United Nations CAT/C/SR.826

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

Distr.: General
31 December 2009
English
Original: French

COMMITTEE AGAINST TORTURE

Fortieth session

SUMMARY RECORD OF THE 826th MEETING

Held at the Palais Wilson, Geneva
on Friday, 9 May 2008, at 10 a.m.

Chairperson: Mr. GROSSMAN

CONTENTS

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.

GE.08-42103 (E) NY.09-41887 (E)
0941887

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (*continued*)

Third periodic report of Iceland (HRI/CORE/1/Add.26; CAT/C/ISL/3; CAT/C/ISL/Q/3; CAT/C/ISL/Q/3/Add.1)

1. *At the invitation of the Chairperson, Ms. Kristinsdóttir, Mr. Jónsson and Ms. Helgadóttir took places at the Committee table*.

2. Ms. KRISTINSDÓTTIR (Iceland) said that the third periodic report transmitted to the Committee contained errors or inaccuracies that she would like to correct. In paragraph 9, in connection with the Child Protection Act, it was incorrectly stated that the Minister of Justice could set regulations regarding methods of coercion or disciplinary action. In fact, that was a prerogative of the Minister of Social Affairs. Furthermore, it was necessary to point out that, in the table in paragraph 18, the figures shown in "Deportations" column included voluntary departures; the number of forced deportations was far lower. The figures for "applications withdrawn" take into account applications dealt with in the framework of the rules on cooperation of the Dublin Agreements, which determine who decides on asylum. In the written reply to question No. 8, it had been pointed out that none of the individuals who had lodged asylum applications in the period 2001-2005 could be considered a "refugee" under the definition of the term given in the United Nations Convention on the Status of Refugees. It was, nevertheless, necessary to point out that the Icelandic authorities did not adjudicate on whether an applicant meets the criteria set forth in the Convention.

3. She said that the principal measures adopted since the previous consideration of Iceland's implementation of the Convention against Torture had been set forth in the report, but it was useful to summarize them and, if necessary, clarify or add new pieces of information for the sake of the dialogue to follow her remarks. The Prisons and Imprisonment Act, No. 48/1988, had been replaced by the Application of Punishments Act, No. 49/2005. That new Act had taken into account, in particular, the European Prison Rules issued by the Council of Europe and the opinions of the Parliamentary Ombudsman on matters referring to prisoners. It had brought together a large number of provisions in various acts and regulations and defined the rights and obligations of persons on whom sentence is passed. Existing rules had been clarified, certain provisions had been given a stronger legal basis and various innovations had been introduced.

4. Regulation No. 179/1992 on Custody on Remand had been repealed by the Regulation on the Application of Punishment, issued on 8 November 2005 (para. 7 of the report). The latter contained 25 articles setting forth detailed provisions regarding, for instance, the role of the Prison and Probation Administration, work in prison, studies, work or professional training outside the prison, the presence of newborn babies in prison, arrangements for the surveillance of such visits, prisoners' access to the media, the conditions for probationary release and remand prisoners and the handling of personal data.

5. The new Application of Punishments Act had abolished the distinction between prisons for those serving sentences and remand prisons; in fact, no special

remand prisons had been in operation in Iceland for many years. As indicated in the written reply to question No. 2, the main reason for the abolition of that distinction had been the difficulty of guaranteeing remand prisoners, because of their small number, satisfactory services if they were kept in a separate detention centre. However, the fact that remand prisoners were held together with convicted prisoners in no way undermined the presumption of innocence. It was simply a question of preventing them from being totally isolated and of giving them access to the services provided in prisons for those serving sentences.

6. The average number of remand prisoners – 16.9 in 2005 – had barely changed since then (17 in 2006 and 15 in 2007, of whom 14 and 13, respectively, had not been isolated).

7. Among other developments since the report was drawn up, the Coast Guard Act, No. 25/1967, which had had no special rules regarding the use of force by employees of the Coast Guard, had been repealed by a new Act (No. 52/2006), which obliged Coast Guards to follow the legislation applicable to the police and the Code of Criminal Procedure. In addition, a new regulation on prison warder training had been issued on 29 March 2007 pursuant to the Application of Punishments Act. The training contemplated in that regulation emphasized human rights and respect for prisoners' dignity by teaching warders the human rights-related provisions in the Constitution and in international instruments, as well as the provisions established by international bodies and committees concerned with conditions for prisoners. The requirements for the appointment of warders set forth in the new regulation were the same as those established in the previous regulation, which were listed in paragraph 27 of the report.

8. Ms. Kristinsdóttir said she wished to comment in particular on two of the recommendations made by the Committee during consideration of the second periodic report of Iceland: that torture be defined as a specific offence in Icelandic law and that the legislation concerning evidence to be adduced in judicial proceedings be brought into line with the provisions of article 15 of the Convention so as to exclude explicitly any evidence obtained as a result of torture.

9. In its initial report, Iceland had reviewed the provisions in Icelandic law that prohibited torture. Its second report had explained in detail that, although torture had not been defined by law, there could be no doubt as to what was meant by the term and that it was punishable by law. In its third report, Iceland maintained those arguments.

10. In the context and in the light of the general principle of Icelandic law that legal provisions were to be interpreted in harmony with international legal obligations, there was no doubt that the term "torture" would be interpreted by Icelandic courts in accordance with article 1 of the Convention, if they had to pronounce on the matter. It was also necessary to emphasize that the provisions of the Constitution of Ireland and of article 3 of the European Convention on Human Rights were slightly broader in scope than article 1 of the Convention against Torture, inasmuch as they addressed not only acts by public officials but covered all such acts. It was also worth pointing out that numerous generic terms used in Icelandic law were not defined in the Penal Code, including, for instance, the terms "rape" and "murder" and yet it would not occur to anyone to pretend that such acts did not constitute a criminal offence under Icelandic law. What mattered was not so much the term used to describe behaviour but the qualification of that behaviour as

an offence. Consequently, the Government considered that Icelandic law contained satisfactory provisions applying to torture, both physical and mental, as covered by article 1 of the Convention.

11. Concerning article 15 of the Convention, Iceland's two previous reports had contained a detailed description of the laws relating to it. It was to be stressed that criminal procedure abided by the principle that a judge freely assesses evidence submitted to the court. In criminal proceedings, the judge was, nevertheless, bound by the Constitution, which establishes that anyone accused of having committed a crime shall be presumed to be innocent until proven guilty. The burden of proof therefore lay with the prosecution. Another important principle was the use of direct evidence, set forth in article 48 of the Code of Criminal Procedure. A judgement had to be based on evidence adduced in criminal proceedings before the court. Thus, police reports not corroborated by statements in court had only limited probative force. The provisions regarding the presentation of evidence in criminal proceedings established that no one may be convicted on the basis of confessions shown to have been obtained by torture.

12. Ms. SVEAASS (Rapporteur for Iceland) thanked the delegation for the additional and excellent information it had provided to supplement the report and the written replies. At the end of its consideration of Iceland's previous report, the Committee had noted, among other positive aspects, that it had not received any complaints of torture or inhuman treatment involving Iceland and that the State party had adopted a new Act on Foreigners that afforded foreign nationals greater protection. Among other recommendations, the Committee had urged the State party to define torture as a special offence in Icelandic law in accordance with article 1 of the Convention and to bring legislation concerning evidence to be adduced in judicial proceedings into line with the provisions of article 15 of the Convention. Iceland had indicated its position with respect to those recommendations in its third periodic report and had provided additional information on suicides in prison, on training for doctors in recognizing the sequelae of torture, on monitoring of inter-prisoner violence and on the methods used by prison staff to intervene in such cases, as the Committee had requested. The State party had also attached to its periodic report the report drawn up by the Committee for the Prevention of Torture at the end of its visit to Iceland in 2004.

13. The Committee attached the utmost importance to the incorporation in Icelandic law of a definition of torture in line with that found in article 1 of the Convention. It also systematically reminded States parties whose legislation lacked a definition of torture or whose definition of torture did not tally with the Convention's, of the paramount necessity of including such a definition in their domestic law. Iceland had maintained that a ban on torture was contained in article 68 of its Constitution, that there could be no doubt as to what was meant by the term "torture", even though it was not specially defined, and that therefore there was no point in amending the law. However, the definition of torture contained in article 1 of the Convention was very precise in that it – unlike, for instance, the definition of torture set forth in the European Convention on Human Rights – described the different elements that constitute torture. The measures for punishing and preventing torture were closely linked to those different elements. As the Committee had underscored in its general observation regarding article 2, a clear definition of torture taking into account all the factors addressed in article 1 was essential for effectively preventing torture and maltreatment. It was therefore crucial that the

State party incorporate such a definition in its domestic law, especially in view of its possible accession to the Optional Protocol.

14. Nor had torture been characterized as a specific criminal offence. No provision in the Icelandic Penal Code expressly referred to torture. Thus, even though the State party asserted that acts criminalized in its Penal Code were sufficient to ensure that torture, both physical and mental, were punishable under that Code, the Committee urged it to review its position, make torture a specific criminal offence, and establish punishments commensurate with the gravity of the acts it comprises.

15. Another decisive means of preventing torture and maltreatment was to establish independent monitoring mechanisms. The written reply to question 1 had pointed out that the Parliamentary Ombudsman had carried out inspections in the prisons and that his observations had been taken into account. What was the situation like in psychiatric clinics? Furthermore, the Ombudsman's mandate and budgets were probably limited and he himself had recommended establishing a monitoring mechanism specifically responsible for inspecting prisons and psychiatric hospitals. It would be useful to know what the State party intended to do in that area. It might perhaps be worth establishing a national institution in line with the Paris Principles and based on the experience of other institutions and civil society organizations active in the area of human rights.

16. It transpired from the written replies by the State party (question No. 4) that it had adopted a number of legislative provisions to combat trafficking in human beings. The Committee would welcome clarification of the provisions taken on behalf of victims, particularly as regards rehabilitation and care.

17. The delegation had stated that, like torture, other crimes, including rape, had not been expressly defined in the Penal Code, but were nevertheless punishable. It would be preferable to promulgate laws specifically addressing rape and, more broadly, violence against women and domestic violence, which currently appeared not to be defined as specific offences, particularly since, according to some sources, that type of violence was very common in Iceland. More details on that subject would be welcome.

18. Consideration had apparently been given to equipping the police with Taser stun guns. The delegation could perhaps indicate whether those discussions were ongoing. If that were the case, the Committee strongly urged the State party to refrain from authorizing the use of such weapons as they caused very serious injuries, as evidenced in numerous reports on the subject.

19. It its reply to question No. 5, the State party had indicated that article 45 of the Act on Foreigners, which prohibits the repatriation (refoulement) of foreign nationals to regions in which they have reason to fear persecution, had been applied in 18 cases between 2002 and 2005 to persons who could claim refugee status. According to the figures provided in the report, during that period, 240 of the 394 asylum-seekers had been deported. The delegation had indicated that voluntary departures should be deducted from that figure. Perhaps it could furnish the exact number of deportations. Between 2001 and 2008, only 1 applicant for asylum, out of a total of 457, had obtained refugee status. One might therefore wonder whether the criteria for granting refugee status were perhaps too strict and whether, as a result, there was a risk of persons being deported to countries where they could be tortured. For instance, it was known that between 2005 and 2007 Iceland had deported asylum-

seekers to Afghanistan, a country that could not be considered safe under the terms of the Convention.

20. The Dublin Agreements were applied implacably, as illustrated by the case of a young woman originally from Romania who, when she was seven months pregnant, had sought asylum in Iceland and had been sent back to the United Kingdom in 2005, when she was seriously ill, suicidal and suffering from severe post-traumatic disorders. That case had clearly shown that more account needed to be taken of humanitarian considerations in the asylum procedure.

21. With respect to the new Coast Guard regulation, under which Coast Guard personnel were placed under the same laws that applied to the police, it would be interesting to know whether there had been any allegations of misuse of public authority or acts of violence committed by Coast Guard employees while on duty. The Committee would welcome clarification of the exact scope of the prohibition referred to in article 45 of the Foreign Nationals Act. Indeed, the term "repatriation" used in paragraph 14 of the written replies was not clear. Furthermore, there would appear not be any specific provisions for the protection of unaccompanied minors. More details on that subject would be useful.

22. As regards article 5, it was worth recalling that the visit to Iceland in 2003 of a senior official of the Chinese Communist Party who had allegedly committed crimes of torture, genocide and crimes against humanity had given rise to intense debate regarding two possible stances: prosecuting the official concerned on the basis of Iceland's international obligation to bring to justice anyone guilty of systematic violations of human rights protected by international instruments, including the Convention against Torture; or taking the view that the person concerned was in Iceland on an official visit and therefore enjoyed diplomatic immunity. It would be interesting to know which position finally prevailed and why.

23. The activities of the CIA in Europe had triggered a fierce debate. It had transpired from the report on the subject adopted by the European Parliament in 2007 that European States generally turned a blind eye to flights by planes chartered by the CIA that were sometimes used for the illegal rendition of prisoners. In 2005, the Icelandic media had reported that, since 2001, planes chartered by the CIA had landed on Icelandic soil at least 67 times. At the time, the matter had not been referred to the Office of the Director of Public Prosecutions despite requests calling for an official inquiry to throw light on possible complicity by the Icelandic State with those illegal renditions. Discussions were said to have taken place since then and the Committee would like to know the outcome.

24. Mr. WANG Xuexian (Co-Rapporteur for Iceland), addressing the State party's implementation of article 10 of the Convention noted with satisfaction that Icelandic legislation required members of peacekeeping forces deployed abroad to respect the provision of the international instruments to which Iceland was party. He said he would like to know whether the State party would act on a recommendation by the Icelandic Human Rights Centre regarding the adoption of a legislative provision making it obligatory to provide education in humanitarian law and human rights instruments to members of Icelandic peacekeeping forces as part of their training.

25. As regards training for border guards − which were mainly coast guards because of the State party's particular geographical configuration −, the Committee would like to know whether the Government of Iceland had acted on the

recommendation put forward by the Committee on the Elimination of Racial Discrimination in its final observations on the seventeenth and eighteenth periodic reports of Iceland, which had encouraged the Government to intensify its efforts to ensure that border guards received systematic training in refugee protection and, in particular, information regarding the situation in asylum-seekers' countries of origin (CERD/C/ISL/CO/18, para. 11).

26. According to certain sources, there was one prison in Reykjavik that did not meet minimum standards, as 16 cells lacked lavatories or washbasins. The delegation could perhaps say whether that information was accurate and, if it was, whether steps had been taken to remedy that state of affairs. Furthermore, it had been alleged that solitary confinement was imposed arbitrarily and that that measure had been applied to an excessive number of prisoners, an allegation that called for a comment by the delegation. According to information brought to the Committee's attention, two minors were currently being held at the prison and had not been separated from the adults. Could the delegation confirm or deny the information?

27. As for implementation of article 13 of the Convention, the Committee would like to know the reasons why two investigations opened into complaints against the police had been terminated. It had certainly taken note of both the clarifications made by the delegation regarding implementation of article 15 of the Convention and the information provided in the initial report (CAT/C/37/Add.2, paras. 141 to 148), according to which Icelandic legislation does not expressly prohibit the invocation in evidence of a statement that turns out to have been obtained by torture, a judge's free evaluation of evidence being the general rule. The Committee considered that it was essential that the State party's legislation be supplemented by a provision explicitly prohibiting the use in a trial of statements obtained by torture, because the existence of such a provision acted as a deterrent and therefore contributed to the prevention of torture.

28. Concerning application of article 16 of the Convention, the Co-Rapporteur took note with satisfaction of the amendments, in 2007, to the Penal Code, whereby the punishment for acts of sexual violence against children had been increased to 16 years imprisonment. He said he was astonished that rape against an adult was punishable by only one to two years in prison, particularly since, according to certain sources, the incidence of rape was relatively high in the State party. Given the gravity of this type of act, it would be interesting to know why the punishment for rape had not been increased. Finally, the delegation would perhaps indicate whether the State party would act on the recommendation of the International Commission of Jurists, which had advocated adopting a provision creating a criminal offence of cruel, inhuman or degrading treatment.

29. Ms. BELMIR noted that despite the State party's efforts to draw a line between the judiciary and the Executive Branch, a certain amount of confusion subsisted, especially at the local level, where the administration could have powers that in principle pertained to the courts. The Committee would therefore like the State party to continue its efforts to achieve a clearer distinction between the spheres of competence of those two powers, the goal being to uphold the rule of law and guarantee protection for the persons placed under its jurisdiction.

30. Non-suited asylum-seekers and foreign nationals subject to deportation could only appeal to the Ministry of Justice. That authority did indeed have jurisdictional control over the procedure but did not re-examine the decision taken by the lower

administrative authorities based on the merits. It would be useful to know whether the State party had taken steps to implement the recommendation on that matter made by the Committee on the Elimination of Racial Discrimination in its final observations on the seventeenth and eighteenth periodic reports of Iceland (CERD/C/ISL/CO/18), in which it had been invited to introduce a full review by an independent judicial body of decisions of the Directorate of Immigration or the Minister of Justice concerning the rejection of asylum applications or expulsion of asylum-seekers (para. 15).

31. As regards access to justice for all, it would be useful to know whether individuals from marginalized groups had access to judicial or quasi-judicial aid and were informed of their rights. The State party had indicated, in connection with the maintenance of order and security in prisons, that prison personnel could use methods of coercion. As their use was left to their discretion, it would be useful to know whether recourse to such methods was subject to any oversight at all − be it administrative, disciplinary or judicial − and, if so, which body was authorized to exercise that oversight, bearing in mind, in particular, that the use of Taser stun guns was permitted in the State party.

32. According to paragraph 10 of the report, remand prisoners were held in the same premises as convicted prisoners, provided it was not deemed necessary to separate them, a practice that, according to the State party, did not in any way constitute the expression of a position on their innocence or guilt and avoided their being socially isolated. Ms. Belmir maintained that those arguments were clearly insufficient; the two categories of prisoner had always to be separated. Moreover, according to certain sources, there had been clashes between remand prisoners and convicts. Furthermore, in its conclusions and recommendations in respect of the second periodic report of Iceland (CAT/C/CR/30/3), the Committee had expressed concern at the fact that inter-prisoner violence in a prison in the State party had led some prisoners to request to be placed voluntarily in solitary confinement (para. 8).

33. Finally, the State party had certainly made notable progress with protecting minors from violence and exploitation. However, it had still not put in place a justice system for minors, even though in its final observations concerning the second periodic report of Iceland (CRC/C/15/Add.203), the Committee on the Rights of the Child had put forward a recommendation specifically addressing that matter (para. 41 (a)). The delegation could perhaps indicate whether the State party was contemplating taking steps to act on that recommendation.

34. Ms. KLEOPAS said she agreed with the Rapporteur's remarks about the need to incorporate into the law a provision containing a definition of torture in line with that given in article 1 of the Convention. She emphasized that only with such a provision could the State party fully meet its obligations under the Convention, especially articles 2 and 4 thereof, and effectively combat the impunity of torturers.

35. As regards domestic violence, the Committee had received information from the Icelandic Human Rights Centre that the Government had adopted a plan for combating violence against women and children but that the funds allocated for its implementation were insufficient. The Committee invited the delegation to describe the contents of the action plan and to provide statistics on cases of sexual violence against women within a marriage and of cases of physical abuse of children in the family.

36. Ms. Kleopas noted with satisfaction that a law on trafficking in human beings had been enacted in Iceland. However, it would be useful to know whether

legislation had been passed on assistance for victims and protection of witnesses, and whether border guards, medical personnel, and social services staff received training in providing care and support for victims of trafficking.

37. Mr. MARIÑO MENÉNDEZ noted that Iceland's particular geographical situation meant that migrants could only reach it by sea or by air. As a result, foreign nationals seeking asylum or work in Iceland were systematically monitored at customs. The Committee would like to know whether foreign nationals arriving in Iceland after having passed through a country in the Schengen area were automatically sent back to the country in question in accordance with those provisions in the Dublin Convention that required an asylum-seeker to lodge his or her application in the first country of entry into the Schengen area, or whether the Icelandic authorities examined each request on a case-by-case basis in order to determine whether sending an asylum-seeker back to the first transit country entailed a risk of subsequent expulsion to a third country in which he or she could be tortured.

38. The Committee would also like to know whether a foreign national who presented to customs a travel document issued by a State in the Schengen area could enter Iceland and whether he or she would be the object of special surveillance. Reportedly, decisions regarding permission to stay on humanitarian grounds were left to the discretion of the Minister of Justice, especially when the applicant is not a foreign national of a member State of the European Union. The delegation might indicate whether requests for residence permits were treated differently depending on whether the applicant is or is not from a member State of the European Union. Finally, it would be interesting to know whether the decision of the administrative authorities cited in paragraph 20 of the written replies to question No. 7 on the list of issues to be taken up could not be established as a standard in order to mitigate the lack of legal provisions on the granting of residence permits for humanitarian reasons.

39. Ms. GAER asked whether the competent authorities for asylum matters proceeded to assess the risk of torture when a request for asylum was referred to them in which the existence of such a risk was invoked and, if so, how that assessment was carried out. Furthermore, the Committee would welcome more information on concrete application of the rules regarding inter-prisoner violence drawn up by the Director of the Prison and Probation Administration (para. 59 of the report). In particular, it would be useful to know whether complaints had been lodged by prisoners, whether measures had been taken to separate certain prisoners from others and whether studies had been conducted on inter-prisoner violence. According to the additional information provided in the report regarding suicides in prison (paras. 49 to 51), no enquiry seemed to have been held into incidents of that nature. A non-governmental organization had reported that two cases of suicide had occurred in 2004 and in 2005. Would the delegation say whether an enquiry had been held into those two suicides?

40. As regards the ratification by Iceland of the Optional Protocol to the Convention, Ms. Gaer said she could not quite understand why, according to the written replies (para. 55), the State party did not consider it appropriate to entrust an already existing body – the Parliamentary Ombudsman or a non-governmental organization – with the task of regularly monitoring prisons in accordance with the provisions of the Optional Protocol. It would be interesting to know what progress had been made in discussions in the State party about establishing a national prevention mechanism.

41. In his last three reports, the Parliamentary Ombudsman had regretted that public bodies took so long to reply to him and to send him the documents he needed to conduct his enquiries into allegations of torture that had been referred to him. The delegation was invited to provide the Ombudsman with an explanation for that. Regarding section V of Act No. 49/2005 on the implementation of punishments, which dealt in particular with body searches, it would be useful if the delegation could specify whether any guidelines existed regarding the examination of human orifices and whether that type of search, which could be perceived as degrading, was carried out by specialized personnel, in order to protect the privacy of the person concerned.

42. The CHAIRPERSON said he would return to the important issue of the definition of torture. Numerous States had pointed out that the specification of particular acts as criminal offences could help to suppress acts of torture. Thus it was important that torture be named as such in the Penal Code because it was not possible, on the basis of analogies, to construe provisions that addressed, for instance, acts of violence as also covering, by extension, acts of torture. To suppress torture, it was necessary for it to be characterized as such in the law. Every verdict had to contain a precise description of the legal characterization referred to and to interpret it strictly. The obligation to prevent torture transcended national borders and the Committee had on numerous occasions voiced its conviction that if all States issued a definition of torture in criminal law, they would do much to advance the cause of eradicating it.

43. The Icelandic Human Rights Centre had drawn the Committee's attention to the fact that article 45 of the new Foreign Nationals Act prohibiting the refoulement of foreign nationals to parts of the world where they had reason to fear persecution contained an exception in respect of foreign nationals deemed to pose a threat to national security. The prohibition set forth in article 3 of the Convention applied to any foreigner at risk of being tortured and if the authorities considered that a particular individual posed a threat to national security there were other ways of protecting the country that did not involve sending that person back to a country in which his or her physical integrity was endangered. In addition, the notion of national security was very broad and needed to be narrowed down.

44. Particular importance had been attached to the matter of systematic training for members of Iceland's armed forces called upon to participate in peacekeeping operations. In that area, civil society participation was vital. The same applied to training for coast guards, which the Committee on the Elimination of Racial Discrimination had already encouraged Iceland to strengthen.

45. The Icelandic Human Rights Centre had pointed out a case in which an asylum-seeker had been held for four days without being able to contest his detention before an authority. The delegation of Iceland might perhaps have information to share about that matter.

46. Terrorism was nowadays a particularly important issue and while it was undoubtedly legitimate to combat terrorism, which no cause could justify, it was necessary to define what was meant by an act of terrorism. It would be necessary to know whether there were plans to restrict the current definition of terrorism, which some considered too broad.

47. The Chairperson invited the delegation of Iceland to reply to the questions and proposed giving it some time to prepare its responses.

The meeting was suspended at 11.40 and resumed at 12.05

48. Ms. KRISTINSDÓTTIR (Iceland) said the delegation would attempt to reply as best it could but that several points would be referred to the Icelandic Government, which would respond at a later date.

49. As regards the question of the rules applicable to foreign nationals by virtue of the Dublin Agreements, on the one hand, and the Schengen Agreement, on the other, it was necessary to distinguish between the two. Iceland was part of the Schengen area, which meant that its borders were open to foreign nationals, be they from countries in the European Union or from third countries but en route from a country in the Schengen area. There was no border control because it was assumed that such control took place on the common external borders. Thus, a foreign national arriving from Germany but originally from a third country was not subject to any border control. The situation was different for foreign nationals of a third country arriving in Iceland from the United Kingdom or Ireland, which were not in the Schengen area. Under the Dublin Agreements, those foreign nationals were subject to border controls. Iceland attempted to apply the Dublin Agreements consistently and its authorities participated actively in the work of the groups of experts dealing with practical aspects of the implementation of the Agreements. In cases where the provisions of the Agreements so require, the Icelandic authorities were bound not to admit a foreign national on its soil.

50. Concerning the number of applications for asylum accepted by Iceland, which the Committee had considered rather low, it was important to know that Iceland accepted a relatively high number of refugees referred to it by the Office of the United Nations High Commissioner for Refugees in cooperation with the Icelandic Red Cross. Not long ago, the Minister of Foreign Affairs and the Minister of Social Affairs signed new agreements accepting other groups of refugees. Iceland accepted 30 to 40 people a day, which was a lot for a country of barely 300,000 inhabitants. If the number of asylum cases appeared to be small it was because the number of applications was also small, the reason being, perhaps, that Iceland was not the first choice for people from countries with a less rigorous climate. Those meeting the conditions established in the United Nations Convention on the Status of Refugees might have found a country to receive them before they ever reached Iceland. But it would be wrong to think that Iceland did not afford ample protection for asylum-seekers: just recently a family of three had arrived and had been granted asylum.

51. As regards unaccompanied minors, Iceland participated in the work of the Council of Baltic Sea States, especially its work on trafficking in human beings. An action plan on unaccompanied minors had been drawn up in 2003 and had been implemented by all police bodies and immigration authorities. However, since 2003, only two cases of unaccompanied minors had occurred.

52. Iceland's position with respect to defining domestic violence was the same as its position regarding a definition of torture. The establishment of rigid definitions ran counter to the country's legal traditions. Many things do not have to be defined: both words had a recognized meaning, which had been interpreted by the courts, above all, as well as in the preambles to laws and in practice. It was therefore unnecessary to introduce a definition.

53. Mr. JÓNSSON (Iceland) would first reply to the issue of measures adopted by the Government following allegations of illegal overflights through Icelandic air space. The Minister of Foreign Affairs had conducted a study to determine the veracity of those allegations but the study had not ascertained that those overflights had taken place. Nevertheless, an interministerial task force had been established to determine whether, at that time, surveillance measures had been properly implemented. The task force had concluded that the procedures had been followed. All the same, an amendment to the manual for airline pilots had been recommended, whereby they would, henceforth, be obliged, when they flew over Iceland, to inform the authorities if they had prisoners on board.

54. Concerning human rights training for military personnel called upon to serve in peacekeeping operations, the Ministry of Foreign Affairs had a special group responsible for recruiting, training and deploying members of peacekeeping contingents. Before being deployed to the area concerned, the military personnel had to sign a code of conduct very similar to the United Nations rules of engagement. The law did not contain any provisions regarding human rights training for such personnel but the authorities had undertaken to implement a new human rights policy, making it compulsory for all personnel to take a basic course and to have some knowledge of human rights. The members of peacekeeping missions would be targeted by the new policy, which would start being implemented before the end of the year.

55. Ms. KRISTINDÓTTIR (Iceland) clarified matters regarding coast guards and border guards. Members of both those bodies exercised police powers. Those assigned to passport control at the airports were specially trained to deal with people from all parts of the world, to detect forged documents, of course, but also to spot any sighs of trafficking in persons. Iceland was a member of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), which organized training courses for border guards. Icelandic border guards took part in those training programmes.

56. The Committee had expressed concern at what it described as a high number of remand prisoners kept in isolation. Possibly there was some misunderstanding, because in fact the number was small: in 2006, out of 17 remand prisoners, only 3 had been held in isolation.

57. As for the reasons why investigations into complaints against the police may have been halted, it should be observed that, more often than not, allegations against the police turned out to be unfounded very soon after they were lodged. With equal frequency, complaints were withdrawn by the persons who had filed them. It was therefore logical for the enquiry to end. Nevertheless, any complaint against the police was recorded as such, regardless of whether it was subsequently the object of an investigation or not.

58. The Committee had been concerned about all kinds of evidence being presented to judges. A legal requirement, based on the Constitution of Iceland, was that all evidence, even if it had been obtained illegitimately, had to be brought to the attention of the judge, who obviously took into account the manner in which it had been elicited and then decided accordingly.

59. Ms. HELGADÓTTIR (Iceland) said, in reference to the incarceration of minors, that two 17-year-old juveniles had been held in prisons for adults, in which

some cells lacked toilets. One, Kvijabryggja, was a prison without bars, while the other, Skólavördustigur, was reserved for prisoners convicted of minor offences. The Committee should note that the Child Welfare Office had tried in vain to find a place to accommodate those juveniles before they were imprisoned.

60. Through their associations, the police had let it be known that they would like to be equipped with stun guns, which they would find useful under certain circumstances. However, the competent authorities had not yet taken a decision on the matter. Ms. Helgadóttir would certainly transmit the Committee's opinion on that subject to the Icelandic authorities.

61. It was true that there was no independent surveillance mechanism for inspecting psychiatric clinics, but the Committee should know that the Director General of Health Services was responsible for all hospitals in Iceland, including psychiatric hospitals. Furthermore, a committee had been established to receive complaints regarding the way the health system functioned. The Parliamentary Ombudsman could certainly assume a supervisory role in that area but lacked the necessary staff. In order to follow up on the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Iceland was planning to establish an independent committee, which would be assigned that supervisory mandate, and it was considering the composition of that committee.

62. Ms. KRISTINSDÓTTIR (Iceland) said that asylum-seekers often claimed to be at risk of torture in their country of origin and often pretended to be from a country other than their true country of origin. However, that may be, all were listened to and all their arguments were examined, so that the competent authorities had all the information they needed to reach a decision. One asylum-seeker had even informed the court in Reykjavik in April 2008 that he was in danger of being enslaved if he were to be sent back to his country of residence. The court had opened an enquiry into that matter, which was still under way.

63. The Prison and Probation Administration (para. 29) was very closely monitoring the issue of inter-prisoner violence and prison wardens were paying special attention to the matter. Close track was also kept of the problem of suicides in prison and any death occurring in prison was the subject of an enquiry. The findings of an enquiry into a recent death of a prisoner had shown that the death had been due to natural causes, not to any criminal act.

64. Administrative proceedings were generally less lengthy than judicial proceedings and Government bodies, which were normally swamped with cases, did take a long time to reply to the Parliamentary Ombudsman's requests for information regarding complaints of torture brought to his attention and often gave priority to complaints from private individuals.

65. Body searches of prisoners – especially the examination of human orifices – were governed by strict rules. Persons visiting prisoners could also be body-searched, if warranted.

66. As for the division of powers, the Committee had to realize that in Iceland, as in other Nordic countries, the Attorney General and the police reporting to him formed part of the Executive Branch. It was therefore incumbent upon the Attorney General to order a police investigation, except in the case of minor offences, such as traffic violations (drunken driving, for example), for which the police were free to

initiate prosecution. The judiciary, therefore, never initiated legal proceedings because that was the responsibility of the executive. It was up to the Prosecutor to defend the grounds for a suit before the judge. Finally, no case had been reported of the use of stun guns in prison.

67. Ms. SVEAASS (Rapporteur for Iceland) thanked the delegation for its replies and congratulated the State party on having adopted, since the presentation of its second periodic report, a number of legal measures, including the Application of Punishments Act in 2005, the inclusion in the Penal Code of a provision on trafficking in human beings, and on the signing, in May 2005, of the Council of Europe Convention on Action against Trafficking in Human Beings. She also welcomed the adoption in 2002 of the Foreign Nationals Act, which tended to favour non-refoulement of foreign nationals to their country of origin.

68. Ms. Sveaass regretted that the State party had not provided, either in its report or in its written replies, more information on its cooperation with the Office of the United Nations High Commissioner for Refugees, which would enable the Committee to form a more accurate idea of the protection that Iceland afforded to people persecuted in their country of origin.

69. The Committee had taken careful note of the comments of the delegation on the question of universal competence and, in particular, on the issue of knowing whether the leader of a political party who had allegedly committed a war crime or a crime against humanity could in the State party's view be prosecuted in a country other than that in which the crime was committed. The State party could perhaps provide additional information in writing on the outcome to the affair involving Mr. Luo Gan, a senior official in the Chinese Communist Party against whom legal proceedings had been brought during his visit to Iceland because of his alleged involvement in war crimes, crimes against humanity and acts of torture in his country. Finally, the delegation was invited to indicate where Iceland stood on the matter of establishing independent surveillance mechanisms responsible for inspecting psychiatric clinics in order to prevent acts of torture and mistreatment in those establishments.

70. Mr. WANG Xuexian (Co-Rapporteur for Iceland) said he had taken careful note of the figure cited by the delegation for the number of people held in isolation, but that the Icelandic Human Rights Centre had transmitted a table indicating that almost 90 per cent of prisoners were placed in isolation for varying lengths of time, which in 2001 had averaged four weeks.

71. He did not doubt that in practice statements obtained by torture were excluded from the evidence used in judicial proceedings, but then the question was whether it would not be preferable to include in the legislation a provision specifically prohibiting recourse to that kind of evidence.

72. Ms. BELMIR said she had not received an answer to some of her questions, particularly regarding the respective roles of the judge and the Attorney General and the need for the State party to institute, pursuant to the recommendation of the Committee on the Elimination of Racial Discrimination, an appeal mechanism before an independent judicial body for asylum-seekers whose applications had been dismissed. She would also like the delegation to specify the exact reason why remand and convicted prisoners were held on the same premises and why there was no real justice system for minors.

73. Finally, in reference to paragraph 30 of the report under review, Ms. Belmir would like to know in what way the authorization to record the questioning of suspects and witnesses on audio tapes, video tapes or digital video discs (DVDs) protected the police, when, generally speaking, it was the witnesses and suspects who needed protecting. It was a very good thing to record questionings, provided that the recording was done according to strict rules.

74. Ms. KLEOPAS reiterated her question about the State party's plan for combating violence against women and children and said she would like to know how many complaints denouncing domestic violence had been lodged. She would also like to know what protection was afforded to victims in the law against trafficking in human beings and what procedure was followed to identify said victims.

75. Ms. KRISTINSDÓTTIR (Iceland) said that the figures given in the table drawn up by the Icelandic Human Rights Centre were wrong and that they represented not the number of prisoners held in isolation but the total number of prisoners in Iceland. She reaffirmed that isolation was very rarely practiced.

76. Rape was punishable by up to 16 years imprisonment, but in practice, sentences were generally far lighter. It was true that sentences of only one or two years had already been handed down, but the current tendency was to sentence rapists to five years in prison. The Icelandic delegation would later provide additional information regarding the plan of action to combat violence against women and children and also on the plan of action to combat trafficking in human beings, and how it would be financed.

77. As for appeal procedures against a dismissal of an application for asylum, the Committee should know that decisions taken by the Immigration Directorate, an administrative body, could be appealed before the Ministry of Justice, which was also an administrative entity. An asylum-seeker wishing to contest the decision could thereafter take his case to the judiciary, which had two levels of jurisdiction: the lower courts and the Supreme Court. Thus, the case could be judged four times in all, twice before administrative bodies and twice before judicial organs. Asylum-seekers who preferred to avoid legal proceedings could also take their case to the Parliamentary Ombudsman at the end of the administrative proceedings.

78. Regarding the question of recordings made to protect minors, it was advisable to distinguish two distinct cases: on the one hand, the recording of questionings to enable both police officers and those questioned to prove what really went on at police stations if there were allegations of torture or mistreatment; and, on the other, the recording behind closed doors of a child declaring that he or she had been a victim of violence or sexual assault.

79. The CHAIRPERSON thanked the Icelandic delegation for amplifying its replies within the framework of the constructive dialogue with the Committee. Having completed its review of the third periodic report of Iceland, the Committee looked forward to ongoing cooperation with the Icelandic State.

80. *The delegation of Iceland withdrew*.

The meeting rose at 1.10 p.m.