



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

Distr.
GENERAL

CAT/C/SR.536
20 November 2002

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Twenty-ninth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 536th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 15 November 2002, at 10 a.m.

Chairman: Mr. BURNS

CONTENTS

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

Third periodic report of Cyprus

ORGANIZATIONAL AND OTHER MATTERS (continued)

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.536/Add.1.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Third periodic report of Cyprus (CAT/C/54/Add.2)

1. At the invitation of the Chairman, the members of the delegation of Cyprus took places at the Committee table.
2. Mr. SAVVIDES (Cyprus), referring to paragraph 81 of the third periodic report, said that his Government attached considerable importance to the Committee's recommendations since they would be used as guidelines for further improving the country's human rights legislation.
3. The third periodic report covered the period from 1997 to October 2001 and he therefore wished to refer to some major legislative developments that had taken place since the latter date. In October 2002, the Government had tabled a bill amending the Ratification Law, which had criminalized the subjection to torture only, so as to criminalize also the subjection to cruel, inhuman or degrading treatment or punishment within the meaning of the Convention. Under proposed amendments to the bill, it would be presumed that a person arrested or held in custody who bore any external injuries not present at the time of his or her admission to a police station, as verified by a medical examination, had been ill-treated by an officer at that police station. The police officer in charge of the station and the investigative officer responsible for the arrest would be held responsible for that ill-treatment unless they could reasonably explain that the injuries had not been caused by a police officer. If they could offer no such explanation, the officers concerned could be charged with a criminal offence.
4. The Protection of Witnesses Law, referred to as a draft law in paragraph 4 (g) of the third periodic report, had since been adopted by the House of Representatives and practical measures had already been taken to secure the anonymity of witnesses.
5. Pursuant to an amendment to the Military Criminal Code of Procedure, enacted in April 2002, the death penalty had been totally eradicated from Cypriot legislation. Cyprus had signed Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms in May 2002, and a bill ratifying the Protocol had subsequently been approved by the Council of Ministers and tabled in Parliament.
6. Legislation enacted in November 2001 provided for the payment of just and reasonable compensation to persons who, having partially served a term of imprisonment following conviction for a criminal offence, had had their conviction quashed or their sentence reduced on appeal to the Supreme Court. One such case was currently being examined by the Attorney-General.
7. Pursuant to an amendment to the Aliens and Immigration Law, enacted in December 2001, deportees would be given the reason for their deportation in writing and in a language understood by them, provided that national security was not affected, and potential

deportees were entitled to appear before the Migration Officer, or another relevant authority, and to ask for the services of an interpreter. Detention orders issued with regard to potential deportees were valid for eight days after which, if deportation could not take place, the detainee had to be released.

8. With reference to paragraph 55 of the third periodic report, he informed the Committee that, pursuant to a decision of the Council of Ministers of 22 March 2001, it was no longer a prerequisite that the Attorney-General must receive written complaints before investigating allegations of criminal offences, including torture-related offences, by police officers. The Attorney-General could order a criminal investigation concerning such allegations brought to his notice by media reports or by a variety of bodies. The Attorney-General had recommended that decision, in response to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in order to secure independent investigations of all alleged breaches of the Convention by members of the Police Force.

9. The investigators concerned had to be former judges or practising lawyers and were vested with the same powers as those afforded to criminal investigators under normal criminal procedures. The instrument of appointment of the investigators had to be communicated to the person submitting the complaint, or to his or her lawyer, to the Minister of Justice and Public Order and to the Chief of Police, requesting the latter to give all necessary instructions to facilitate the investigator in his or her functions. He also drew attention to paragraph 59 of the third periodic report concerning the decision by the Attorney-General whether to institute criminal proceedings.

10. Between March 2001 and June 2002, 45 complaints or reports from various sources concerning alleged offences by police officers had come to the knowledge of the Attorney-General. In every case but one, the Attorney-General had appointed independent investigators. Investigations concerning 22 cases had been completed, while investigations into the remaining 22 cases were still under way. Of the 22 cases whose investigations had been completed, 16 involved unsubstantiated allegations or allegations lacking evidence warranting criminal prosecution. Two instances had led to criminal proceedings and were before the court and, in the remaining four cases, the investigation files were being assessed in order to determine whether or not criminal proceedings should be instituted.

11. A Police Human Rights Office had been established to ensure that police officers respected human rights in the performance of their duties. Monthly statistics were collected from all police divisions concerning complaints against police officers for alleged violent treatment or ill-treatment of civilians, suspects or prisoners and alleged violent treatment or ill-treatment of police officers by civilians, suspects or persons in custody. Referring to paragraph 71 (a) of the third periodic report, he said that more efforts had been made to train members of the police force and other law-enforcement officers in ways of addressing domestic violence. Specialized training programmes had been organized in the Police Academy to teach police officers special interview techniques when gathering video evidence from abused women and children. He also referred to paragraph 76 of the third periodic report, concerning the training programme for judges.

12. In recent years, the Police Human Rights Office had published (in Greek) a large amount of written material concerning the prevention of torture which had been distributed to all police officers and to the general public. Council of Europe materials concerning human rights in general had been translated and would soon be distributed to police officers, and the Cypriot Police Force had adopted, or was in the process of translating for the purpose of adoption, Council of Europe recommendations on police ethics. Members of the Cypriot Police Force had taken part in various international human rights conferences and seminars.

13. Over the period 1998 to 2000, a total of 51 complaints had been made against members of the Police Force alleging violent treatment or ill-treatment of civilians, suspects and the accused in criminal cases, and prisoners, 35 cases of which had involved physical violence. The number of similar incidents allegedly directed at police officers by civilians, suspects or persons accused, for the same period, was 590, of which 340 involved physical violence.

14. Since the preparation of the third periodic report, an open prison with a capacity of 62 single cells had been brought into operation and the renovation of two old wings, with a total capacity of 100 single cells, was expected to be completed by early 2003. As a result, one of the most serious problems the Cypriot prison system had been faced with over the previous decade, that of overcrowding, would be resolved.

15. Referring to the recent presentation by the Secretary-General of the United Nations of his proposals for a comprehensive settlement of the Cyprus problem, to which the leaders of both communities were requested to reply by 18 November 2002, he expressed his hope that the problem would be resolved as quickly as possible. He said that his Government was committed to finding a solution.

16. The CHAIRMAN, having expressed the wish of the Committee, that a solution would be found to the Cyprus problem, praised the Government of Cyprus for its exemplary human rights record and its endeavours to achieve perfection in its legislative and administrative programmes.

17. Mr. EL MASRY, speaking as Country Rapporteur, endorsed the Chairman's comments on the efforts made by the Government of Cyprus and commended it on the quality of the report, which complied with most of the Committee's guidelines, even though it did not refer to the Convention article by article as had been requested.

18. Cyprus had once again lived up to its reputation of having an advanced legislative and administrative system for the application of human rights values on the basis of its Constitution. He highlighted the major legislative changes that had taken place since the second periodic report, as described in the third periodic report. He particularly welcomed the new Psychiatric Treatment Law, referred to in paragraph 5 of the report, according to which mental patients were no longer treated like criminals.

19. Noting that Cyprus had inherited many elements of its legal system from the United Kingdom, he said that according to the Country Report on Human Rights Practices published by the Department of State of the United States of America, the right to a fair public

trial in Cyprus was provided for in law and generally accorded in practice, and that there were no political prisoners in Cyprus. No cases of torture had been reported by the Special Rapporteur on the question of torture over the previous five years.

20. CPT had paid three visits to the Republic of Cyprus, in 1992, 1996 and 2000 and he urged the Government of Cyprus to publish the report on the latest visit. In its 1996 report, CPT observed that the treatment of detainees by police officers had generally improved, demonstrating the effectiveness of action by the authorities to investigate allegations of ill-treatment. Nevertheless, the persistence of some cases of ill-treatment indicated that the authorities needed to remain vigilant and pay particular attention to prevention.

21. One of the most alarming cases was contained in Amnesty International's 1999 report. It described how, in 1998, a number of people of African and Middle Eastern origin had been rescued off the coast of Cyprus. They had been placed under police guard in a Limassol hotel pending a decision on their asylum applications. Shortly afterwards, a number of them, mostly Africans, had been transferred to cells at the former police headquarters in Larnaca. Some of them had alleged that they had been beaten by police officers in the presence of a police inspector but, despite their injuries, they had initially been denied access to hospital. One asylum-seeker had alleged that he had been threatened with further beatings if he refused to sign a statement denying ill-treatment. Later, some of the asylum-seekers had been forced out of their cells by officers of the Rapid Intervention Police Force (MMAD) with the use of tear gas. Television footage had shown police officers kicking and stamping on the asylum-seekers and hitting them with truncheons. Some of the asylum-seekers had reportedly been transported to hospital with injuries resulting from the beatings and with respiratory difficulties caused by the tear gas. Since an inquiry into the incident had been set up, the Committee would be grateful if the Cypriot delegation could provide information as to its outcome.

22. The visiting delegation of CPT in 1996 had received no allegations of torture or severe ill-treatment except from two prisoners of Turkish origin who reported having been ill-treated following an attempted escape. The prisoners in question had been examined by a prison doctor some considerable time after the event. It would be interesting to have details of the findings of the ensuing disciplinary investigation. In connection with that issue, CPT had also found that de facto cellular isolation occurred without the application of a formal disciplinary procedure; the Committee would be grateful for more information in that regard.

23. With reference to issues arising in connection with article 1 of the Convention and paragraph 53 of the third periodic report, he would like the delegation to specify which articles of the Convention were regarded as self-executing in Cypriot law, and which were not.

24. There were a number of questions to which he would like replies in connection with article 2 of the Convention. First of all, he asked the delegation to confirm that the age of criminal responsibility was fixed at 7 years. Was corporal punishment still applied in Cyprus? In what circumstances could the application of force amount to a legal defence, and was the matter addressed in more detail by the new Psychiatric Treatment Law and Criminal Procedure Law? Under what conditions was the isolation of a prisoner permitted and what safeguards

existed. Was the right of a detainee to notify a third party of his arrest and detention enshrined in law or was it left to the discretion of the police? When exactly was the detainee permitted to inform a third party of his whereabouts?

25. CPT reported that, theoretically, all persons arrested by the police had access to an independent lawyer, but it also reported that a detained person would be informed of his rights only when being cautioned, before a formal statement was taken. Since the detainee might spend some time in police custody before that stage was reached, CPT recommended that the authorities should take appropriate measures to ensure the exercise of that right at the outset of custody.

26. The report referred to the enactment of a law on the granting of political asylum to refugees (paras. 25-27). However, it provided very scant information on the law in question. It had come to the Committee's knowledge, however, that the law - or at least the bill that was subsequently enacted into law - had established "subsidiary protection status" for all persons who had been refused refugee status but were nevertheless considered to be in need of international protection for humanitarian reasons. However, the bill also provided for the exclusion from subsidiary protection of a person who was found to fall within the exclusion clauses for refugee status of the 1951 Convention relating to the Status of Refugees.

27. It was possible that that provision might contravene article 3 of the Convention against Torture, which was broader in scope than the protection against refoulement contained in the Refugees Convention, since it contained no exclusion provisions. The bill thus left open the possibility that persons who had fled torture and who had committed serious crimes excluding them from refugee protection might be lawfully returned by Cyprus to a situation of torture. The delegation should thus provide more information about the way in which the new law would guarantee non-refoulement as provided for under article 3 of the Convention, including of persons who had committed serious crimes that came within the exclusion provisions of the Convention relating to the Status of Refugees.

28. Generally speaking, however, it was obvious from the third period report of Cyprus and the delegation's introductory statement that Cyprus was an open and democratic society that was deeply committed to protecting and promoting human rights.

29. Mr. YU Mengjia, speaking as Alternate Country Rapporteur, referred to an ombudsman's report of March 2002 which had concluded that prisoners with mental health problems did not receive proper medical care, and that lesser offenders were sometimes incarcerated with hardened criminals. He asked the Cypriot delegation whether those findings were true and, if so, what the reaction of the authorities had been. A note by the Secretary-General on questions of the violation of human rights and fundamental freedoms in any part of the world, including the question of human rights in Cyprus (E/CN.4/2002/33) alluded to the case of Denizci and Others v. Cyprus, in which the European Court of Human Rights had found the Government of Cyprus to have violated the human rights of a group of Turkish Cypriots. The Committee would be grateful for fuller details of that case. It had also been brought to the Committee's attention that many victims of human rights violations in Cyprus had been reluctant to testify, partly through ignorance of the mechanisms available for redressing their rights. It would like to know what steps had been taken to rectify that problem. The European Commission against Racism

and Intolerance had reported that rejected asylum-seekers and certain domestic workers had been subjected to ill-treatment in Cyprus. The delegation should inform the Committee of the Cypriot Government's response to those allegations. Lastly, it would make the task of the Country Rapporteurs much easier if, in the future, the State party would compile its report on an article-by-article basis rather than thematically.

30. Mr. RASMUSSEN said that, while the news that cruel, inhuman and degrading punishment had been made a specific criminal offence under Cypriot law was very welcome, it would be enlightening to hear the State party's definition of what constituted such behaviour. The presumption that the State was to blame if a person who had been taken into police custody presented lesions was a most interesting development, but he had some difficulty envisaging how such a system would work in practice. It would seem to require that every single individual taken into custody would have to be examined at every single police station. In any event, police doctors would require thorough training in how to identify and document torture and ill-treatment. The questions thus arose whether any such training had been provided; whether there were specialist police doctors in Cyprus; whether persons in custody had the right to summon a doctor of their choice; whether medical reports were made available to detainees and their lawyers as a matter of course and whether, at the stage of transfer from police station to prison, lesions were systematically recorded and investigated.

31. Mr. MARIÑO MENÉNDEZ said that the report clearly demonstrated that Cyprus was well on course to satisfy all the relevant entry requirements for the European Union. There were still a number of questions that required answers, however. Were the decisions of the Refugee Authority mentioned in paragraph 26 of the third periodic report final and binding? Could its decisions be appealed? Was it an administrative or a judicial body? The Committee would be grateful for statistics on the number of foreign residents and refugees currently in Cyprus.

32. With reference to applications for employment lodged by foreign workers who had been exploited (paragraph 33 of the report), it was unclear whether the authorities were obliged to accede to the worker's request or whether the matter was entirely at their discretion. He would also like to know whether, when a decision was taken to expel an alien, the decision could be appealed or whether it was immediately executable.

33. At a more general level, much fuller information was required about the precise relationship between international treaties and domestic law in Cyprus and the training of Family Court judges (para. 76) might usefully include some knowledge of the Committee's jurisprudence.

34. Ms. GAER said that the Government of Cyprus had made considerable progress in addressing matters such as trafficking of women, the sexual exploitation of children and domestic violence. However, it was unclear whether or not those problems were widespread in Cypriot society. Statistics on the number of cases reported and prosecuted would be most welcome. In addition, figures should be supplied showing the prison population disaggregated by gender, and the number of complaints received from male and female prisoners, respectively.

In that connection, she would like to know whether there was a mechanism for monitoring sexual violence and prisoner-on-prisoner violence in places of detention and whether any cases had come to light. Additional data on invasive body searches of detainees would be appreciated, and specifically on any regulations that might exist.

35. She asked the Cypriot delegation whether there were any plans to make the most recent CPT report available to the Committee and to the public at large. The European Court of Human Rights had ordered the Government of Cyprus to pay compensation to a group of Turkish Cypriots: more information was needed on the background to those cases, and on the Government's strategy for dealing with such problems in the future. The Committee had also received reports of attacks on Roma; the State party should give some idea of the scale of that problem.

36. As a general rule, the majority of refugees and asylum-seekers were women and she enquired whether that was true of Cyprus also. The Cypriot delegation should, moreover, indicate whether there were any special provisions to rehabilitate asylum-seekers who had been tortured in their country of origin, and whether the deportation of pregnant women was prohibited.

37. Mr. YAKOVLEV said he would like some statistics on the types of crime reported in Cyprus, the percentage and kinds of incidents in which preliminary investigations were initiated, and the number of people deprived of their freedom by the justice system.

38. The CHAIRMAN, speaking as a member of the Committee, asked the Cypriot delegation for the results of the inquiry carried out concerning the situation of asylum-seekers in detention.

39. He had listened with great interest to all the additional information provided by the delegation, and was particularly fascinated by the proposed regime whereby the legal system would effectively make a presumption against the State when a person manifested some signs of injury that he or she did not have when taken into custody. That was a very forward-looking shift in approach, and one that would be absolutely consistent with the Committee's jurisprudence. The Committee considered that, if there was evidence that the State had applied force to an individual, then it was for the State to justify its use of force. The scheme proposed in Cyprus would apparently go further still, and it might have an impact on the criminal and civil responsibility of the officer concerned as well as on the responsibility of the State. It might even affect the kind of evidence that could be introduced in the trial of the accused. He was also very impressed by the provision calling for a doctor to be assigned to each police station.

40. Mr. EL MASRY said he would like some clarification concerning the rights of the accused and of counsel in cases where an anonymous witness could testify. The Committee would like to know whether the defendants or their counsel were allowed to cross-examine such witnesses.

41. The delegation of Cyprus withdrew.

The meeting was suspended at 11.35 a.m. and resumed at 11.45 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)Establishment of a working group for communications received under article 22 of the Convention

42. The CHAIRMAN, recalling that it had been agreed that Committee members should take turns to participate in the working group for communications, asked for volunteers to take part in the working group that was scheduled to meet prior to the next session of the Committee.

43. Mr. EL MASRY, Mr. GONZÁLEZ POBLETE, Mr. MARIÑO MENÉNDEZ and Mr. YAKOVLEV said they were willing to take part in the activities of the working group scheduled to meet from 21 to 25 April 2003.

44. Ms. GAER said that the Committee might, perhaps, consider organizing sessions of the working group at dates other than the week immediately preceding its sessions. That might possibly make it easier to rotate the members' participation in such activities.

45. Mr. MAVROMMATIS said that it was important to maintain flexibility in organizing such activities. In some cases, the participation of a particular member would be of the utmost importance because of his or her special expertise. The next working group should, perhaps, also consider the potential implications of the entry into force of the optional protocol.

46. Mr. RASMUSSEN said that he would be willing to take part in the activities of a working group on the implications of the entry into force of the optional protocol.

47. Ms. GAER proposed that the Committee should hold a preliminary discussion of the optional protocol during its current session and request the Secretariat to provide funds for an additional meeting - between the Committee's sessions - of a working group on the implications of the entry into force of the optional protocol. She, too, was prepared to take part in such a working group.

Possible adoption of a procedure for the publication of lists of issues

48. The CHAIRMAN said that the Committee had not yet formally adopted a procedure for the publication of lists of issues. For such a procedure to be up and running by the November 2003 session, it had to adopt such a procedure at its current session, as it would be necessary in April 2003 to begin already to draw up such lists. He asked the Secretary of the Committee to describe the procedures used by other treaty bodies.

49. Ms. RUEDA-CASTAÑÓN (Secretary of the Committee) said that most of the other treaty bodies put out lists of issues prior to their consideration of the reports of States, with a view to guiding the dialogue and informing Governments of the questions that would be asked. The lists were drawn up by task forces which met during the Committee sessions, or by pre-sessional working groups which generally met immediately after the preceding session. The Secretariat normally prepared draft lists of issues, which were then submitted for preliminary changes to the country rapporteur, if there was one, or else were sent directly to the working group or task force. Once the lists were approved and corrected, they were sent out to the

relevant Governments. Some treaty bodies asked Governments to provide written replies prior to the consideration of their reports so as to advance the dialogue one step further. In that case, such replies had to be translated for use by the Committee.

50. The CHAIRMAN said that the Secretariat would have some extra work if the Committee adopted a procedure involving lists of issues. Instead of issuing the detailed country analyses to Committee members, therefore the Secretariat would provide a set of documents specifically related to the issues, including references to reports from non-governmental organizations (NGOs) and from the States parties.

51. Ms. GAER said she found alarming the suggestion that the detailed country analyses would no longer be provided. According to the plans of action of the Office of the High Commissioner for Human Rights (OHCHR) and the treaty bodies, country analyses were provided upon request, their provision not being conditional upon the absence of a list of issues. She was able to support the adoption of a procedure for putting out lists of issues, on the understanding, however, that it would not preclude the issuance of country analyses and that sufficient resources would be provided to support the additional activities involved.

52. Ms. RUEDA-CASTAÑÓN (Secretary of the Committee) said that the financial implications of the change would not necessarily be very significant, especially if the Committee did not request written replies from the States. The working group that currently dealt with communications received under article 22 would probably be able to handle the lists of issues also.

53. The working group that had been held immediately prior to the current session had made use of only about 30 per cent of the meeting time allotted to it. Indeed, if more use was not made of the conference services allotment, the Committee might well find that less time would be made available to it for such meetings in the future.

54. Mr. CAMARA, supported by Mr. MARIÑO MENÉNDEZ emphasized the need to ensure proper timing if the Committee were to publish lists of issues.

55. The CHAIRMAN suggested that the Committee should take up the question of the publication of lists of issues, with due attention to the points that had been made, at a later date.

56. It was so decided.

The public part of the meeting rose at 12.15 p.m.