

TREATY BODY MONITOR

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Information Submitted to the Committee

The State report

On 1 March 2005, the Republic of Estonia submitted its 4th periodic report¹ to the Committee against Torture (the Committee), which was due on 19 November 2004. Estonia acceded to the *Convention against Torture*

¹ CAT/C/80/Add.1, available at <http://www2.ohchr.org/english/bodies/cat/cats39.htm>

and *Other Cruel, Inhuman or Degrading Treatment or Punishment* (the Convention), in 1991 without any reservations, and presented its 1st, 2nd and 3rd consolidated report in June 2001², which was examined by the Committee in November 2002. The present 56-page report covers the period from 2001 to 2004, and explains the measures taken towards the implementation of the Convention. It is divided in three parts. The first part analyses articles of the Convention and how they are implemented at the national level. The second part tackles and examines specific issues in Estonia relevant to the Convention. The third part contains an analysis of a series of measures adopted by the State party to implement the previous recommendations of the Committee.³ The report received positive comments from the Committee members.

The list of issues

On 31 May 2007, the Committee provided the list of issues⁴ to the State Party. Estonia provided its written replies on 27 September 2007.⁵ The Committee requested updated information on the measures undertaken to implement the previous recommendations and to incorporate the Convention in national legislation. Furthermore, it requested clarification and information over specific issues or events brought to the Committee's attention by various sources. The main issues under consideration related to the definition of torture in national legislation, prosecution and compensation for cases of torture, conditions of detention, trafficking, extradition and deportation, training of personnel, supervision of places of detention, the Legal Chancellor of Justice, the *Victims Support Act*, psychiatric facilities, stateless persons and non-Estonians, and violence against women and minorities.

NGO parallel reports

Only one non-governmental organisation (NGO) submitted an independent report. The Legal Information Centre for Human Rights raised the issue of police excessive use of force during the riots of 26-29 April 2007 in Tallinn, where Estonian police and ethnic Russians clashed during a demonstration against the removal of a Soviet war memorial. The report examines the complaints regarding the actions of law enforcement officers during the events. It does so through a series of testimonials from eyewitnesses at the events, who describe acts of police excessive use of force and power, and conditions of detention in police detention centres.

Themes and Issues

The delegation of Estonia included delegates from the Ministry of Finance, the Ministry of Foreign Affairs, the Office of the Chancellor of Justice, the Ministry of Justice, the Ministry of Social Affairs and the Permanent Mission in Geneva.

Ms Lepik Von Wiren, from the Ministry of Foreign Affairs, presented Estonia's 4th report and updated the Committee on developments that had taken place since the submission of the State report in 2005. She made especial reference to the ratification of the Optional Protocol to the Convention in December 2006, and expressed Estonia's firm commitment to fight all forms of ill-treatment in cooperation with international bodies.

After the presentation of the report, the Committee's country rapporteur for Estonia, Ms Sveaass, and the alternate country rapporteur, Mr Kovalev, gave a statement. Ms Sveaass noted that Estonia acceded to the Convention even before its Constitution was approved and its first elections held. She acknowledged that both the report and the extensive written replies were a good basis for a dialogue. She invited the State party to consider making a declaration under Articles 21 and 22 with recognising the competency of the Committee to receive communications.

² CAT/C/16/Add.9., available at <http://www2.ohchr.org/english/bodies/cat/cats39.htm>

³ CAT/C/CR/29/5, available at <http://www2.ohchr.org/english/bodies/cat/cats39.htm>

⁴ CAT/C/EST/Q/4, available at <http://www2.ohchr.org/english/bodies/cat/cats39.htm>

⁵ CAT/C/EST/Q/4/Add. 1, available at <http://www2.ohchr.org/english/bodies/cat/cats39.htm>

The dialogue that took place was difficult to follow, due to interpreting problems and the high speed at which speeches were read, as well as the technicalities and specialised language used in the dialogue. Therefore, the information in this report may be incomplete in parts.

Status of the Convention under domestic law

Ms Sveaass asked the delegation whether the Convention was directly applicable in the Estonian courts. Similarly, Mr Grossman asked for information on instances where the Convention had been a tool for interpretation of a criminal case or case of compensation.

The delegation replied that the Convention's definition of torture is not directly applicable to Article 122 of the Criminal Code. They explained that Estonian law places international conventions above internal legislation if they do not contradict the Constitution of Estonia. They noted that direct applicability could exist in other branches of the law, which do not follow strict canons of interpretation like criminal law.

Definition of torture

Various members of the Committee expressed great concern about the fact that the definition of torture in Estonian national legislation does not fully comply with the definition in the Convention, as admitted in the written replies.⁶ Ms Sveaass asked the delegation to clarify how the definition provided in Article 122 of the Estonian Criminal Code complies with Article 1 of the Convention. She noted that Estonian legislation does not communicate the seriousness of the crime of torture and recommended that Article 122 be changed to include a longer span of punishment and mental suffering. The Committee asked the delegation whether the State party had any plans to include in national legislation a definition of torture equivalent to that in the Convention.

The delegation replied that the Estonian Criminal Code covers the definition of the Convention. They stressed that according to Article 18 of the Constitution, international law is an inseparable part of the Estonian legal system. The delegation emphasised that the State has criminalised torture not in one legal norm, but in different provisions that criminalise several offences. They pointed that Article 122 of the Criminal Code is not the only provision corresponding to the Convention. They noted that there are other provisions that fulfil Estonia's obligations with the Convention in a more specific way than Article 122⁷, like Articles 291⁸, 312⁹ and 324¹⁰ of the Criminal Code.

Following the above statement, the delegation gave statistics on cases under Articles 122, 291, 312 and 324 of the Criminal Code. The delegation concluded that Estonian legislation conforms to the purposes of the Convention, and noted that it is not necessary to change the wording of definition of torture in Article 122.

Finally, Mr Mariño and Ms Belmir noted that in paragraph 73 of the State report it is mentioned that the definition of torture in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) is more comprehensive than that in the Convention. They stressed that there should not be a rivalry between the different instruments and both asked the delegation to provide their views on this matter. The delegation did not provide a specific answer to this question.

⁶ CAT/C/EST/Q/4/Add. 1, para. 1.

⁷ Defines torture.

⁸ Criminalises physical and mental pain.

⁹ Deals with cases where torture is used to get a testimony.

¹⁰ Deals with cases where officials degrade the dignity of detainees or discriminate or unlawfully restrict his or her rights

The Committee, in its concluding observations, reiterated its previous recommendation¹¹ that the State party should bring its definition of torture fully into conformity with Article 1 of the Convention.

Penalties

Various members of the Committee noted that the maximum 5-year sentence for torture was not an appropriate sanction. In particular, Mr Grossman asked the delegation to provide information on how this sanction compared to other sanctions for serious crimes. The Committee also asked whether there were any plans to increase the sanction for Article 122 of the Criminal Code.

The delegation replied that the sanction for acts of torture is similar to sanctions foreseen for other offences of similar gravity, like enslavement, abduction, rape and deprivation of liberty. The delegation stated that there are no plans to increase the sanction for Article 122.

Ms Sveaass pointed to the statistics that Estonia provided in its written replies with regards to the number of convictions under Article 122. In particular, she enquired about the length of the sentences for the 16 people convicted between 2003-2006 and about the sentences imposed to the 48 people convicted in 2007.¹² Similarly, Mr Kovalev asked the delegation to explain the crimes which occurred with regard to the 239 cases registered under Article 122 of the Criminal Code¹³. In response, the delegation gave examples of cases under this article and the correspondent punishments. These included a man beating his wife, whose punishment was a fine of 1,500 crowns; a man who beat his son with a dog belt, whose punishment was 2 years imprisonment; and a man beating a pregnant woman and son, whose punishment was 10 months imprisonment.

The Committee, in its concluding observations, recommended that the State party ensure that torture is punishable by appropriate penalties that take into account its grave nature.¹⁴

Compensation for victims of torture

Mr Kovalev noted that the number of victims who had received compensation was significantly lower than those who had submitted complaints. He asked the delegation to provide information regarding compensation for victims of domestic violence. He further noted that the *Victim Support Act* had been criticised by NGOs for the lack of sufficient information available to the public on the right to compensation or counseling. He asked the delegation to provide information on legislation with regards to compensation. In particular, he asked whether stateless persons could receive compensation for torture and whether the right to compensation for temporary foreign residents¹⁵ applied to stateless persons.

The delegation explained that the police inform victims about the possibility of compensation. However, in cases of moral damage, compensation is not paid and instead the victims are offered victim support. The delegation noted that the *Victim Support Act* has strict requirements for compensation and mentioned that the rates for compensation are low. Nevertheless, they pointed out that in 2007 the law was amended to increase the compensation rate from 70% to 80% of the material damage. The maximum amount of compensation was raised from 50,000 to 150,000 crowns.

The Committee, in its concluding observations, recommended that the State ensure that adequate compensation is provided to victims of torture and other ill-treatment, and that the means for rehabilitation are made available to all victims of torture and other ill-treatment, trafficking, domestic and sexual violence.¹⁶

¹¹ CAT/C/CR/29/5, para. 6 (a).

¹² CAT/C/EST/Q/4/Add. 1, para. 24

¹³ Ibid.

¹⁴ CAT/C/EST/CO/4, para. 13.

¹⁵ HRI/CORE/1/Add.50/Rev.1, para. 100.

¹⁶ CAT/C/EST/CO/4, para. 18.

The Chancellor of Justice

Ms Sveaass asked the delegation to explain how the State party ensures the independence of the Chancellor of Justice and how this collaborates with civil society. She further enquired about the existence of a National Human Rights Institution and its compliance with the Paris Principles, which regulate the status of National Institutions.¹⁷ The delegation responded there is no official in Estonia called 'ombudsman'. However, the Chancellor of Justice performs the function of the ombudsman given to him by the *Chancellor of Justice Act*. The Chancellor of Justice is appointed by Parliament, on the proposal of the President of the Republic, for a period of seven years and is a completely independent official. The delegation explained that the main functions of the Chancellor of Justice are to carry out the constitutional review of all legislation and to act as an ombudsman. The delegation stated that the Chancellor of Justice complies in all respects with the Paris Principles. It was noted that all the information and reports of the Chancellor of Justice are made public on his website in English, Estonian and Russian.

Mr Kovalev pointed out that the Chancellor of Justice rejected 65% of the applications for proceedings due to 'lack of competence'.¹⁸ He asked the delegation to clarify this information. The delegation confirmed this information and explained that these applications 'needed special knowledge'. In such cases, the applications are forwarded to the body with specific competence, and their proceedings are followed up by the Chancellor. However, the delegation indicated other grounds on which these applications were rejected, such as failure of the applicant to use other effective remedies or unfounded applications. The delegation emphasised that even in cases where the Chancellor's mandate does not cover the complaint, he 'does his best to address it'.

The Committee, in its concluding observations, recommended that the State party consider establishing a national institution for the promotion and protection of human rights, in accordance with the Paris Principles and provide it with adequate resources.¹⁹

Detention

Ms Lepik Von Wiren informed the Committee that several amendments had been introduced to the Code of Criminal Procedure in order to speed up criminal proceedings and to reduce the number of prisoners. She noted that the number of detainees had decreased from 4,800 in 2001 to 3,600 in 2007. The amendments had also increased the use of alternative procedural mechanisms, making criminal proceedings more effective. These mechanisms are used in 42% of all criminal proceedings.

Prisons

Delegate Ms Lepik Von Wiren explained that the number of prisons in Estonia had decreased from nine to six. She indicated that the State party was closing down and merging old prisons, and building new ones. With the opening of new prisons, some detention centres could be closed down. She added that all prisons would include educational facilities.

Mr Kovalev asked the delegation whether the conditions of custody complied with European standards on the number of square metres per prisoner. The delegation replied that the minimum number of square metres per prisoner was 2.5. They noted that European norms recommended four square metres, but pointed out that this

¹⁷ Available at www.ohchr.org.

¹⁸ CAT/C/EST/Q/4/Add. 1, para.16c.

¹⁹ CAT/C/EST/CO/4, para. 11.

was not a legal norm. They stressed that conditions always improve when the number of inmates decreases, and that in Estonia there are no problems with over-population.

Ms Sveaass asked the delegation to provide information on the measures taken to address the fact that there is no explicit reference to the right of third party notification of custody in the Code of Criminal Procedure.²⁰ Similarly, Mr Grossman pointed out that refusal of third party notification could be considered inhumane treatment for family members, and asked the delegation about the existence of any such cases in Estonia. In the same line, Mr Mariño asked about the ratification of the *International Convention for the Protection of All Persons from Enforced Disappearance*, as forced disappearance could also be regarded as a form of torture for relatives.

Ms Sveaass further enquired about the circumstances in which detainees are deprived of the right to legal counsel and to see a doctor of their choice. The delegation did not provide any specific answer.

Mr Grossman asked the delegation to clarify whether detainees were screened upon arrival in prison and whether this included testing for HIV/AIDS. The delegation replied that detainees undergo a medical screening upon arrival and that HIV/AIDS testing is voluntary.

Mr Mariño enquired about the obligation of authorities to register all cases of detention and transfers of detainees.²¹ The delegation informed the Committee that the Code of Criminal Procedure covers the transport of detainees through Estonia, and that approval needs to be obtained from the Ministry of Justice. Entry into Estonia is only possible through border crossing points, and all persons entering the country are identified. The delegation noted that no international transport of detainees has arrived in or transited Estonia where officials have not been involved.

The Committee, in its concluding observations, recommended that the State party ensure that all detained suspects are afforded, in practice, fundamental legal safeguards during their detention.²²

‘Arrest houses’

Ms Lepik Von Wiren noted that the State party was aware of the poor conditions in arrest houses, even though some renovation work had been carried out.

Ms Sveaass asked the delegation to provide information on the length of stay in arrest houses. She pointed out that according to the 2003 report of the European Committee for the Prevention of Torture (CPT)²³, this period is increasing, and asked the delegation to clarify this information. She enquired about the right to appeal of detainees in arrest houses and the monitoring systems in place. Ms Sveaass further enquired about health screening in arrest houses. She noted that there seemed to be a contradiction between the CPT report, which states that health screening has not been done regularly, and the State report, which states that it is being done in a regular manner.

The delegation informed the Committee that there are 16 arrest houses in Estonia, which are run by the Police Department. They noted that conditions can be sometimes be sub-standard, but reassured the Committee that this situation would be solved with the opening of new arrest houses in 2008. The delegation stated that the average length of stay was 6.3 days in 2007 and 6.5 days in 2006. They admitted that there were problems with availability of healthcare due to the lack of monetary resources. However, they reassured the Committee that the State party was ‘dealing with the problem’.

²⁰ <http://www.cpt.coe.int/documents/est/2005-06-inf-eng.pdf>.

²¹ CAT/C/EST/Q/4/Add. 1, para. 7 and 12.

²² CAT/C/EST/CO/4, para. 9.

²³ <http://www.cpt.coe.int/documents/est/2005-06-inf-eng.pdf>.

The Committee, in its concluding observations, recommended that the State party continue to improve conditions of detention, especially in arrest houses, including health and medical services.²⁴

Administrative detention

Ms Belmir asked the delegation to provide information on the six-month period that a person can be held under arrest.²⁵ She enquired about the maximum period of extension of that time, the safeguards available, and the judicial control over the decision to extend that time. The delegation replied that the maximum time under the law for a person to be under arrest is six months. This time can be extended by one month. Every month, a judge analyses the case and decides whether it is justified to keep a person under arrest or not. The delegation explained that this time cannot be extended endlessly, and a 'reasonable time limit' is applied, as defined in the ECHR.²⁶

The Committee, in its concluding observations, recommended that the State party provide detailed information on 'administrative detention' and insure that the fundamental legal safeguards also apply in such cases.²⁷ The Committee further recommended that the State party reduce the pre-trial detention period²⁸ and that it consider revising its Code of Criminal Procedure to establish an obligation for prosecution to justify before the court any prolongation of the initial six months pre-trial detention period.²⁹

Murru prison

Mr Kovalev and Ms Gaer enquired about the investigation and sanctions imposed to the administration of prisons where there was inter-prisoner violence, in particular in Murru prison, where two inmates were killed by fellow prisoners in 2006. Ms Gaer asked the delegation to provide information on the steps taken to address inter-prisoner violence. The delegation replied that inter-prisoner violence is one of the main concerns of the Ministry of Justice. They explained that old camp-type prisons are being changed to new chamber-type prisons, with an internal control unit to prevent crime in prisons. With regards to Murru prison, the delegation informed the Committee that new measures had been introduced, such as the change of locks, video surveillance and limitation of the movement of prisoners to their own section. Concerning the investigation into the events in Murru prison, the delegation stated that the whole management was changed, the case came before the courts in November 2007, and the hearing was presently being conducted.

The Committee, in its concluding observations, recommended that the State party investigate all deaths in detention and all violence amongst prisoners, and bring the responsible to justice.³⁰

Alternative punishment for minors

Ms Sveaass noted that in the new Criminal Code, the age of criminal responsibility is 14, which, as Ms Belmir noted, is not in line with the provisions of the Convention on the Rights of the Child. Ms Sveaass asked the delegation to provide information on the type of punishment for minors between 14 and 18 years of age, as well as alternative measures to prison. The delegation explained that criminal policy gives special attention to minors and that there are greater possibilities for alternative punishments. These include admonition, subjection to supervision of conduct, placement in a youth home or in schools for pupils with behavioural problems. The delegation also provided statistics on cases of alternative punishments.

²⁴ CAT/C/EST/CO/4, para. 19.

²⁵ CAT/C/80/Add.1, para. 65 (d).

²⁶ <http://www.detention-in-europe.org/images/stories/docs/echr.pdf>.

²⁷ CAT/C/EST/CO/4, para. 10.

²⁸ *Ibid.*, para. 19.

²⁹ *Ibid.*, para. 17.

³⁰ *Ibid.*, para. 16.

Excessive use of force

Ms Belmir noted that several UN treaty bodies had expressed concern at police brutality in Estonia. Mr Grossman asked the delegation how the requirements of proportionality were applied and whether there were any legal developments on this issue. He further enquired about the outcome of the 15 investigations pending into excessive use of force in 2005. The delegation replied that the use of force must be strictly necessary and proportionate to the danger. The delegation informed the Committee that there were six procedures started and terminated in 2006, five procedures under investigation and four procedures terminated in 2007.

Events of 26-29 April 2007

Ms Sveaass asked the delegation to update the Committee on the reported police brutality in the riots of 26-29 April 2007 in Tallinn with regards to investigations and sanctions imposed.

The delegation explained that there were 99 cases of vandalism, a total damage of 60 million crowns, and the State compensated a total of 19.5 million crowns of damages to private persons. In addition, 1200 people were detained for a maximum of six hours, but the large majority was released after identification. The delegation explained that police had to use force to calm down the situation, and that such force was 'strictly necessary and proportional to the aims of protecting public order and the well-being of society.' With regards to allegations of excessive use of force, the delegation pointed out that the Chancellor of Justice did not receive any complaints when he visited detainees at the time. The delegation assured that all allegations of police violence were taken seriously, and a fast, independent and thorough investigation was carried out. The Chancellor of Justice received a total of 52 complaints of police abuse of force. There were eight cases of criminal investigations, six of which had been terminated and two which were still pending. In addition, there were 69 criminal cases concerning participation of persons in the riots and more than 300 suspects, of whom 218 had criminal records.

The Committee, in its concluding observations, recommended that the State party reinforce its training programmes for law enforcement personnel, investigate all acts of brutality and excessive use of force, and bring the perpetrators to justice.³¹

Violence against women and children

Ms Lepik Von Wiren informed the Committee that two quantitative research projects had been conducted on violence against women, but more were required. She indicated that the first shelter for women victims of domestic violence opened in 2002. There are also shelters for mothers and children, together with four NGOs that provide shelter and counseling. However, she expressed the need for more shelters in some regions of Estonia. Ms Lepik Von Wiren also gave details of a series of campaigns and additional measures introduced to address domestic violence, including a public campaign in 2005 called "If love hurts", the introduction of guidelines for health workers on how to help families where violence occurs and a national action plan on domestic violence, which will come into force in 2008

Mr Grossman asked the delegation to provide statistics on the number of shelters for women and children victims of domestic violence. Ms Belmir also enquired about the existence of a general strategy involving the relevant State bodies to combat violence against women. The delegation informed the Committee that there were four shelters for victims and several general shelters. In 2005, there were 309 victims, of which 136 were children. The shelters offer counselling, also in Russian, and separate support groups give legal advice

³¹ *Ibid.*, para. 23.

and psychological support. There are also trainings provided to relevant parties such as judges, social workers, etc.

The Committee, in its concluding observations, recommended that the State party adopt a specific type of criminal offence for domestic violence, as well as provide protection and access to services for victims. All perpetrators should be prosecuted and punished.³²

Sexual exploitation of children and trafficking

Ms Lepik Von Wiren indicated that there had been significant progress in the prevention of trafficking since 2002, and noted that it was estimated that human trafficking in Estonia had decreased since the late 1990s. She added that there had been changes in legislation with the introduction of a specific article in the Criminal Code that criminalises aiding prostitution. She informed the Committee on a series of awareness-raising campaigns, trainings and measures introduced in Estonia, in cooperation with the Ministry of Social Affairs, the International Organisation for Migration (IOM), the EU, and various NGOs. She made special reference to the adoption of a National Action Plan in 2006 to combat human trafficking.

Committee member Mr Kovalev noted that there had been an increase in sexual exploitation of children. He asked the delegation to provide information about measures taken against this. Ms Sveaass noted that Estonia had not had any legal sanctions against trafficking, and asked the delegation to clarify whether trafficking was a specific crime. Similarly, Mr Grossman stressed that sexual exploitation of any kind should be made a criminal offence.

The delegation confirmed that human trafficking was not a separate criminal offence, but that there were 16 provisions in the Criminal Code that covered the issue. They informed the Committee that there were no plans to revise the Criminal Code in this regard. In response to a further question by Ms Sveaass, the delegation clarified that the information provided to victims is also in Russian.

Mr Grossman asked the delegation to provide statistics on cases involving investigation, conviction and sentencing of traffickers, as well as on compensation to victims of trafficking through the *Victim Support Act*. The delegation replied that there were approximately 116 criminal offences registered.

The Committee, in its concluding observations, recommended that the State party reinforce its legislation and adopt other effective measures to combat and punish human trafficking.³³

Illegal immigrants

Mr Grossman noted that in 2004 there were between 5,000 and 10,000 undocumented persons in Estonia, and asked the delegation to provide information on policies to reduce that number. The delegation replied that the State party was trying to find solutions for those with undetermined citizenship in Estonia, and that the State had taken constant steps to encourage Estonian citizenship among persons with undermined citizenship. They noted that the number of people that obtained citizenship through naturalisation had constantly increased. In 1992, 32% of the population were without determined citizenship. That rate dropped to 8.3% in November 2007. The delegation added that the Constitution prohibits discrimination on any grounds and citizens and non-citizens have equal access to social benefits and services.

Ms Sveaass asked the delegation to clarify who the 'illegal foreigners in Estonia' mentioned in the report were.³⁴ She further enquired about the reasons why they were held in detention centres for more than two months when they could not be returned, why they could not be returned and what conditions Estonia

³² CAT/C/EST/CO/4, para. 21.

³³ *Ibid.*, para. 20.

³⁴ CAT/C/80/Add.1, para. 182.

considered for their return. The delegation did not fully answer all aspects of the question and gave a reply on proceedings concerning illegal immigrants. It indicated that in 2007 there were 996 cases of illegal immigration dealt by the Citizenship and Migration Board. 896 cases received a punishment of a fine, 67 cases were issued a prescription to leave the country and 129 cases were issued a prescription to legalise their stay in Estonia.

Ms Sveaass further asked for updated statistics for the period of 2004-2007 on asylum applications. She noted that since 2004 none of the 36 asylum applications had been granted³⁵, and asked the delegation to explain why they were not granted. Ms Sveaass also requested information on accelerated procedures and possibilities of appeal in asylum considerations. The delegation gave a partial response and indicated that asylum seekers came from a very wide range of countries, listing the number of applications from the different countries for the period 1997-2007. Some of the figures were 20 asylum applications from Iraq, 19 from Russia, 16 from Turkey, eight from Pakistan and Afghanistan, six from Georgia, five from Nigeria, four from Syria and Uzbekistan, three from Algeria, one from Japan, etc. There was one case of an unaccompanied minor in 2001. Four asylum seekers were granted asylum and ten were granted subsidiary protection.

Stateless persons

Mr Kovalev asked the delegation to provide information on the practical measures taken to protect the rights of stateless persons in Estonia. In particular, he enquired about whose responsibility it was to provide consular assistance in cases of detention by another state of a person who was among the 30% of the Estonian stateless population. The delegation replied that consular assistance is available to non-Estonian citizens who reside in Estonia and have a residence permit. In a criminal case, they would be expelled to and accepted in Estonia.

Ms Gaer and Ms Belmir noted the high percentage of stateless persons and foreigners within the prison population.³⁶ The Committee enquired about the breakdown of this population, including Roma. Mr Kovalev further enquired on the practical measures taken to reduce the number of stateless persons and to protect stateless persons in custody. The delegation gave the statistics provided in the written replies³⁷, adding that there were “a few” Roma detainees.

Mr Grossman asked the delegation whether Estonia was planning to accede to the *Convention on the Reduction of Statelessness*. He also noted that the definition of national minorities did not include stateless persons. The delegation replied that Estonia does not intend to accede to this Convention and explained that all stateless persons in Estonia have more rights than foreseen in that Convention.

The Committee, in its concluding observations, recommended that the State party adopt all adequate measures to facilitate the naturalization and integration of stateless persons and non-citizens, as well as to prevent the disproportionate presence of stateless persons in prison. The Committee also recommended the ratification of the *1954 Convention Relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*.³⁸

Extradition and expulsion

Mr Mariño noted the long periods of detention that were imposed upon detainees in expulsion centres³⁹, and asked the delegation about the maximum length of time that individuals can be held in these centers, particularly Russian nationals. The delegation did not give a specific answer and replied that there had been

³⁵ CAT/C/EST/Q/4/Add. 1, para 23.

³⁶ *Ibid.*, para 105.

³⁷ *Ibid.*, para. 105.

³⁸ CAT/C/EST/CO/4, para. 22.

³⁹ CAT/C/80/Add.1, para. 183

‘some’ Russians held at expulsion centres for a long period due to the fact that they did not have any documents and were not cooperative with Estonian and Russian authorities.

Ms Sveaass asked about the three extradition requests submitted by Estonia still pending from 2003 and 2004, according to the table in the report.⁴⁰ The delegation reiterated what is written in the report and explained that these requests had not been denied for fear of torture. The only one that had been denied was by the USA in 2002 due to legal nuances.⁴¹ The delegation did not provide any further information. Also, in 2004, the Ministry of Justice refused to extradite a Turkish/Swedish to Turkey because the person was a Swedish national and Sweden had requested him to be returned to Sweden. In 2006, Estonia received 30 requests for extradition and submitted 42 requests. In 2007, Estonia received 47 requests for extradition and submitted 31 requests. The delegation further explained that return or deportation is only permitted to safe countries, and a foreigner should not be expelled if his or her deportation will violate Article 3 of the *European Convention on Human Rights* or Article 3 of the Convention, or if there is the possibility of the death penalty.

Mr Grossman stressed that the principle of non-refoulement is absolute. He asked about the possibility of bringing a complaint before an administrative body and the right to appeal of a person subject to expulsion. The delegation replied that all applications for expulsion and extraditions are looked at very carefully, and decisions are taken on basis of each individual case. The delegation confirmed that a decision to expel can be challenged in an administrative court, and can be brought before the Court of Appeal and the Supreme Court.

The Committee, in its concluding observations, recommended that the State party always assess its non-refoulement obligations under Article 3 of the Convention on an individual basis and provide, in practice, all procedural guarantees to the person expelled, returned or extradited.⁴²

Diplomatic assurances and extraordinary renditions

Ms Sveaass and Mr Grossman requested information on diplomatic assurances and on any investigations and cases of extraordinary renditions from Estonia. The delegation responded that Estonia had never sought to obtain diplomatic assurances, nor had obtained them. They stressed that Estonia had never expelled a person to a country where individuals risked torture. The delegation added that the Secretary General of the Council of Europe had made an enquiry on extraordinary renditions and investigations were carried out on this issue

Psychiatric institutions

Mr Mariño asked the delegation to provide information on the monitoring mechanisms and safeguards of involuntary internment in psychiatric institutions. The delegation explained that involuntary treatment is regulated by the *Mental Healthcare Act* and that relevant laws were amended in 2006. Involuntary treatment is applied when it is justified as a method of care. The delegation stated that the maximum duration of involuntary treatment is 48 hours, and noted that this period had previously been much longer.

In addition, the delegation explained that all hospitals are independent legal bodies acting under private law, and that in order to get a licence certain requirements have to be met by the hospital. The Health Care Board controls the quality of these centres through inspections. The delegation informed the Committee that the number of hospitalisations was 14,000 per year, and that the average length of hospitalisation was 16 days in 2006, which decreased from 26 days during the previous five years. The delegation added that outpatient treatment was increasingly preferred and that the number of beds was ‘quite optimal at the moment’. They concluded that all these indicators were observed regularly. Nevertheless, the delegation admitted that the living conditions in psychiatric hospitals was not yet as good as the State party would like, but assured that

⁴⁰ *Ibid.*, para. 11.

⁴¹ *Ibid.*, para. 10.

⁴² CAT/C/EST/CO/4, para. 12.

the minimum standards were met. They noted that there had been considerable progress in the last 10 years and that a lot of reconstruction work was being done.

Ms Sveaass further asked the delegation to comment on the 48 hours limit. The delegation explained that there were cases of treatment longer than 48 hours, but a court order was needed for longer treatment. The delegation concluded that the procedure is 'described' in the law.

In its concluding observations, the Committee recommended that the State party improve the living conditions in psychiatric institutions, and ensure that all places where mental health patients are held for involuntary treatment are regularly visited by independent monitoring bodies.⁴³

Other issues

Training

Mr Kovalev asked the delegation about the training provided to medical personnel who have to identify and register cases of torture and ill-treatment. He further enquired whether there was any training on applying the Istanbul Principles⁴⁴ and who provided such training. The delegation informed the Committee that education of medical professionals was provided in Tartu University and two medical high schools. All medical students learned about specific symptoms of torture and physical violence, and the symptoms of psychic disorders as a result of psychological violence were part of the teaching of psychology. There were also courses and trainings organised for employers involved with detainees.

The Committee, in its concluding observations, recommended that the State party ensure adequate training for all medical personnel involved with detainees, to detect signs of torture and other ill-treatment in accordance with the Istanbul Protocol.⁴⁵ The Committee also recommended that the State reinforce training programmes for all law enforcement personnel on the absolute prohibition of torture, including the inadmissibility of confessions and statements obtained through torture.⁴⁶

Admissibility

Mr Kovalev and the chairperson of the Committee expressed concern with regards to admissibility of confessions obtained under torture. In particular, they enquired about the procedure followed if a person recounts that the evidence was extracted under torture, and how judges dealt with unconfirmed allegations of torture. The delegation replied that evidence should not be collected either by torturing a person, by using violence, by means affecting his or her memory, or by degrading treatment. If this was violated, the perpetrators were punished through Article 312 of the Criminal Code.

National security

Mr Mariño referred to the special regulation for collection of evidence to guarantee national security mentioned in the report⁴⁷, and asked the delegation to provide additional information on this. He noted that, according to the report, Estonia applied domestic and international measures in the fight against terrorism⁴⁸, but the report did not explain how acts of terrorism were handled under the new Criminal Code. He asked the delegation to explain how acts of terrorism are understood under the new Criminal Code. The delegation

⁴³ CAT/C/EST/CO/4, para. 24.

⁴⁴ Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, available at www.ohchr.org.

⁴⁵ *Ibid.*, para. 14.

⁴⁶ *Ibid.*,

⁴⁷ CAT/C/80/Add.1, para. 65(f).

⁴⁸ *Ibid.*, para. 144.

replied that in the case of human rights violations by the security services, criminal proceedings are initiated and offenders are brought to justice in accordance with international and national legislation.

Universal Jurisdiction

Mr Grossman further enquired about universal jurisdiction, and asked the delegation to provide information on cases of torture committed outside the jurisdiction of Estonia. The delegation replied that extraterritorial jurisdiction of Article 5 of the Convention is covered in Articles 6 to 9 of the new Criminal Code.

Conclusions and next steps

As the session ended, the chairman thanked the delegation for the 'pleasant and useful' dialogue with the Committee and congratulated the State party for the progress achieved. Equally, the delegation thanked the members of the Committee for their useful comments and views.

Other treaty bodies have also addressed issues raised by the Committee against Torture in their examinations of Estonia. Regarding detention, the Human Rights Committee (HRC) recommended that Estonia ensure that measures depriving individuals of their liberty comply with Article 9 of *the International Covenant on Civil and Political Rights*⁴⁹. In addition, the Committee on the Rights of the Child (CRC) recommended that Estonia ensure that the system of juvenile justice fully integrates into international legislation, and that that deprivation of liberty is only used as measure of last resort, for the shortest possible time, is authorized by court, and that persons under 18 are not detained with adults.⁵⁰ Regarding the Chancellor of Justice, the HRC recommended that Estonia furnish detailed information on individual cases submitted to it and other bodies that deal with individual complaints.⁵¹ With regards to illegal immigrants, various Committees recommended Estonia to take steps to reduce the number of stateless children and women, encouraging citizenship⁵² and naturalisation⁵³ to improve the situation of non-citizens without legal residence permits and to ensure that all children in Estonia enjoy all rights under the Convention on the Rights of the Child, irrespective of their citizenship or lack of it.⁵⁴ The CRC and the Committee for the Elimination of Racial Discrimination (CERD) further recommended that Estonia accede to the *Convention Relating to Status of Stateless Persons* and to the *Convention on Reduction of Statelessness*.⁵⁵

With regards to the use of force, the HRC recommended that Estonia revise outdated legislation to ensure use of firearms is restricted by principles of necessity and proportionality.⁵⁶

With regards to violence against women and children, the CRC recommended that Estonia explicitly prohibit corporal punishment and take all measures to prevent all forms of physical and mental violence.⁵⁷ In addition, the Committee on the Elimination of Discrimination against Women (CEDAW) recommended that Estonia ensure the effective implementation of all measures taken to combat human trafficking, prosecute and punish traffickers, and ensure the protection of the human rights of trafficked women and girls.⁵⁸ This had also been recommended by the CRC with regards to children.⁵⁹ CEDAW further recommended that Estonia ensure that

⁴⁹ CCPR/CO/77/EST (HRC, 2003), para. 10.

⁵⁰ CRC/C/15/ADD.196 (CRC, 2003), Para. 51.

⁵¹ CCPR/CO/77/EST (HRC, 2003), para. 18.

⁵² CCPR/CO/77/EST (HRC, 2003), para. 14; CEDAW/C/EST/CO/4 (CEDAW, 2007), para. 29; CRC/C/15/ADD.196 (CRC, 2003), para. 29.

⁵³ CERD/C/EST/CO/7 (CERD, 2006), para. 15; CERD/C/EST/CO/7 (CERD, 2006), para. 9.

⁵⁴ CRC/C/15/ADD.196 (CRC, 2003), para. 29.

⁵⁵ CRC/C/15/ADD.196 (CRC, 2003), para. 29; CERD/C/EST/CO/7 (CERD, 2006), para. 15.

⁵⁶ CCPR/CO/77/EST (HRC, 2003), para. 12.

⁵⁷ CRC/C/15/ADD.196 (CRC, 2003), para. 31.

⁵⁸ CEDAW/C/EST/CO/4 (CEDAW, 2007), para. 19.

⁵⁹ CRC/C/15/ADD.196 (CRC, 2003), para. 49.

all women victims of domestic violence have access to immediate means of redress and to elaborate a specific law on domestic violence against women.⁶⁰

With regards to national security, the HRC recommended that Estonia ensure counter-terrorism measures are in full conformity with ICCPR.⁶¹ Finally, with regards to training, the CRC recommended that Estonia develop in-service and pre-service training programmes on human rights for all professional groups working for and with children, including personnel working in institutions and places of detention for children.⁶²

Last revised and updated: 22 February 2008.

⁶⁰ CEDAW/C/EST/CO/4 (CEDAW, 2007), para. 17.

⁶¹ CCPR/CO/77/EST (HRC, 2003), para. 8.

⁶² CRC/C/15/ADD.196 (CRC, 2003), para. 20.

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