legislation as there was always the possibility that it would be changed.

50. As to the Act on Equality between Men and Women, which allowed for inversion of the burden of proof, she would be interested to hear if that also applied in the case of wage differentials. Would it be the employer's responsibility to prove that a woman did not do the same work as a man who had the same job and earned more?

51. The Dangerous Recidivists Bill, which introduced a new system whereby the court pronounced a mandatory sentence to be served in its entirety, appeared to be more respectful of the right to liberty under the terms of article 9 of the Covenant. However, she would welcome more information on the conditions in which detention was ordered, and by whom.

52. Referring to police custody, she asked whether access to a lawyer was provided immediately, and whether it involved an interview with the lawyer or simply the lawyer's participation in the investigation. While the role of a doctor was undoubtedly important, it was not simply aimed at monitoring the detainee's original health problems. The doctor should examine the detainee immediately on arrival in custody and again before release to ensure that he was in the same condition and rule out any allegations of ill-treatment.

53. Mr. KHALIL noted with satisfaction the positive developments in the area of gender equality, highlighted by the steady increase in the percentage of women in senior posts in the State administration since 1988. In 1995, the percentage of women employed in the public sector as a whole had stood at 40 per cent. Also to be commended was the fact that more than half of physicians and 65 per cent of medical students were women. He would welcome information on the conclusions derived from the 1999 statistics on offices comprising decision-making powers in the public sector. He would also be interested to learn who was responsible for the monitoring of equality plans in the workplace. He further requested information on whether measures and support for coordination of work and family responsibilities, and the criteria for the recruitment of personnel, had been implemented and, if so, in what way.

54. He commended the legislative measures introduced to address the issue of violence against women, including the Restraining Order Act, and the cooperation between the various ministries, particularly the interdepartmental national programme to reduce violence against women.

55. He noted with satisfaction that the issue of trafficking in women was receiving due attention: a project for the prevention of prostitution had been initiated, the buying of sexual services from minors had been criminalized, an amendment to the Penal Code allowed the prosecution of Finnish citizens for sexual offences committed abroad, and the Government had sponsored a conference on child-trafficking. He also commended the cooperation with neighbouring countries to combat trafficking in women and children.

56. Mr. WIERUSZEWSKI said that he was surprised to see a member of the judiciary as head of delegation. While he hoped that that did not compromise the separation of powers in Finland, he welcomed the fact that the judiciary could be represented in the dialogue.

57. He shared the concerns raised in relation to the reservations to the Covenant, which he believed were the result of a different interpretation of the provisions of the articles concerned.

58. Given that the country was in the process of developing new legislation and implementing reforms in that area, criticism relating to conditions of detention might well have been addressed by the time the next report was submitted. Nonetheless, he would welcome clarification on the reply to question 9, particularly in relation to the number of cases of asylum-seekers and aliens detained in police establishments.

59. Conditions in pre-trial detention facilities, particularly in relation to health care, were also a matter of concern for NGOs, international supervisory bodies such as the European Committee for the Prevention of Torture, and even the Ombudsman. He would welcome information on what measures were envisaged to improve the situation, which did not necessarily require legislative changes, but rather investment. It was clearly a serious problem, which was difficult to accept in a Nordic country.

60. With regard to the segregation of accused and convicted prisoners, it appeared that while the principle existed, it was not always implemented in practice. However, the principle of presumption of innocence required the separate treatment of prisoners and, while it was understandable that for practical reasons it might, in some cases, be necessary to organize joint activities, such cases should remain the exception.

61. In connection with question 10, he requested clarification concerning prisoners awaiting appeal decisions.

62. Referring to question 12, he said that the situation of Roma prisoners was of particular concern, and he would welcome additional information on reports that such prisoners were placed in solitary confinement without justification. Were Roma prisoners subject to a stricter regime in order to solve conflicts between inmates?

63. According to the replies given, persons were not held in police custody for much more than one day. However, according to some reports, people were still being detained for much longer. He requested more information on that point.

64. While still lower than the European average, the number of prisoners was growing and was a matter for concern. He would be interested to hear the reasons for that situation and what the Government was doing in order to deal with it.

65. Mr. BHAGWATI said that although the report contained information on a considerable amount of legislation that was being drafted or discussed, it would not be possible for the Committee to assess fully the situation in the State party until final decisions had been taken on that legislation. He commended the Government's decision to terminate the practice of continued preventive detention, and asked why that decision had not yet been made official by repeal of the Incarceration of Dangerous Recidivists Act. The Committee had been informed that sentences could be changed to the detriment of the accused if his or her acquittal was considered to be unfounded. He wished to know under what circumstances requests for reversal of an acquittal could be made and justified.

66. He asked whether there had been any recorded cases of damages awarded to victims of discrimination, and how anti-discrimination legislation was enforced. He wished to know whether the proposed amendment to the Equality Act provided for the principle of equal pay for work of equal value and, if not, how that principle was upheld. How many restraining orders had been issued to protect women from family violence, and at whose instance had such orders been granted? Who would act on behalf of a victim of domestic violence in the event that he or she was not in a position to address the courts personally?

67. Mr. LALLAH wished to know what areas of human rights had been adversely affected by the implementation of the anti-terrorism measures that had been recommended by the European Union and United Nations Security Council resolution 1373 (2001), and to what extent the Government had been able to assuage those effects. He asked whether Finland had addressed the feelings of guilt about affiliation to certain religions, which frequently arose as a result of anti-terrorist measures, and whether such measures had led to the repression of certain religious groups. What legislation governed the treatment of members of religious organizations, and to what extent had Finland adhered to the principle of non-refoulement in cases of persons suspected of terrorist activities elsewhere? The Committee had been informed that in Finland that principle had been extended to cover the risk of capital punishment and the transfer of information that could lead to capital charges. He asked whether that was indeed the case and, if so, how that principle was applied.

68. Mr. ANDO asked why the State party report contained considerably more information on the situation of the indigenous people of the Åland Islands than on the Sami. Did indigenous peoples have the right to self-determination in Finland and, if so, what was the scope of that right? He wondered whether the difference between the traditional Sami concept of using land in its natural condition and the modern concept of land ownership, mineral excavation and deforestation was the reason behind the stalemate in land use negotiations.

69. Sir Nigel RODLEY said that the Committee had been informed by the Finnish League for Human Rights about a Ukrainian family who had been given a four-day deportation order from Finland, following which the husband, who had protested against his family's return, had been involuntarily medicated before being sent back to Ukraine. The Committee had been informed that several similar cases had been known in Finland. Such cases must be addressed not only under the issue of deportation, but also under the issue of the prohibition of cruel, inhuman or degrading treatment or punishment. They could call into question Finland's compliance with international medical ethics. He asked to what extent involuntary medication was practised, and what role was played by doctors in such procedures.

70. He noted with satisfaction that there had been no orders for continued detention in Finland since 1971, and that the Government was planning to amend legislation accordingly. He wished to know whether the cases of indefinite preventive detention mentioned by the delegation were considered to be the same as cases of life imprisonment. Would new legislation make it possible for such detainees to be granted parole?

71. Although the Committee appreciated the information that when taken into custody all detainees were immediately informed of their right of access to a lawyer, the delegation should state whether such access was granted immediately. The Committee had been informed that remand detention in police custody was a problem in Finland, and that the Deputy Ombudsman had begun an inquiry into the deaths of people held in police cells. He requested further information on the current status of that inquiry.

72. Regarding Finland's reservation in respect of article 10 (2) (b) and article 10 (3) on juvenile detention, he asked what were the situations in which non-segregation of juvenile offenders was considered preferable, and whether all cases of non-segregation were limited to those circumstances. He requested clarification on whether non-segregation was applied exclusively to offenders aged 19-21, and pointed out that if that was indeed the case, the State party's reservation was unnecessary.

73. The CHAIRPERSON invited the delegation to respond to questions 13 and 14 of the list of issues.

74. Mr. HALLBERG (Finland), responding to the point raised by Mr. Bhagwati, said that there was a constant flow of draft legislation through Parliament in Finland, since the country had a written law system. The Constitution contained provisions on the protection of Sami and Roma rights and linguistic equality.

75. Ms. SINKKANEN (Finland) said that the notion of a "safe country of origin" was not used as a general assessment of the situation in a particular country. The new Aliens Act, which had entered into force in May 2004, contained a general provision on the individual assessment of all asylum and residence applications. Under that Act, criteria for defining a safe country of origin included whether that country had a stable and democratic political system, and an independent and impartial judicial system, whether the administration of justice met the requirements for a fair trial, and whether the country had signed and acceded to the main international human rights treaties.

76. The Office of the United Nations High Commissioner for Refugees (UNHCR) was not opposed to the use of the notion of a safe country of origin as a procedural instrument, as long as legislation provided that certain applicants coming from a so-called "safe" country might nonetheless require protection. Finland did not use the concept of safe countries of origin as a basis for the automatic return of asylum-seekers, and the presumption that a particular country was "safe" could be annulled if the applicant presented convincing evidence to the contrary.

77. The new Aliens Act distinguished between situations where asylum applications could be dismissed, and where they should be examined in substance under an accelerated procedure. Accelerated procedures were used to process asylum applications if the applicant had arrived from a safe country of origin or asylum, or from a country that applied the Dublin Convention or

the European Union Regulation on Determining the Member State responsible for examining an asylum application, if the application was deemed manifestly unfounded, or if the applicant had filed a subsequent application. Although appeals against negative decisions made in accelerated procedures did not have a suspensive effect on the enforcement of a decision on refusal of entry, asylum-seekers could apply for the suspension of enforcement of a negative decision in the Helsinki Administrative Court.

78. In the event that an applicant came from a safe country of origin or asylum or the application had been deemed manifestly unfounded, a decision on refusal of entry could only be enforced eight days after it had been imparted to the applicant, in order to grant the applicant the possibility of lodging an appeal before being deported. Negative asylum decisions and refusals of entry could not be made at Finnish borders: all asylum-seekers had the right to enter the country and reside there until an official decision on their application had been reached.

79. Legal protection was guaranteed to all asylum-seekers who were the subject of accelerated processing. During the processing of their initial applications, all asylum-seekers had the right to the services of an interpreter and legal counsel. Final decisions, or decisions that were otherwise enforceable under the Aliens Act, could not be enforced in the event that the return of aliens to their countries of origin or a third country might expose them to danger such as torture or capital punishment. If necessary, the alien would be advised to file a new application for international protection.

80. Mr. LINDSTEDT (Finland), replying to question 14, said that an average of 20 per cent of criminal cases were heard in absentia. Such cases usually involved relatively minor offences such as drunken driving and were punishable by a fine or a maximum sentence of deprivation of liberty for up to three months. Defendants were informed of the possibility of their cases being heard in absentia, but their consent was not required for the case to go ahead. A working group on the revision of criminal procedure had issued a report recommending a new summary criminal procedure in which cases would be decided on the basis of written declarations, subject to the consent of both the defendant and the complainant. Such cases would require that the defendant pleaded guilty. Consent to a “written trial” would be given orally during the pre-trial investigation period and be submitted in writing to the relevant district court. Draft legislation based on the working group’s recommendation would be submitted to Parliament later in the current year.

The meeting rose at 6 p.m.