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COMMITTEE AGAINST TORTURE

Thirtieth session

SUMMARY RECORD OF THE 561st MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 7 May 2003, at 3 p.m.

Chairman: Mr. BURNS

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The meeting was called to order at 3 p.m.

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

Initial report of Belgium (CAT/C/52/Add.2)

1. At the invitation of the Chairman, the members of the delegation of Belgium took places at the Committee table.

2. Mr. DEBRULLE (Belgium), replying to a question as to why the Convention had first been ratified and then transposed into Belgian legislation, said that it had taken much longer to ratify and transpose the Convention into law than had been expected, mainly due to problems with the definition of torture. The drafting phase had also required substantial contributions from federal entities and all texts had had to be translated into the two national languages.

3. Replying to a question as to why his Government had not yet established a national human rights institution, he said that there had been plans to do so for some time but they had not been realized due to a lack of political will, the costs involved, problems with the definition of the institution's mandate and mistrust among non-governmental organizations (NGOs) which were concerned that it might affect their activities adversely. Fortunately, that situation was changing as a result of obligations under the Convention on the Rights of the Child that required the establishment of permanent machinery to monitor rights.

4. Concern had been expressed about the broad definition of torture in Belgian legislation and fear that such a definition risked making torture commonplace. Although his Government was aware of that risk, there were three factors which justified the wording: firstly, the discretionary powers of judges to increase a sentence if the crime had been committed by a public official; secondly, the fact that the comprehensive wording also benefited persons who were indemnified for having suffered degrading or inhuman treatment; and thirdly, the fact that the Belgian legislators had taken into account the consequences of the act for the victim.

5. In answer to a question as to why Belgian legislation treated torture, inhuman and degrading treatment as crimes but not cruelty, he explained that cruelty could be present in varying degrees in all three types of treatment and there was thus no need for a separate category for acts of cruelty - a view confirmed by the case law of the European Court of Human Rights.

6. A member of the Committee had also asked why the concept of a superior officer or public authority did not appear in article 450 of the Penal Code relating to degrading treatment, whereas the fact that the orders of a superior could not be invoked was included in the definition of torture and inhuman treatment. He explained that the Belgian legislators considered degrading treatment to be less serious than inhuman treatment and torture. If the judge thought that a certain type of behaviour was degrading, the perpetrator could in theory be exonerated under article 70 of the Penal Code, on the grounds that he had been obeying orders, but the person having given the orders could be brought to justice under the Convention.

7. The issue of access to legal counsel and contact with family members and with a doctor for detainees in police custody had been under discussion in Belgium for some time. Such rights were not legally accorded on a compulsory basis. However, the maximum duration of police custody was only 24 hours for all crimes and the Minister of Justice had agreed that access to a lawyer should be granted to persons in custody. An interdepartmental group was currently considering the matter.

8. A member of the Committee had drawn attention to the work of the Franchimont Commission set up in 1990 to establish the basis for pre-drafting discussions on the reform of the Code of Criminal Procedure, which dated from 1808 and was badly in need of an overhaul. The results of that work had been very innovative and there was no doubt that they would play an important role in future reforms.

9. In reply to a question on criminal procedure with regard to suspects of terrorism, he said that, prior to 11 September 2001, Belgium had had no specific anti-terrorism measures. However, since then a bill had been prepared and presented to Parliament to bring domestic legislation into line with European Union anti-terrorism law. Although it contained one specific procedural provision which authorized the monitoring of private telephone conversations, it did not depart from the Council of Europe's guidelines on human rights and the fight against terrorism, which barred any recourse to torture or inhuman or degrading treatment.

10. Replying to a question as to whether an act of necessity could be invoked as grounds for exoneration of criminal responsibility, he agreed that Belgian legislation contained some ambiguities and was not exhaustive. However, an act of necessity could not constitute a cause for exoneration of criminal responsibility in the case of torture, for which no derogation was possible under article 15, paragraph 2, of the European Convention on Human Rights. An act of torture could not be committed in the name of an interest superior to that which was protected by a non-derogation clause. For that reason, in the bill to amend the Penal Code, there was a provision specifying that an act of necessity could not be invoked. Unfortunately, the bill had yet to be passed, because successive Governments had been attempting to reform the Code of Criminal Procedure before focusing on the Penal Code.

11. With regard to a question as to whether orders from superior officers or public authorities could be invoked as a justification for torture, he confirmed that the person giving the orders would be punished under article 57 of the Penal Code which stated that a person could be punished as an accomplice to a crime for giving an order to torture. Under Belgium's law of universal competence, the perpetrator could still be punished for acts of torture or inhuman treatment even if he had committed only acts of degrading treatment. If, however, the person concerned refused to obey manifestly illegal orders, he or she could not be punished.

12. Replying to questions as to the right of recourse a person had in the case of extradition and the control that was exercised by the Council of State, he explained that the Council of State gave an opinion to the Minister of Justice on the legal circumstances and facts of an extradition case, an opinion that was not binding but was taken into account in the Minister's decision. If a request for extradition was made while the person in question had an application for asylum pending, the request for extradition would not be examined until the asylum procedure was completed. However, in more complicated cases, conditional extradition had been negotiated on

the basis of a certain number of fundamental rights, such as a guarantee that the person would not be subjected to any form of torture or degrading treatment and would have the right to a defence counsel. Extradition could not take place until a decision had been reached by the Council of State.

13. A question had been posed on the compatibility with the terms of the Convention of the new law amending Belgium's law of universal competence, in that the new law allowed the Ministry of Justice to remove a case from the Belgian courts and refer it to a more competent body abroad. In fact, the Government did not see any compatibility problem and he gave some examples where the Belgian courts might not be competent to try a case or where the filtering system could be applied to ensure the proper administration of justice if a case was likely to be thrown out in Belgium and would have a greater chance of success in a foreign jurisdiction.

14. With regard to article 7, paragraph 4, of the new law and the referral of cases by an executive organ in Belgium to an instance in another State, he explained that that could take place only if it was considered that the State in question was in a better position to judge the facts of the case, the suspect was a national of the State to which his or her case was being referred and the Belgian Government procurator's office had decided neither to prosecute the case itself nor to refer it to the International Criminal Court.

15. After further discussions with the appropriate Belgian authorities concerning article 12 bis of the Code of Criminal Procedure, he had come to the same conclusion as the Committee: namely, that the provisions of article 12 bis together with those of article 5 of the Convention did not constitute an exception to the possibility of bringing a case to justice even in the absence of a dual incrimination provision in the State where the acts had been committed. He apologized for any confusion caused by his initial explanation.

16. With regard to article 6, paragraph 3, of the Convention on consular notification, he said that the Committee had been quite right to query the compatibility of the Belgian procedure with the 1963 Vienna Convention on Consular Relations which provided for the notification of the national authorities of the State from which a detainee originated only with his or her consent. In some bilateral agreements, that provision had not been included and the permission of the detainee had not been sought. A panel had thus been set up to study the issue and review the compatibility of those agreements with the Vienna Convention, in consultation with the Ministry of Foreign Affairs, the Department of Justice, judicial bodies and prison authorities.

17. In reply to a question as to why the report had not discussed paragraph 3 of article 8, he explained that the relevant paragraph in article 8 was paragraph 2, which referred to the situation if extradition was conditional on the existence of a treaty with the State making a request. Explicit transposition of international law into Belgian domestic law was not required, as the primacy of international law was recognized and given direct effect.

18. With regard to articles 12 and 13 of the Convention, he said that the Public Prosecutor's Office formed part of the executive and could accept recommendations, but did not take orders, from the Minister of Justice. For example, the Minister of Justice did not have the authority to stop a case that was already in progress. In court, the representative of the Public Prosecutor's Office was not confined to the information set forth in his brief. The Office was, however,

accountable for the policies it pursued in prosecuting criminals and had to report annually on the way in which it exercised its power. Its annual report, together with a report by the Minister of Justice, was subjected to parliamentary debate, which ensured supervision of its policies. The examining judge was a magistrate whose independence was protected by constitutional guarantees. The independent nature of his functions meant that he investigated all charges, regardless of any recommendations by the Minister of Justice. The examining judge had to decide whether a matter should be dismissed or whether the case should be brought before a criminal court.

19. In connection with article 14 of the Convention, he said that new legislation had broadened the scope of compensation for victims of torture and ill-treatment. Victims of direct physical or psychological violence received compensation which covered moral injuries and took into account a range of factors, including permanent or temporary disability, medical expenses and hospitalization. Belgium also contributed annually the equivalent of 3 million Belgian francs to the United Nations Voluntary Fund for Victims of Torture, administered by the High Commissioner for Human Rights.

20. Under Belgian criminal law, all types of evidence could be admitted, provided that it had been obtained in accordance with the rules. Evidence obtained by an act that was explicitly prohibited by law or an act that was inconsistent with the rules of criminal procedure was inadmissible. It was for the judge to assess the value of the evidence. Confession had long been considered to be evidence par excellence but that was no longer the case. Confession might not have a probative value for a number of reasons, including the length of the interrogation. A confession extorted by illegal means, such as torture, was inadmissible.

21. Mr. PIJL said that an interdepartmental working group, of which he was the chairman, was currently working on regulations governing, inter alia, detainees' rights and the registration of detention. The Police Functions Act provided for the possibility of notifying the next of kin of detainees. Detainees' rights were also protected by the European Convention on Human Rights, which was binding on Belgium. The working group did not think that access to a lawyer was needed in the case of administrative arrest, which was merely a measure of administrative security. It could last no longer than warranted by the circumstances and, could never exceed 12 hours.

22. The Act of 7 December 1998 had established an integrated police service, with a two-tier structure. As a result, the transparency, conduct and response of police action had improved. Articles 1, 37 and 38 of the Police Functions Act governed recourse to constraint and force. The three fundamental principles were legality, proportionality and necessity. Recourse to violence was always the last resort, in accordance with the case law of the European Court of Human Rights. If a certain measure of police violence was needed to make intervention effective, it could be, and indeed, had to be, used. Acts of violence against a person were not per se forbidden. The code of ethics for the police services, which had been drafted but not yet published, was currently being submitted to the representatives of the police trade unions. A royal decree establishing the code was expected by the end of 2003.

23. New detailed directives on the use of force by the police in cases of the removal of aliens had also been drafted but not yet published. Each removal had to be thoroughly planned and a

form had to be provided for each alien in question. Guarantees had been put in place for the protection of the physical integrity, health and hygiene of the aliens to be removed. If force was required, it had to be used in conformity with the Police Functions Act. Measures that were forbidden under all circumstances included techniques which could cause postural asphyxia, the use of medicines to undermine the person's will, and violence or a threat of violence designed to make the person cooperate. If a serious incident, such as violent resistance or mutilation, occurred prior to the removal, the removal was not to take place and the person in question was to be returned to the centre.

24. He rejected the assertion that the police officers involved in the removal of aliens had not received proper training on the issue of respect for fundamental standards. Respect for fundamental standards was a major focus of the integrated police training course. The training programme, referred to in the initial report (CAT/C/52/Add.2, para. 151), had been implemented successfully. It was difficult to pinpoint the specific results of the training, but it was noteworthy that Belgium did not have a reputation of using violence and torture. There had been no evidence to date of the use of torture by the Belgian police.

25. There were a number of laws that regulated the exercise of authority by the police forces. They included: the Police Functions Act, the Act of 13 May 1999 embodying the disciplinary regulations applicable to members of the police services, and the Organizations Act of 18 July 1991 on oversight of the police and intelligence services. The laws stipulated, inter alia, that authority was to be exercised within the limits of the powers prescribed by the law, that orders must be legal, and that a manifestly illegal order must not be executed. In such a case, the superior who had given the order was held responsible for it. The agent to whom the order was given had to communicate his intention not to execute the order to his superior or his superior's superior. Refusal to execute normal orders, however, was subject to heavy disciplinary punishment under the disciplinary regulations. The Police Functions Act held the State liable for the damage caused by a federal police agent. In the event of an intentional and serious offence, including the execution of manifestly illegal orders, the police agent would be held responsible for his actions.

26. The Organization Act of 18 July 1991 was very specific in nature and almost unique in Europe. The aim of the Standing Committee on the Supervision of the Police Services was to protect the rights provided for in the Constitution and the laws and to ensure the coordination and efficiency of the police services. The Committee was an organ of Parliament and was independent of the executive and the judiciary. Extending the disciplinary powers of the Committee to other domains would thus constitute a violation of the Trias Politica (the separation of powers). The law governing the work of the Committee had, however, been modified to meet certain efficiency requirements. The judicial authorities were consequently obliged to inform the Committee when an investigation was begun into members of the police in relation to crimes or misdemeanours. They were also obliged to send a copy of the orders and sentences to the Committee in order to inform it of the results of the legal proceedings. The Committee had the right to request a copy of any relevant acts and documents. If the Committee notified the disciplinary authority of certain facts, the authority was legally obliged to begin an inquiry and communicate the results to the Committee.

27. The Belgian authorities were aware of the Istanbul Protocol and of other United Nations instruments. The issue of torture was included in the teaching of criminal law. The protection of human rights played a fundamental role in police training. Training in professional ethics covered violence, racism, discrimination, and equality of opportunity.

28. There were a number of factors that rendered impartial inquiries possible. For example, a preliminary disciplinary inquiry could be launched either with the police force as such, or with an independent body that was responsible for federal and local police inspection. The higher disciplinary authority had the right to refer a case for reconsideration to the disciplinary council, a standing national body of the disciplinary authority. There was also the classical legal appeal to the Council of State.

29. With regard to the use of lethal constraints, he said that article 2 of the European Convention on Human Rights guaranteed the right to life, with three exceptions when force was absolutely necessary, namely, in defence against unlawful violence, to effect a lawful arrest, and to quell a riot or insurrection. Articles 417 and 418 of the Code of Criminal Procedure dealt with legitimate self-defence and the use of firearms. Belgian legislation made no provision for deliberate provocation to kill a person in the course of an arrest or the quelling of a riot or insurrection. The use of lethal violence outside the framework of legitimate self-defence was made possible only by the application of article 38 of the Police Functions Act, namely, in cases of flagrant and violent crimes or potential danger or need of such a degree as to justify recourse to violence.

30. In general, the Belgian police forces had a good reputation for maintaining public order. As a result of intensive training, incidents of police overreaction were rare. He pointed out that seven demonstrations were held every day in Brussels. Countries like France and Luxembourg and even the British police force of Northern Ireland had copied Belgium's strategies, technical means and operational implementation in maintaining public order. Following the events in Stockholm and Genoa during recent summits, the European Union had decided that all future summits would be held in Brussels. Such a decision would not have been possible if the Belgian police were considered liable to overreact.

31. It was true, however, that the police had overreacted during recent demonstrations against the war in Iraq. His Government was aware of the problem but it had been in the unenviable position of having to acknowledge the anti-war feelings of the general public while honouring its contractual obligations towards coalition forces in respect of military transports.

32. Ms. PAPAZOGLOU (Belgium) said that the Court of Arbitration was an independent constitutional court deciding questions of administrative jurisdiction and legislative procedure. It ensured that domestic law was in conformity with articles 10, 11 and 22 of the Constitution of Belgium and with international and European Union law. Matters could be referred to the Court in one or other of two ways: through an application to have a law or a decision declared illegal, whereupon the Court could quash the law or decision in question; or through an application for a preliminary ruling on a contentious point or issue. In the latter case, if the Court allowed the application, it had the power to set aside but not actually strike down the point or issue in question. The Court was of hybrid composition, being made up of judges and former parliamentarians.

33. Mr. DE VULDER (Belgium), referring to a number of questions asked about asylum in the context of the Act of 15 December 1980 on the entry, temporary and permanent residence and removal of aliens, said that any alien could apply directly to the Council of State to have an administrative decision in his or her case overturned. The effect of lodging such an appeal was not suspensive, however. Nevertheless, it was also open to an alien to lodge an urgent application for suspension of an administrative decision. In actual practice, however, the authorities waited until the Council of State had ruled on a particular case before proceeding further. Owing to breakdowns in communication between the authorities and the Council of State, some errors had unfortunately occurred in the past. It was expected that the issue would be addressed after the forthcoming legislative elections.

34. A member of the Committee had asked whether a person at risk of torture in his or her country of origin was obliged to apply for asylum in order to benefit from protection in Belgium. In such cases, the Directorate-General of the Aliens Office was authorized to examine the request and grant a temporary extension of stay. Likewise, even though the 1980 Act did not specifically provide for subsidiary protection, it contained an article stipulating that, in exceptional circumstances and for humanitarian reasons, an alien could be permitted to remain in Belgium on a temporary basis.

35. As to the procedures for the repatriation of unaccompanied minors, and with specific reference to the notorious case of Tabita, the little girl who was deported alone to the Democratic Republic of the Congo, he informed the Committee that such matters were dealt with in accordance with a protocol of agreement concluded between various government departments and agencies. At the initial stage, the immigration authorities would normally try to identify the minor and trace his or her family. If identification and family reunion proved to be impossible, the Belgian embassy in the child's country of origin, or that country's embassy in Belgium, would be contacted with a view to tracking down the child's family or relatives in the country of origin. If relatives could be traced, embassy staff would evaluate their living conditions and their willingness to accept the child. If all went smoothly, the Aliens Office would then proceed to organize the repatriation and ensure that the unaccompanied minor was met in the country of origin. For youngsters aged from 16 to 18, a social report was compiled to assess whether the minor was capable of travelling alone.

36. In Tabita's case, the little girl had arrived in Belgium accompanied by a Netherlander describing himself as her "uncle", whose relationship to the girl was somewhat dubious. He had claimed to be acting on behalf of Tabita's mother who, at that time, was in Canada awaiting the outcome of her own application for asylum. Tabita had no passport, nor did she figure in her "uncle's" passport. She had, consequently, been placed in a home pending further inquiries. Meanwhile, her "uncle" had lodged an application for asylum on her behalf. Family reunion in Canada was impossible, because Tabita's mother had not been granted asylum in that country. Since there was nobody to whom Tabita could be entrusted in Belgium, it was decided to return her to the Democratic Republic of the Congo, where her uncle and grandmother had been traced. Unfortunately, owing to a misunderstanding, no embassy official had been present at the airport when Tabita had arrived in Kinshasa. Accordingly, the Aliens Office had decided that she should be sent back to Belgium. Tabita had subsequently been enabled to rejoin her mother in Canada, but only after the Prime Minister of Belgium had taken a personal interest in the case.

37. There was no formally established mechanism to monitor the circumstances of aliens following their repatriation. Nevertheless, a number of ad hoc monitoring missions had been organized, since 2002, for example to Slovakia, Kosovo, Niger, Guinea, Pakistan, Democratic Republic of the Congo, Ukraine, Kazakhstan and, most recently, Nepal. It was true that the concepts of public order (ordre public) and national security were inadequately defined in Belgian law, a deficiency partly overcome by internal regulations which stipulated that any alien who had been sentenced to five years' imprisonment or more was a potential danger to public order and therefore liable to deportation. Nevertheless, a directive issued by the Council of Ministers in July 2002 had exempted various categories of convicted aliens from the scope of the aforementioned regulation (those legally resident in Belgium for 20 years, those born in Belgium, those resident there since the age of 12, refugees, and heads of families).

38. On the subject of training as specified in article 10 of the Convention, the staff of the family centres set up to accommodate asylum-seekers had to engage in a 30-hour course on topics relating to torture, issues arising under the Convention, fundamental human rights and various aspects of the Geneva Conventions. The officials responsible for interrogating asylum-seekers received one month of specially adapted training, which had been approved by the United Nations High Commissioner for Refugees (UNHCR). The allegation by a member of the Committee that families of asylum-seekers were separated at holding centres was not correct; the "designated areas for children" at such centres were, in fact, intended to accommodate whole families, including children.

39. The Committee had asked for a fuller definition of the expression "return at the border". The procedure could take one of two forms: either refoulement (return) in cases where the alien was actually present at the Belgian border, or the repatriation of persons already in Belgian territory to a neighbouring country under a bilateral agreement. The duration of the period for which an alien could be held pending determination of his or her status by the Aliens Office could be extended beyond two months as a result of a ministerial decision and under judicial supervision, provided that the Aliens Office could demonstrate that it was still making enquiries. If the Office had not gathered all the requisite information after five months, the alien would be ordered to leave the country and no further action was taken.

40. Ms. BERRENDORF (Belgium) said that prison officers in Belgium underwent both initial and refresher training. Initial training took four weeks, which was not very long considering that the probation period for new recruits lasted just three months. It had to be admitted that considerable difficulties had arisen with regard to refresher training. Prison governors were reluctant to release staff against a general backdrop of staff shortages, recruitment difficulties, absenteeism and a lack of conviction that the training was of any value. The Government's training efforts had thus focused mainly on entry-level staff, and profitable use had been made of the mentoring system. Ongoing refresher training focused on operational techniques, interpersonal relations and a theoretical component (human rights and the law).

41. Experience had shown that the topic of torture was best broached as a cross-cutting theme embedded in practical, rather than theoretical training. Ideas for ongoing training were often suggested by the prisons themselves, which meant that national uniformity was sometimes lacking. Budgetary constraints also tended to limit certain training options. Ongoing training covered every aspect of prison life and sought to enhance motivation and professionalism, as

well as to encourage best practices and fruitful exchanges of experience. All training in Belgian prisons was linked to an accreditation system which opened the way to additional remuneration. It was hoped to tailor training programmes to individual employees and incorporate training into a comprehensive performance review system. Unfortunately, there was no specific training for prison doctors. However, a bill was currently before Parliament that contained a medical code of conduct and made provision for the training of medical staff in prisons.

42. The doctor/prisoner ratio in Belgian prisons was one general practitioner to 340 detainees, a standard that was, admittedly, not always respected. Prison doctors had an extremely heavy workload and that meant that human contact was reduced to a minimum. Prison nurses were exceptionally hard to recruit, but then the nursing profession as a whole was in the throes of a profound recruitment crisis. It was equally difficult to find psychiatric staff prepared to specialize in prison work and, accordingly, the Government was working with the universities to remedy the problem. The teams of prison psychologists had been strengthened and increased in number, but it had to be admitted that the role of prison psychologists was a rather ambiguous one. On the one hand, as representatives of the authorities, they were required to offer expert opinions as to whether prisoners should be released on parole, but, as medical practitioners, they were also supposed to assist prisoners experiencing psychological problems.

43. Various projects were under way to provide better safeguards for persons placed in psychiatric institutions. At the legislative level, steps had been taken to revise the committed laws, which dated from 1930 and had not been amended since 1964. At the administrative level, a number of working groups had been established to examine ways of ensuring the swift attainment of Government targets in the area of committal, as there were currently serious delays. Further information could be provided on request.

44. A question had been asked about inter-prisoner violence. Although there was no doubt that incidents of physical violence did occur between prisoners - mostly as a result of racketeering and psychological intimidation - her Government noted with satisfaction that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) had not detected any violence on the part of prison officials. The Government was addressing the problem of inter-prisoner violence by providing special training for prison officials. The medical authorities also had an important role to play and were being encouraged to propose violence prevention measures.

45. Without a doubt, the best way to address the problem of prison violence was to improve the prison regime. Much of the violence stemmed from idleness. As things stood, only 50 per cent of prisoners currently had a job within the prison and training and sports opportunities were limited. One of the main aims of prison policy would thus be to create more activities in prisons and to allow more family visits. Budgetary constraints and limited human resources posed a serious obstacle to such plans, however, and institutional differences between the two communities also helped to make cooperation difficult. The trade union culture of Belgium also made it difficult to introduce changes to the prison regime. More specific measures had been taken to help prisoners deal with loneliness and fear and to encourage them to talk about their problems. Unfortunately, there were no statistics currently available on inter-prisoner violence.

46. Another way of addressing violence in prisons was to improve the disciplinary system and the complaints procedure. The current disciplinary system was governed by a Royal Decree of 1965 and no longer corresponded to contemporary needs. A commission, headed by Professor Dupont of the Catholic University of Louvain, had been established to prepare a preliminary draft of a basic act governing prison administration and the legal status of prisoners. The draft, which had not yet been examined by Parliament and was, unfortunately, not regarded as a high political priority, included a definition of disciplinary offences and the procedures to be followed by the prison authorities in connection with such offences. Various other bills had been introduced that would facilitate the work of the prison administration. It was to be hoped that, with endorsement by the Committee, the adoption of such bills would become a higher political priority.

47. Whenever there was a death in prison, a doctor was called to the scene to determine the cause of death. The prison director was required to report the death to the prison authorities and to the relevant court. A decision was then made on whether an inquiry and an autopsy were required.

48. The Supreme Council of Prison Policy, which was currently responsible for providing advice to the Government regarding prison policy, was no longer functioning effectively. A draft royal decree had consequently been prepared to introduce a central supervisory council of the prison administration composed of government-appointed experts and including a judge, a doctor, a lawyer and a criminologist. The Council's primary task would be to carry out independent monitoring of prison establishments and to provide advice to the Government. It would have free access to all prison establishments and would be able to consider individual cases with the consent of the prisoners concerned. It was hoped that the draft royal decree would be adopted in the near future.

49. The central supervisory council would also be responsible for overseeing the recruitment at the local level of members of the supervisory commissions that would soon replace the current administrative commissions. The new commissions would have a more prominent role as independent monitoring and supervisory bodies than the current ones. Moreover, some of the members of the current commissions had been on the job for over 20 years and had become less than efficient. Under the new rules, the term of office for members would be fixed at four years and would be renewable once only. Under the draft basic act prepared by the Dupont Commission, the central supervisory council and the supervisory commissions would also be entitled to mediate in cases of detainees' complaints.

50. A question had been asked whether NGOs such as the International League for Human Rights had access to prison establishments. Although his Government attached great importance to the work of NGOs and had always been willing to cooperate with them, they were generally denied access to prisons, largely because they were not bound by professional secrecy and were consequently not obliged to respect the rights to privacy of both prisoners and prison staff. Numerous personalities, including judges and members of parliament, had access to - and indeed had the duty of monitoring the situation in - such establishments.

51. With regard to individual complaints, she said that the Office of the Federal Ombudsman, which had been established some five years previously, had the responsibility of examining the

complaints made by prisoners or their families. While it was true, therefore, that there was no administrative mechanism for receiving prisoners' complaints, the current system offered various possibilities to prisoners and worked satisfactorily.

52. While it was rare for members of the press to be authorized to make prison visits, all civil servants were entitled to exercise their freedom of expression by giving interviews to the press if they so desired, as long as they respected the rules of professional secrecy. The main reason for denying access to the press was because visits were generally requested at short notice and would violate the privacy rights of both prisoners and staff.

53. Turning to a question relating to the protection of young persons, she said that article 53 of the Protection of Young Persons Act of 8 April 1965, which provided for the temporary placement of a minor in a detention centre for a maximum of 15 days, had been repealed in 1999. Consequently, the authorities had been obliged to find alternative solutions. It had become evident that the alternative detention services were insufficient; and, the federal law of March 2002 had been introduced to respond to what had become a fairly urgent situation and, had established the Everberg youth detention centre which provided individual assistance and care for young offenders.

54. Ms. GYSEN (Belgium) said that various initiatives had been taken by the Flemish community to address the problems created by the repeal of article 53. As it was relatively easy to find placement in care for girls, the new initiatives applied solely to boys. A significant number of additional places had been created for boys in public institutions for the protection of young persons (IPPJ). There were currently a total of 90 places for juvenile delinquents in closed establishments available to the Flemish community.

55. As the public institutions for the protection of young persons could not provide adequate care for minors with specific problems, the Flemish community had also created 20 additional places for minors in private institutions for drug addicts and 30 additional places in private psychiatric institutions. Additional places would soon be created in centres specializing in medico-legal psychiatry. No further steps were necessary, as various alternatives to detention - such as community service, educational programmes and rehabilitation programmes - already existed in the Flemish community. Since the adoption of the aforementioned initiatives, the Flemish community had not experienced any further difficulties in finding placements in closed institutions for juvenile offenders.

56. Ms. PAPAZOGLOU (Belgium) said that, as there had been a shortage of places in supervised care for minors in the French-speaking community since the repeal of article 53 and the number of places in closed institutions had consequently been doubled. The French-speaking community had also tried to develop alternative measures to detention. In addition to those mentioned by the previous speaker, a system of post-institutional care had been established to prevent a relapse into delinquency and to help the minor to adjust to life outside. To date, the system had been extremely successful. Additional places had also been created in specialized reception centres for juvenile delinquents displaying violent behaviour. A number of additional places would soon become available for juveniles with psychiatric problems. A databank had been created to inform judges of the places available at any given time.

57. Questions had been asked about the solitary confinement of young persons. CPT had criticized Belgium for permitting juveniles to be kept in solitary confinement for periods longer than those allowed for adults. The solitary confinement of minors was strictly regulated and was not a punishment; it was rather a way of protecting the minor for his or her own safety or for the safety of others. The period of solitary confinement could not exceed 24 hours without the authorization of a juvenile judge. Normally, it did not exceed eight days. However, CPT had expressed particular concern at the fact that such confinement could be extended for up to a total of 17 days, far exceeding the limit of nine days that applied to adults. Consequently, a bill was being prepared to limit the duration of solitary confinement to a maximum of eight days and to apply it only in the most extremely serious cases. The statistics for the solitary confinement of minors, showed that there had been 165 cases in 1999 and 110 cases in 2000. No statistics were yet available for the years 2001 and 2002. The minimum age for such confinement was 12 years and the average age was 16.

58. Replying to the question about the alarm system and system for summoning help, she said that the General Youth Assistance Department had requested the installation of such systems in all isolation cells used for minors. It was hoped that action would be taken before the end of 2003.

59. Mr. CAMARA, Country Rapporteur, said that he was much impressed by the frank and copious nature of the delegation's replies, which illustrated a real willingness to cooperate on the part of the State party.

60. Mr. MAVROMMATIS, Alternate Country Rapporteur, also expressed his satisfaction with the detailed replies that had been provided. Any unanswered questions should be addressed in Belgium's second periodic report.

The meeting rose at 5.35 p.m.