



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

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Summary record of the first part (public)* of the 1176th meeting

Held at the Palais Wilson, Geneva, on Thursday, 31 October 2013, at 10 a.m.

Chairperson: Mr. Grossman

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1176/Add.1.

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

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

Combined third to fifth periodic reports of Latvia (continued) (CAT/C/LVA/3-5; CAT/C/LVA/Q/5; HRI/CORE/1/Add.123)

1. *At the invitation of the Chairperson, the delegation of Latvia took places at the Committee table.*
2. **Mr. Makarovs** (Latvia) said that the third to fifth periodic reports of Latvia had been prepared on the basis of the information and comments submitted by the Ombudsman and various national NGOs. Since the submission of its previous report in 2007, the country had amended its legislation in order to clarify the definition of torture and combat impunity more effectively. Despite a challenging economic context, it had also allocated considerable resources to improving living conditions in places of detention and continued to examine various alternatives to imprisonment. Measures had been taken to improve the asylum process, better protect the rights of asylum seekers and strengthen the capacity and independence of the authorities responsible for investigating allegations of torture and ill-treatment by State officials. The data-collection system for that type of offence was being modernized.
3. The Government ensured that cases of trafficking and domestic violence were investigated, that perpetrators were convicted and that victims received adequate compensation and rehabilitation services. Psychiatric treatment methods and mental health services had been improved and extensive awareness-raising was being carried out among the general public, law-enforcement officials, judicial staff and prison personnel, giving every one a part in eliminating torture and ill-treatment. Independent national and international monitoring bodies played a vital role in identifying issues and how to solve them. The Ombudsman's Office reported to the authorities any infringements of the Convention it observed and issued recommendations, which were given due attention. Latvia had recognized the authority of the European Court of Human Rights to consider individual complaints and worked closely with the European Committee for the Prevention of Torture.
4. **Ms. Sveaass** (Country Rapporteur) asked why the State party had adopted a definition of torture that not only failed to reflect all the elements of the definition in article 1 of the Convention but also introduced a new element, namely, the intention of "affecting a person's consciousness and will". She also asked why investigations into offences attributed to State police officers were conducted by the Internal Security Office of the State Police rather than a completely independent body, and whether the inter-institutional group responsible for redefining the Office's functions was planning changes in that regard. She invited the delegation to comment on the significant discrepancy in the State party's statistics between the number of complaints of offences committed by police officers or prison staff and the number of disciplinary or criminal procedures that had been initiated, and on allegations that complaints of that nature were never thoroughly investigated.
5. She wished to know when the State party planned to apply for accreditation of the Ombudsman's Office with the International Coordinating Committee of National Human Rights Institutions, why it had decided not to ratify the Optional Protocol to the Convention and whether it was prepared to reopen the debate in that regard. She asked whether persons with insufficient knowledge of Latvian had guaranteed access to an interpreter from the moment of their arrest through every stage of proceedings — medical examination, consultations with a lawyer and court hearings — and whether there were cases in which doctors trained in implementing the Istanbul Protocol had been called in to examine

detainees claiming to have suffered ill-treatment at the hands of police and had confirmed the allegations. If so, how had the doctors' findings been followed up?

6. She asked whether the 2009 Concept Paper on Penal Policy provided for measures to reduce the length of pretrial detention as well as alternatives to pretrial detention, especially for minors. Recent statistics on the number of minors in detention and details about the "compulsory correctional measures" mentioned in paragraph 66 of the report would be useful. She also asked whether, in addition to the 2012 inclusion in the Criminal Code of acts likely to incite hatred, other measures had been taken to punish all forms of discrimination and protect groups particularly at risk, namely, Russians, Roma, migrants from non-European countries and the lesbian, gay, bisexual and transgender community. It would also be interesting to know what was being done to speed up the naturalization process, given that only 200 persons were naturalized each year yet nearly 300,000 foreign nationals lived in the country, including some who had been there for an extended period. She would like to hear about protection and reparation for victims of domestic violence and the measures taken to enhance the protection of children against trafficking and child pornography.

7. She wished to know whether the Office of Citizenship and Migration Affairs oversaw the entire asylum process and whether special provisions existed for identifying victims of torture or trafficking. She asked whether there were plans to repeal the provisions authorizing the detention of 14-year-olds, even unaccompanied ones, and how long they were held in practice, given that detention was limited to 7 days under asylum legislation. She invited the delegation to comment on ongoing prison refurbishment and construction projects and on measures taken to curb violence among inmates and improve the detention conditions of those serving life sentences. Lastly, she asked whether victims of ill-treatment in psychiatric institutions had ever requested and received compensation and what steps were taken to ensure that committal to and treatment of patients in psychiatric hospitals were diagnosis-based.

8. **Ms. Belmir** (Country Rapporteur) asked whether, in the light of the absolute prohibition of torture in the Committee's general comment No. 2, the State party intended to reconsider its position that the offence of torture was subject to the statute of limitations. She enquired about measures taken to speed up judicial procedures, as their protracted nature prolonged pretrial detention. She wished to know whether the guarantees applied to persons in police custody also stood for persons held in small police stations. She asked whether the human rights training given to law enforcement officials, judges and medical professionals had been assessed and, if so, what the outcome had been, specifically to what extent the training had reduced the number of cases of torture and ill-treatment. She also asked what acts could be prosecuted as "crime by negligence", "less serious crime" and "serious or especially serious crime", as mentioned in paragraphs 190 and 191 of the report, and for which acts minors could be placed in pretrial detention.

9. She enquired whether measures were taken to guarantee that all victims of ill-treatment by police had access to a complaints mechanism and whether the State party planned to increase the human and financial resources allocated to the Ombudsman's Office so that it could fulfil its mandate effectively. She invited the delegation to comment on information provided to the Committee that asylum seekers whose applications were fast-tracked were not adequately informed of their rights and were not given enough time to lodge an appeal if their application was rejected; that asylum seekers under age 14 were held in detention centres, where they were not separated from adults and did not have access to medical care or education, and were expelled from the country without having had access to counsel; and that children born in detention did not receive a birth certificate. She also asked whether interrogations of suspects were systematically filmed. The delegation might also comment on allegations that human rights defenders, journalists and members of

religious associations had been ill treated by police during demonstrations. Lastly, details about the status of foreign nationals in the State party would be welcome.

10. **Mr. Tugushi** asked whether the Latvian authorities intended to refurbish all Soviet-era prisons countrywide to bring them into compliance with current international standards. Noting that the temporary holding facilities in Daugavpils had been aligned with European standards, he asked whether the country's other temporary holding facilities would also be refurbished. He also asked whether measures had been taken to solve the problem of inmate access to medical care, especially dental and psychiatric care; to treat detainees serving life sentences more humanely – for example, by not systematically handcuffing them whenever they left their cells; and to offer a range of activities to detainees. It would also be interesting to know why the State party did not currently consider ratification of the Optional Protocol to be a priority. Lastly, he asked whether the prison authorities had followed up on the many reports of violence among inmates at Jēkabpils prison and whether they intended to tackle the root causes of those incidents.

11. **Mr. Bruni** requested further information about the criteria for placing a suspect in solitary confinement in temporary holding facilities and about the maximum length of that measure in all places of deprivation of liberty. He also requested a description of solitary confinement cells. Noting in the report that each detainee had only 3 square metres of floor space in solitary confinement or collective cells, whereas the minimum should be 4 square metres, he asked whether the State party intended to take steps to correct the problem, as recommended by the European Committee for the Prevention of Torture.

12. **Mr. Mariño Menéndez** asked what the nature was of the mediation process mentioned in paragraph 65 of the report and whether matters settled in that way related to the perpetrator's criminal liability or victim compensation. He wished to know whether foreign nationals were entitled to diplomatic protection from Latvia if they found themselves in trouble abroad and whether they could petition the European Court of Human Rights under the same conditions as Latvian nationals. Noting that, in some cases, the Office of Citizenship and Migration Affairs could stay the execution of an expulsion order, he asked whether that implied that both administrative and judicial bodies could request the suspension of such measures. He also asked whether all foreigners forced to leave the country were expelled using the same procedure or whether there was a specific one for rejected asylum seekers. Lastly, he wished to know whether refugee status or residency permits were granted to trafficking victims who agreed to cooperate with the police.

13. **Mr. Gaye**, noting that article 24.1 of the Criminal Code did not cover attempted acts of torture or the act of torturing for the purpose of intimidating a third person, asked whether the State party planned to take measures to fill that gap. In the light of the information in paragraph 10 of the report, he requested an explanation of the penalties imposed for torture per se rather than torture as an aggravating circumstance. He asked why, under article 247 of the Code of Criminal Procedure, suspects could notify their relatives of their detention only if that detention came with a compulsory measure, and what a compulsory measure was. He wished to know the outcome of the periodic assessments of the knowledge acquired at the State Police College and the quality of its courses.

14. **Ms. Gaer** invited the delegation to comment on reports that perpetrators of domestic violence were not subject to restraining orders and that individuals who went to hospital for emergency treatment following such violence could not file a complaint there. It would be useful to know whether the State party intended to adopt measures to bridge those gaps, whether marital rape was a criminal offence in its own right, whether there were shelters for women victims of domestic violence and, if not, whether the State party planned to establish any. She asked whether the Latvian authorities monitored sexual violence among prison inmates and whether information was available on that topic. Given that Russian

speakers made up a very large share of detainees in Latvia, it would be interesting to know whether law enforcement officials were given Russian classes and whether detainees who did not speak Latvian benefited from interpretation services.

15. She also asked whether article 74 of the Criminal Code, which had been amended in 2009 and criminalized the justification, glorification and denial of crimes against humanity and war crimes, had ever been applied. If so, could the delegation cite cases where the article's provisions had been invoked, specifically their number, and outcome and whether individuals who had fought alongside the Waffen-SS during the Second World War or had collaborated with the Nazis had been tried under that article? Lastly, she wished to know why Latvia had rejected the recommendation of the universal periodic review to adopt a specific programme for protecting the rights of victims of torture and ill-treatment.

16. **The Chairperson** asked whether article 24.1 of the Criminal Code had indeed been adopted and whether it might be supplemented to include discrimination as a possible ground for torture. He pointed out that observing injuries on a person's body was not the only way of ascertaining the severity of acts of torture, as a number of methods of torture, such as waterboarding, left no physical marks. Moreover, psychological injuries could be just as harmful and trigger post-traumatic stress disorder. Yet, Latvian criminal law only provided for the compensation of torture victims with grievous or moderately serious bodily injuries. It would therefore be useful to know whether the State party intended to align its legislation with relevant international standards, which took into consideration the psychological dimension; if so, it could base itself on the Committee's general comment No. 3.

17. Since article 247 of the Code of Criminal Procedure stipulated that the relatives of arrested individuals were informed of their detention only at the detainees' request, he wondered whether the State party planned to take measures to ensure that police systematically informed all suspects, in a language they understood, of their right to contact a lawyer and their family. It would also be interesting to know whether the law on the execution of sentences provided for the placement in solitary confinement of persons with mental disabilities and minors and whether the measure was renewable. He asked whether steps had been taken to ensure that placement in solitary confinement did not amount to inhuman or degrading treatment, how often the measure had been imposed, how many complaints on that topic had been filed and whether remedies were available to persons subjected to the measure.

18. He wished to know whether asylum seekers were informed only of their right to challenge the legality of their detention and to be represented by a lawyer or whether they were also informed of all their other rights, including the right to consular services from their country of origin. He asked for confirmation that the Latvian authorities did not return individuals to their country when there was reason to believe they would be subjected to ill-treatment. In that connection, what was the Government's official position regarding diplomatic assurances? He asked whether the electronic data management system regarding individuals on probation was operational and effective.

19. He also asked what the average length of investigations was and whether the Office of the Prosecutor General had ever deemed that an investigation had not been swift enough. He wished to know whether the Roma were invited to take part in training programmes on fighting discrimination against their community and whether trafficking victims had access to all means for their rehabilitation. Lastly, it would be interesting to know what follow-up there had been to the Ombudsman's 2011 recommendations regarding, among other issues, keeping records on patients in psychiatric hospitals, obtaining consent for committal, initiating treatment and using physical restraints.

20. **Ms. Sveaass** asked whether the State party had established a follow-up procedure as part of the voluntary repatriation programme as well as a special procedure for identifying particularly vulnerable asylum seekers, in accordance with European directives on hosting refugees. Was there a fast-track procedure for unaccompanied minors?

21. **Ms. Belmir**, noting the high suicide and fatal overdose rate in prisons, asked why the teams responsible for the medical follow-up of detainees were unable to identify at-risk individuals and whether the relatives of the deceased ever requested an investigation into the causes of death. She wished to know whether the State party had formulated and implemented a strategy against the mistreatment of children. Examples of cases of corruption involving officials, such as police officers or judges, would be useful.

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