



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

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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 793rd MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 13 November 2007, at 10 a.m.

Chairperson: Mr. MAVROMMATIS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.793/Add.1.

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (continued)

Fourth periodic report of Estonia (CAT/C/80/Add.1; CAT/C/EST/Q/4 and Add.1;
HRI/CORE/1/Add.50/Rev.1)

1. At the invitation of the Chairperson, the members of the delegation of Estonia took places at the Committee table.
2. Ms. LEPIK VON WIREN (Estonia), updating the information provided in her country's fourth periodic report (CAT/C/80/Add.1), said that several amendments had been made to the Code of Criminal Procedure in order to expedite criminal proceedings and to reduce the prison population. The number of detainees had decreased from 4,800 in 2001 to some 3,600 in 2007. The amendments had increased the use of alternative procedural mechanisms such as settlement, summary proceedings and expedited proceedings, as well as technical solutions such as electronic surveillance of prisoners released on probation and kept under house arrest. The use of those alternative procedures had made criminal proceedings speedier, more effective and less intrusive into people's rights. They were currently used in 42 per cent of all criminal proceedings.
3. The number of prisons in Estonia had decreased from nine to six, owing to measures taken to improve prison conditions. Some prisons had been or would be closed down, others had merged and new prisons were being built. All prisons would include educational facilities. The opening of new prisons would enable some detention centres to be closed. Renovation work had been carried out on several detention centres.
4. Significant progress had also been made in the prevention of trafficking in persons since 2002. While it was difficult to measure the extent of the problem, according to estimates, human trafficking in her country had diminished since the late 1990s. A specific article introduced into the Penal Code had criminalized aiding prostitution and was facilitating the work of law enforcement authorities. Several awareness-raising campaigns had also been launched, notably the Nordic-Baltic campaign against trafficking in women, 2002-2003 and a campaign focusing on trafficking in young people organized by ICRC and the International Organization for Migration (IOM). Several training seminars on human trafficking and prostitution had been organized by IOM for police officers and border guards, some involving the Estonian Women's Studies and Resource Centre. The Ministry of Social Affairs and various NGOs had provided training for specialists in victim support, social workers, teachers, youth workers and senior police officers. A hotline funded by that Ministry had begun operating in 2004 to prevent human trafficking and provide victim support. A major achievement in the area had been the Government's adoption in 2006 of a national action plan to combat human trafficking. The plan set out strategic objectives and determined the main measures and activities that would be undertaken between 2006 and 2009. Estonia also participated in several European Union projects to combat human trafficking.

5. While two major quantitative research projects had been conducted on the prevalence, causes and consequences of domestic violence in Estonia, further research was required. The first shelter for women victims of domestic violence had been opened in 2002. In addition, four NGOs provided shelter and counselling, and mother and child shelters were also available. More shelters were still needed in some regions. A far-reaching public campaign against domestic violence had been launched in 2005, and guidelines on dealing with the problem had been issued to health workers. Her Government was currently developing a national action plan to tackle domestic violence, which would come into force in 2008. From January 2006, courts had been empowered to apply restriction orders for up to three years under the Code of Civil Court Procedure. From July 2006, under the Code of Criminal Procedure, courts could temporarily forbid suspects to visit specified places or associate or communicate with specified persons.
6. A new strategy and action plan had been drawn up to tackle the HIV/AIDS epidemic and covered the period 2006-2015. The strategy ensured that more governmental agencies and private-sector and civil-society organizations would be involved than had previously been the case. A high-level multisectoral body advised the Government and ensured central coordination of implementation of the strategy. The strategy included measures to prevent infection among the general public, persons involved in prostitution, injecting drug-users, and other vulnerable groups, and to prevent mother-to-child transmission. Support and health-care services were provided to those already infected, and antiretroviral therapy was provided free of charge when necessary.
7. Ms. SVEAASS, Country Rapporteur, commended the State party for its significant achievements in upholding human rights in general and in preventing torture in particular. Turning to article 1 of the Convention, she asked which of the cases referred to in paragraph 4 of the written replies (CAT/C/EST/Q/4/Add.1) fell within the scope of article 122 of the Penal Code and which did not. The delegation should also comment on the statement in that paragraph that “all the different aspects of torture are covered and hence the difference in definitions is not an obstacle to prosecuting persons to the same extent as required by article 1 of the Convention”. She would be interested to learn whether the Government planned to incorporate the article 1 definition of torture into domestic legislation. She asked whether, in fact, all the provisions of the Convention had been incorporated into domestic legislation, and whether the Convention could be directly invoked in the State party’s courts. The delegation should clarify what role the Convention played in the court system, and whether a special sanction for torture already existed. Given that acts of discrimination could form part of torture, she wished to know how such acts were treated in the domestic legal system. The Committee wished to know about both current provisions and possible changes that would be made to the Penal Code in order to bring it into line with the Convention.
8. With regard to article 2 of the Convention, she requested additional information on the role of the Chancellor of Justice, who fulfilled the function of ombudsman. She asked how the State party ensured independence in that respect and how the Chancellor cooperated with civil society. It would be useful to learn whether the State party currently had a national human rights institution, and if so, whether it functioned in line with the Paris Principles. She asked what measures would be taken to remedy the fact that the Code of Criminal Procedure made no explicit reference to the right of persons deprived of their liberty to notify a third party of their custody. How often and under what circumstances were detainees deprived of the right to legal

counsel and to see a doctor of their choice? She requested updated information on the maximum period of custody in detention centres, and asked whether detainees received medical screening on arrival, what complaint mechanisms were available and how detention centres were monitored. The delegation should provide further information on the reported police brutality in Tõnismägi, Tallinn, between 26 and 29 April 2007. Had there been any prosecutions in the wake of those events? The delegation should clarify whether trafficking in persons was a specific crime and give more details on the national action plan to combat such trafficking. She asked why some illegal immigrants in the State party had not applied for asylum, and why they were held in detention centres for an average of over three months.

9. On article 3, she asked which countries the 36 asylum-seekers registered since 2004 had come from and what had happened to their applications. She also requested clarification on whether rejections of asylum applications and expulsion orders could be challenged in an administrative court within 10 days under accelerated procedures. The Committee would welcome additional data on diplomatic assurances, unaccompanied minors and extraordinary renditions.

10. Referring to article 4, she requested details on the length of the sentences handed down for the crime of torture, to which reference was made in the reply to question 10 of the list of issues.

11. Regarding articles 5 to 9, she asked about the fate of the three extradition requests still pending from 2003 and 2004, according to the table in paragraph 11 of the report. It would be useful to learn on what grounds those requests had been made. Updated information on subsequent extradition requests would be useful. Lastly, she asked what alternatives to imprisonment were usually used as punishment for minors in conflict with the law who had reached the age of criminal responsibility.

12. Mr. KOVALEV, Alternate Country Rapporteur, said the Victim Support Act was among the positive elements mentioned in Estonia's fourth periodic report (CAT/C/80/Add.1). According to paragraph 77 of the report, if an Estonian national was detained abroad the Estonian consular authorities must be immediately informed. Whose responsibility was it to provide consular assistance if the detained person was among the 30 per cent of the Estonian population who were stateless?

13. In 2004, some 41,000 women in Estonia had suffered physical violence. What percentage of those incidents had affected the stateless population? What steps had the Government taken to implement the provisions of the 1961 Convention on the Reduction of Statelessness by reducing the number of stateless persons who, according to Estonian law, did not have the status of a national minority? What had been done to implement the recommendation of the Committee on the Rights of the Child to reduce the number of stateless children and the discrimination practised against them?

14. Turning to the provisions of the Convention against Torture, he noted the provisions in Estonia's new Penal Code for universal jurisdiction in respect of the crimes covered by the Statute of the International Criminal Court. How were those provisions interpreted in practice, and how did Estonia apply its criminal law to cases of torture occurring outside Estonia?

15. With regard to article 10 of the Convention, was the subject of prohibition of torture included in the training of medical personnel dealing with persons in custody, or was it taught only to law enforcement personnel? Was any training provided in the means of identifying cases of torture or cruel or inhuman treatment, including sexual violence? Was there any training in the implementation of the Istanbul Convention, and who was responsible for assessing the training?

16. Concerning conditions of detention, the written replies by the Government (CAT/C/EST/Q/4/Add.1, para. 45) mentioned 52 proceedings initiated for physical mistreatment in prisons. What had been done to punish those responsible? Given the existence of European standards on the matter, how many square metres of living space were allotted to each prisoner? What administrative sanctions were imposed for failure to prevent inter-prisoner violence, and were the prisoners themselves punished in such cases?

17. How was the right to a prompt and impartial examination of allegations of torture secured under article 122 of the Penal Code, especially in the 239 cases investigated in 2003 and 2004? What other allegations of cruel treatment in places of detention had been investigated?

18. It did not appear from the figures supplied that the Government was taking adequate measures to investigate and eradicate sexual crimes against minors, including prostitution. He would welcome more information on that subject.

19. The Chancellor of Justice, who also served as the national preventive mechanism for the purposes of the Optional Protocol to the Convention, was supposedly the official to whom complainants should turn when alleging that they had been subjected to torture. However, according to the Government's written replies (*ibid.*, para. 74), in 1,043 of the 2,006 cases, (over 65 per cent of the total), the Chancellor had not accepted applications for ombudsman proceedings, chiefly because of "lack of competence". That did not make sense, given that the mandate of the Chancellor extended to disputes between private individuals as well as with public bodies. He would welcome an explanation.

20. The number of cases of compensation for victims of acts of torture was less than the number of complaints received. What was being done to grant compensation to victims of domestic violence? Was the problem simply ignored or was it dealt with by the police or by other means? He noted that the victim support association Ohvriabi had criticized the Victim Support Act on the grounds that the public was not sufficiently informed of the right to compensation or counselling. He requested information on the rules governing compensation for victims throughout Estonia. Did the right to compensation for temporary foreign residents, referred to in paragraph 100 of document HRI/CORE/1/Add.50/Rev.1, apply to stateless persons? And could stateless persons receive compensation if subjected to torture?

21. With regard to article 15 of the Convention, had there been any cases in recent years in which evidence had been ruled inadmissible because it had been obtained through torture? How did judges deal with unsubstantiated allegations of torture?

22. There was no information in the report about psychiatric institutions in Estonia. How many such institutions were there? She invited the delegation to describe conditions in the institutions and to state whether doctors and other experts made regular visits to inmates?

23. Mr. GROSSMAN said that according to the Government's written replies (CAT/C/EST/Q/4/Add.1, para. 1), perpetrators of mental violence against persons in "certain custodial institutions" could be prosecuted. What institutions were they, in what circumstances would the question of a prosecution arise, and how many such prosecutions had there been? Concerning the definition of torture, his understanding was that Estonian law covered acts of inhuman treatment, coercion and discrimination, but not acts against third parties. Was that correct, and had there been any such cases? The maximum sentence for torture was reported to be five years' imprisonment. How did that sentence compare with other penalties for serious crimes in the domestic legal system?
24. Under Estonia's Penal Code, information from a third party could be disregarded if it would jeopardize criminal proceedings. The Inter-American Court of Human Rights had determined that such a rule could amount to cruel treatment of family members by leaving them in ignorance. Had there been any such cases in Estonia?
25. Did the medical screening of detainees on arrival in a detention centre include screening for HIV/AIDS? What was being done to reduce the length of pretrial detention? Were there any figures for the investigation and conviction of traffickers in human beings, or any figures for those awarded compensation under the Victim Support Act? How was the test of "reasonable necessity" applied to the use of force, and was there any jurisprudence in the matter? At the end of 2005, there had been only 15 investigations pending into excessive use of force, and it appeared that the chances of a successful prosecution were low. It was essential to have an independent system for investigating police action.
26. Had there been any cases of "extraordinary rendition" from Estonia, and how was the principle of non-refoulement applied? Were there any pending cases? In 2004 there had been between 5,000 and 10,000 undocumented individuals in the country. What policies were in place to reduce that number? What steps had been taken to implement the judgements of the European Court of Human Rights in the cases of Puhk v. Estonia, Mõtsnik v. Estonia and Tammer v. Estonia? Sexual exploitation of any kind should be made a criminal offence, independently of enslavement and abduction.
27. Was it clear that the Code of Criminal Procedure prohibited the use of confessions obtained through torture? If so, what procedure was followed to disbar such evidence?
28. He welcomed the measures taken by Estonia to reduce the prison population. Was Estonia planning to accede to the Convention on the Reduction of Statelessness? At present, the definition of national minorities excluded stateless persons. Concerning domestic violence, were there any figures for the number of shelters for women and children victims of such violence?
29. Mr. MARIÑO MENÉNDEZ asked whether, in ratifying the Optional Protocol to the Convention, Estonia was establishing any new mechanism to provide for visits to people in places of detention.
30. According to paragraph 26 of the periodic report, Estonia had ratified the Rome Statute of the International Criminal Court. However, it was even more important to include in its Constitution and criminal law a prohibition of torture, which was lacking from the Rome Statute.

31. Contrary to the statement in paragraph 73 of the report, the protection against torture afforded by the European Convention on Human Rights was no greater than that afforded by articles 2 and 3 of the Convention. There was no rivalry between the two instruments, but he would welcome some discussion on that point. He questioned the concept of administrative detention, referred to in paragraph 89. Could the administrative courts order the detention of asylum-seekers? And could an individual complain about the omissions of public officials as well as their actions, for example failure to reach a decision within the prescribed time limit?
32. According to paragraph 144, Estonia applied domestic as well as international measures in the fight against terrorism, but the report did not explain how acts of terrorism were handled under the new Penal Code. It was well known that the threat of terrorism often served as a pretext for certain measures by Governments. Were human rights defenders in Estonia at odds with the security services in the matter of terrorism? It must be borne in mind that, in the view of some, forced disappearance should be regarded as a form of torture because of its impact on the relatives of the disappeared.
33. With regard to question 25 of the list of issues, he asked what monitoring mechanisms and safeguards existed concerning involuntary placement in psychiatric facilities. In connection with paragraphs 7 and 12 of the State party's written replies, he asked how the obligation to register all detentions and transfers - particularly in, and between, detention centres - was complied with. He asked for additional information on the special regulation for collection of evidence to guarantee national security mentioned in paragraph 65 (f) of the periodic report.
34. Turning to the issue of stateless persons and non-nationals, he asked, with reference to paragraph 183 of the report, what was the maximum length of time that persons - particularly Russian nationals - could be held in an expulsion facility. He asked what the role of the Integration Foundation was, what recommendations it could make and what value was placed upon it by the Estonian authorities.
35. Ms. BELMIR asked for clarification of the relationship between article 122 of the Penal Code and the Convention against Torture regarding the definition of torture. The State party had indicated in paragraph 73 of its report that article 3 of the European Convention on Human Rights provided an even broader definition of the prohibition of torture than the Convention against Torture, and that the independence of courts and the protection of victims of torture was thus guaranteed in Estonia. Paragraph 149 of the report, however, stated that the definition in article 1 of the Convention against Torture constituted a definition of torture "only in the framework of the present Convention" and that the State party therefore did not consider it necessary to change the definition of torture contained in article 122 of the Penal Code. That led to confusion. Was it the case that the State party felt more bound by the European Convention on Human Rights, since its definition of torture was broader than article 1 of the Convention against Torture, or rather that it considered that article 1 of the Convention against Torture did not include all the elements contained in article 122 of the Penal Code?
36. Turning to the administration of justice, covered by article 2 of the Convention, she asked for further information on the role of the prosecutor's office in connection with the information provided by the State party that the dropping of charges by the prosecutor resulted in acquittal, with the court not having the right to continue proceedings at its own discretion. Was the prosecutor's decision final in such cases, or could it be appealed? If so, how?

37. According to paragraph 65 (d) of the report, a person could be held under arrest for longer than six months at the request of the Chief Public Prosecutor. She asked what the maximum period of extension was, what safeguards were provided in order to protect the person in question, and what judicial control existed over that decision.

38. She asked whether discrimination could be one of the reasons for the high proportion of non-Estonian citizens and stateless persons among convicted offenders and prisoners (report, paras. 191, 193 and 194), and what rights and protection were accorded to them.

39. She wondered whether a general strategy had been drawn up to combat violence against women, involving the relevant State bodies. If so, she would welcome details.

40. Various United Nations treaty bodies had expressed concern at police violence in Estonia. She asked whether such violence was subjective and was rooted in discrimination. She recalled that the State party had been invited to revise its Weapons Act and, in that connection, asked whether it had drawn up a strategy to combat child abuse, including measures to prevent corporal punishment. She noted that the age of criminal responsibility was 14 years, which was not in keeping with the provisions of the Convention on the Rights of the Child.

41. Ms. GAER recalled that in its concluding observations of 2002 (CAT/C/CR/29/5) the Committee had recommended close monitoring of inter-prisoner violence. She had therefore been concerned to learn of the incident in Murru prison in which two inmates had been killed by fellow prisoners. She asked whether the criminal investigation launched to examine the possibility of negligence on the part of the prison officials had been concluded, and if not, what its current status was. She would welcome any comments by the State party on the incident and the investigation, and on any steps taken in the area of inter-prisoner violence.

42. In the same concluding observations the Committee had recommended that the State party “fully examine and report on the reasons for the over-representation of persons of Russian nationality and stateless persons in the population of convicted prisoners”. According to paragraph 192 of the periodic report, no overall survey had been conducted to look into that matter. The same paragraph provided general crime statistics showing that, in 2001, there had been a high proportion of Russians to Estonians, but that by 2004 the percentages had changed. She asked whether the methods used for collecting statistics had changed, and whether the State party continued to note the nationality of Russian citizens. She would welcome any comments regarding the reason for the increase in the number of Estonian nationals among the population of convicted prisoners.

43. In paragraph 193 of the report, the State party asserted that the earlier claim that Russian citizens and stateless persons constituted the majority of convicted prisoners was not true, but acknowledged that the proportion was high. It said that the Committee’s recommendation on the question - in other words, the recommendation made in 2002 - would be an interesting topic of research. She wondered whether the State party could provide any additional information on the rights of stateless persons and on stateless prisoners. Had a study been carried out on who those stateless persons were? While they could be from any of the former constituent republics of the Soviet Union, they might also include persons who were not claiming citizenship.

44. She noted that, as stated in paragraph 105 of the written replies, “stateless persons” consisted mainly of persons who had settled in Estonia at the time of the former Soviet Union. She asked for more information in that regard, and for information on the number of Roma in the prison population.

45. Mr. WANG Xuexian endorsed the comments made concerning the issue of stateless persons. The issue was complex and sometimes had its roots in history. Great importance must be attached to the need to protect the basic rights of the many people involved, whether by legal means or on humanitarian grounds.

46. The CHAIRPERSON commended the State party’s report, written replies and presentation, which showed the enormous progress made in entrenching democracy. He endorsed the requests for further information on: the issue of stateless persons; the definition of torture in relation to the Penal Code (he had been particularly concerned at the inappropriate references to “pecuniary punishment”); issues relating to the judiciary; and the admissibility of confessions obtained under torture. He asked what procedure a judge must follow if a person confessed in court and then stated that the confession had been provoked by torture.

The public part of the meeting rose at 11.55 a.m.