



**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 587th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 19 November 2003, at 10 a.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.587/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)

Initial report of Lithuania (continued) (CAT/C/37/Add.5; HRI/CORE/1/Add.97)

1. At the invitation of the Chairman, Ms. Bernotienė, Mr. Grebliauskas, Ms. Kasputienė, Ms. Petrikienė, Mr. Rimkunas and Mr. Švedas (Lithuania) took places at the Committee table.
2. Mr. ŠVEDAS (Lithuania), replying to questions from Committee members, said that the increase in the number of complaints filed with the administrative courts was largely due to the fact that non-governmental organizations (NGOs) were encouraging farmers to complain about the Government's failure to meet its financial obligations towards them.
3. The Seimas, or Parliamentary, Ombudsmen were responsible for investigating complaints by citizens, foreign nationals and stateless persons concerning the abuse of office by State officials, although any cases involving torture were referred to the Prosecutor's Office. Following an investigation of a complaint, the Ombudsmen transmitted their decision in the form of a recommendation to the institution involved, which usually acted on those recommendations, as they were bound to do by law. In 2002, the Seimas Ombudsmen's Office had received 1,272 complaints against State officials; of the 1,260 complaints that had been investigated, a third had been related to correctional issues and detention conditions, and less than half had been found to be well-founded.
4. Since regaining independence, Lithuania had launched a comprehensive reform of its law enforcement institutions. The Supreme Court, the Court of Appeals and the county and district courts were ordinary courts responsible for hearing civil and criminal cases. The High Administrative Court and the county administrative courts were specialized courts competent to hear cases relating to administrative matters.
5. The appointment, transfer and dismissal of judges was regulated by the provisions of the Constitution and the Law on Courts. All judges were appointed by the President or the Parliament and, unless otherwise dismissed, could remain in office until they reached the age of 65. District court judges were given probationary appointments of five years, after which they could be appointed by the President to a term extending to the mandatory retirement age. Judges in other courts did not serve probationary terms. Judges could be dismissed: upon their resignation; when their term of office expired or they reached the legal age of retirement; on health grounds; if they were selected for another post; if they engaged in conduct that was discreditable to their office; and when a judgement of conviction against them became effective.
6. The Law on the Prosecutor's Office regulated the activities of that Office and defined the status and mandate of the prosecutors. The Office was responsible, inter alia, for organizing and carrying out pre-trial investigations, monitoring the activities of pre-trial investigation officers, supervising the enforcement of judgements and examining petitions from individuals. The Prosecutor-General was appointed for a seven-year term and could be dismissed from office by the President.

7. The Law on the Bar guaranteed all persons the right to a lawyer and set out the lawyer's professional rights and duties. The Code of Professional Ethics for Lawyers stipulated that all lawyers had the right to practise their profession freely and independently. The Minister of Justice was responsible for setting the qualifying examinations for lawyers.
8. On 1 September 2000, the Statute on Service in the Prison Department under the Ministry of Justice and the Law on the Implementation of that Statute had entered into force, transferring responsibility for the administration of criminal punishments and remand institutions from the Ministry of the Interior to the Ministry of Justice.
9. The statistical information on expelled foreigners contained in Lithuania's initial report (CAT/C/37/Add.5) related only to persons who did not reside permanently in Lithuania, such as illegal immigrants and persons whose application for asylum or temporary residence had been rejected. The Government would endeavour to include in its next periodic report similar information disaggregated by gender and age.
10. The director of the Migration Department was responsible for decisions relating to the expulsion of illegal aliens. Such decisions could be appealed before the Vilnius County Administrative Court. Foreigners who had permission to reside permanently in Lithuania could be expelled only on the basis of a court decision. Expulsion decisions were implemented by the State Border Guard Service or by the local police.
11. A person could be deported only to a safe country of origin, namely a country in which the legal system, the legal norms in force and the political situation did not result in the persecution of that person, in which no one was submitted to cruel, inhuman or degrading treatment or punishment and in which human rights and fundamental freedoms were not violated.
12. Although Lithuanian legislation did not contain a definition of torture, the approach adopted by the courts was consistent with the provisions of the Convention. As to whether torture was expressly forbidden in psychiatric establishments and prisons, he said that very few laws made specific reference to torture. However, the Constitution, which prohibited torture, was a directly applicable legal act.
13. A judge decided the exact length of pre-trial detention. A detention period could not initially exceed three months and could not be renewed for more than six months, although the judge of a higher court could extend that period for a further three months if the prosecutor could provide justification for doing so. Pre-trial detention could not exceed a total of 18 months for adults and 12 months for juveniles. The average duration was currently less than six months, in other words three months less than it had been in 1998.
14. The Government had taken note of the points raised in the report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visit to Lithuania. It recognized that the conditions in its 46 detention facilities were poor and had taken steps to address the problem. For example, two centres had been closed in 2002 for failing to meet national and international standards, and a new remand prison was due to be opened in Kaunas in 2004. The Government had recently launched a programme to renovate all pre-trial detention facilities by 2007.

15. In 2000 the Ministry of the Interior had adopted a set of regulations governing activities in police station detention facilities. All detainees were entitled to receive three free meals a day, any medical treatment that was provided to a detainee had to be recorded in a register and anyone who claimed to have been mistreated by a police officer could file a complaint. A total of 32 complaints had been received in 2001 and 114 had been received in 2002. The majority of them had focused on poor living conditions, illegal isolation, unjustified disciplinary penalties and moral and psychological pressure. In 2001 the Prosecutor-General had issued an order stipulating that chief prosecutors had to initiate an investigation into all cases involving torture, inhuman or degrading treatment or punishment. Furthermore, any detainee who claimed to have been subjected to coercion was ordered to undergo a medical examination, and an official investigation was carried out by an internal investigation unit if necessary. Any criminal findings were referred to the Prosecutor's Office.

16. There appeared to have been some misunderstanding of the concept of "watch units", perhaps because of a translation problem. Those units were staffed by local police station personnel and were responsible for guarding and managing detention facilities around the clock.

17. The legislation regulating the enforcement of punishments stipulated that the aim of a punishment should not be to inflict physical suffering or degrade human dignity. Convicts could not be subjected to medical, biological or other scientific tests and could only be photographed with their consent.

18. The Law on Mental Health Care established the procedures for admission to psychiatric establishments and stipulated that mental patients could be treated only with legally established methods. Experimental clinical treatment could be used only with the patient's consent and must be authorized by the Commission of Medical Ethics.

19. The European Code of Police Ethics, which had been adopted by the Council of Europe in 2001, had been translated into Lithuanian and made available in all Lithuanian police institutions. In 2002 a regulation on the observance of the ethics of police officers had been adopted. The question of the establishment of the higher police training college was still on the Government's agenda, and progress was being made in that regard.

20. The Constitution guaranteed all persons suspected or accused of committing a crime the right to a defence from the moment they were first detained or interrogated. If access to a lawyer was denied, the detainee could appeal to the prosecutor or to a court and could refuse to give evidence. Any evidence obtained in the absence of a defence counsel was inadmissible.

21. Under the Code of Criminal Procedure, the prosecutor present at the time of detention was obliged to notify the arrest to a relative designated by the arrested person, unless that person gave reason to believe that such notification might affect the safety or his or her relatives. Detainees had the right of access to a family member, unless the prosecutor believed that such a meeting might obstruct the investigation.

22. The Minister of Justice had introduced higher rates of remuneration for State-appointed defence counsels in order to increase their sense of commitment. The Lithuanian Council of the Bar Association had the power to consider the complaints of defendants who were not satisfied with the services of their lawyer.

23. The Code of Criminal Procedure provided for the possible use in serious criminal cases of evidence given by anonymous witnesses or victims. In practice, however, that provision was applied only rarely, in cases involving organized or violent crime. Moreover, such evidence could not be accepted as sole proof of guilt.

24. In order to solve the problems of overcrowding, inter-prison violence and sexual abuse, the legislation governing the enforcement of punishments had established new criteria for prisoner classification and stipulated that inmates of different categories were to be held separately. Thus males and females, adults and juveniles, and first-time offenders and recidivists were not detained together. The prison authorities were also allowed to separate inmates who behaved well from those who violated the prison rules. The legislation further stipulated that all correctional establishments must employ professional psychiatrists.

25. Police officers were obliged to complete a form on every person taken into police custody, indicating, inter alia, the state of the detainee's health. Any person who indicated that he or she suffered from an infectious disease, such as tuberculosis, would be held separately from other detainees.

26. While the Constitutional Court had decided that the provisions of international treaties could be invoked in courts in all matters except those relating to criminal law, there was no specific legislation to that effect. It was left to the courts, if they so wished, to take into account the relevant decisions of treaty bodies such as the Committee.

27. According to the new Criminal Code, the criminal law of Lithuania could be applied to foreigners who had committed a crime abroad only if that crime was covered by the international treaties to which Lithuania was a party. When a foreigner was arrested in Lithuania, the prosecutor informed the relevant diplomatic or consular post only at the request of the arrested person.

28. Although organized crime continued to be a serious problem in Lithuania, the situation had improved in recent years. Some important criminal cases had been closed successfully only because special protection measures had been applied to the victims and witnesses.

29. Ms. GAER asked what happened if the public prosecutor's office failed to order a medical examination. She wished to know whether there were any safeguards in place or any mechanisms to monitor compliance with that requirement.

30. Mr. RASMUSSEN, noting from the delegation's reply that detainees were medically screened by a police officer when taken into police custody, invited the State party to consider ordering a medical check-up by a doctor trained in diagnosis of contagious diseases such as tuberculosis before placing arrested persons in overcrowded cells where they could constitute a health hazard to fellow inmates.

31. Mr. ŠVEDAS (Lithuania) said that he had been referring in his reply to the first 48 hours of detention. If detention was extended by a court beyond that period, a medical examination by an appropriately qualified doctor was compulsory. A detainee who was found to be suffering from a contagious disease was placed in a facility where he or she would not present a threat to other inmates.

32. Every detainee enjoyed the right of access to a doctor on being taken into custody. It was difficult for him to say what would happen if access was denied, because no such case had ever occurred. An arrested person was always registered and the reasons for any request to see a doctor were recorded. However, if the request was denied, the person concerned could appeal to a court.

33. The CHAIRMAN invited the delegation to return later in the week to receive the Committee's conclusions and recommendations.

The public part of the meeting rose at 10.45 a.m.