

HUNGARY

CAT A/45/44 (1990)

280. The Committee considered the initial report of Hungary (CAT/C/5/Add.9) at its 34th and 35th meetings, held on 20 November 1989 (CAT/C/SR.34 and 35).

281. The report was introduced by the representative of the State party, who began by referring to the important steps toward democratization that Hungary had recently taken. She referred, in particular, to a law on amendments to the Constitution that had been enacted by the Hungarian Parliament in October 1989. Those constitutional amendments declared that Hungary accepted the generally recognized norms of international law and ensured conformity of domestic law with the international legal obligations entered into by the State. The new law proclaimed that the State's primary obligation was respect for and protection of inviolable and inalienable fundamental human rights. The representative stated that that law specifically prohibited torture, even during times of public emergency. The constitutional amendments also confirmed the principle of habeas corpus, the right to a fair and impartial trial, the presumption of innocence and the right of remedy. In addition, the amendments established the institutions of the Constitutional Court and the Parliamentary Ombudsman and stipulated that foreigners lawfully in Hungarian territory could be expelled only on the basis of a lawful decision.

282. The representative further stated that that provision of the Penal Code relating to offences against the State had undergone a radical transformation and that Parliament had taken measures to humanize forms of punishment. In that effort, Parliament had declared that no one could be sentenced to death for political activities and had abolished "custody of increased severity". Furthermore, a detainee now had the opportunity to communicate freely with his defense attorney, orally and in writing, from the first moment of detention. Amendments to the Criminal Procedures Act of 1973 also permitted an attorney to be present and to ask questions at the interrogation of a suspect and witnesses. In addition, articles on questioning under duress had been supplemented by a new provision under which any statement unlawfully obtained could not be invoked as evidence.

283. In the matter of practical law enforcement, the representative referred to preventive measures taken by the Government which focused mainly on the training of the police and law enforcement officers with regard to national and international legal provisions relevant to their duties. She pointed out that prevention of abuse was also ensured through regular, systematic and frequent supervision by prosecutors and medical personnel in places of detention and in prison establishments, and that various measures were being taken to improve prison conditions and medical services for prisoners awaiting trial or under a sentence.

284. With respect to punishment, the representative provided statistics for the period 1987 to 1989 regarding convictions, complaints of questioning under duress, and charges brought against offenders. She stated that, in three years, only one case of charges of torture had been brought against a law enforcement official. Court sentences against offenders also had an educational aspect and, under certain circumstances, consideration was given to the fact that the dismissal of a law

enforcement official, which could be ordered as a principal punishment, could cause grave problems to the offender and have an impact on the whole of the law enforcement corps.

285. Moreover, the representative stated that Hungary had to take further steps to improve the conditions of redress. The Government had to create stricter guarantees to channel complaints to the judicial authorities and to ensure that complaints were subjected to appropriate judicial inquiry. New legal provisions concerning such guarantees were being elaborated and they affected the Prosecutor's office and the courts. The creation of the Parliamentary Ombudsman also indicated that the relevant guarantees were being strengthened. In addition, changes in court practice aimed at strengthening guarantees of indemnification, especially for non-financial loss. In that area, Parliament had also decided to grant legal and moral compensation to victims of crimes committed during the 1950s.

286. The representative pointed out that, at the international level, Hungary had become party to several international human rights instruments and had accepted the competence of United Nations human rights treaty bodies with regard to communications received either from States parties or from individuals. In particular, Hungary had recently made the declarations provided for under articles 21 and 22 of the Convention and had withdrawn the reservations made upon ratification of that instrument. The withdrawal of all Hungary's reservations in relation to the jurisdiction of the International Court of Justice with respect to the international agreements to which it was a party was under way.

287. The members of the Committee welcomed the report and the comprehensive additional information provided by the representative of Hungary in her introduction, which members felt answered most of the questions left open by the report. Members wished to know, in general, by what legal mechanisms the provisions of the Convention were incorporated in domestic law. In that connection, they wished to know whether there was any contradiction between paragraph 3 of the report, which stated that treaties were not self-executing under Hungarian law, and paragraph 17 of the report, which stated that, if Hungarian jurisdiction in a concrete case could not be established under national law, it was established by the Convention. Members of the Committee also asked under what circumstances, if any, capital punishment might currently be imposed in Hungary, and whether there had been changes in recent years regarding the time at which an accused person had the right of access to a lawyer, and regarding the maximum term of imprisonment.

288. With reference to article 1 of the Convention, it was asked how torture was defined in Hungarian domestic law and how that definition differed from that in the Convention.

289. With regard to article 3 of the Convention, it was asked whether Hungarian law specifically prohibited expulsion, return or extradition to a country where the person concerned risked being tortured.

290. Turning to article 4 of the Convention, members of the Committee referred to paragraph 14 of the report, which stated that use of coercive methods to obtain a confession was an offence. Members wished to know what was the nature of that offence and whether the punishment imposed might include the death penalty. Members also requested information on the severity of penalties for torture. They requested, in particular, clarification of the relationship between articles 226 and

227 of the Hungarian Penal Code which, according to the report, set forth different penalties. In that connection, they also wished to know how penalties for torture compared with penalties for murder, grievous bodily harm and related offences, and what penalties existed under the Penal Code for different forms of torture.

291. Furthermore, members of the Committee requested clarification of the assertion in the report that articles 3 and 4 of the Hungarian Penal Code met the requirements of article 5 of the Convention in full, although Hungarian law did not follow them literally. They also wished to know whether or not Hungary had adopted universal criminal jurisdiction over persons alleged to have committed acts of torture, as required by article 5 of the Convention.

292. In respect of articles 6 and 7 of the Convention, it was inquired whether Hungarian practice was consistent with the provisions of both articles.

293. With respect to article 9 of the Convention, it was noted that the Hungarian report had focused on information concerning bilateral treaties of legal assistance between Hungary and a number of countries and it was observed that the Convention required “the greatest measure of assistance” among all States parties to the Convention. Clarification was therefore requested on the position of Hungary with regard to that provision.

294. With respect to article 10 of the Convention, members asked whether doctors involved in medical controls in Hungarian prisons received special education or whether such education had become a part of the regular medical curriculum in Hungary.

295. In connection with article 11 of the Convention, members of the Committee inquired into the inspection mechanisms available in places of detention and in prisons. They wished to know, in particular, who supervised the legality of prison operations, what legal guarantees applied to correspondence and visits to detainees and convicted prisoners, in what circumstances special measures, such as the use of weapons, were applied, what regulations governed such measures, whether solitary confinement still existed and, if so, for what period.

296. With regard to article 13 of the Convention, members of the Committee wished to know whether a convict’s right to complain would apply to the preliminary phase of police investigation, the pre-trial phase, or the sentencing phase, and whether it was possible to file a wrongful detention complaint after dismissal of proceedings or acquittal.

297. With regard to article 14 of the Convention, members of the Committee asked whether medical treatment, as well as moral and monetary compensation, were provided to victims of torture and, in particular, whether such aid was available to persons who had been victims of torture before the Convention came into force for Hungary. Clarification was also asked of the statement in the report to the effect that responsibility for damage caused within the scope of administrative authority could be established only if the damage could not be averted by ordinary means of legal remedy or if the person injured had exhausted all such means. In addition, it was asked whether it should be concluded from article 348 (1) of the Hungarian Civil Code that the State was responsible for the acts of civil servants and magistrates in cases of violation of the Convention, and whether the State or the public officials who had committed the wrongful act might be held responsible for redress.

Finally, it was asked how many victims of torture during the 1950s there still were in Hungary and by what methods their complaints would be received.

298. With respect to article 15 of the Convention, it was asked whether evidence obtained under torture was void or whether it had any legal value.

299. In response to the Committee's general questions, the representative of Hungary began by explaining that international instruments which set forth rights and obligations for individuals and legal entities were incorporated in domestic legislation through the promulgation of laws, legislative decrees, decrees of the Council of Ministers or ministerial decrees. The Convention against Torture had been incorporated in domestic legislation by legislative decree in 1988. Internal legislation had to conform with the provisions of the international instruments ratified by Hungary, and acts deemed to be acts of torture within the meaning of the definition contained in the Convention were enumerated in chapter XII of the Hungarian Penal Code.

300. The representative further indicated that, under the Penal Code, capital punishment was applicable in time of war for collaboration with the enemy, violence against civilians, violations of the laws and customs of war and genocide. In time of peace, the death penalty was applicable to certain premeditated homicides and particularly odious crimes. However, the number of executions had been steadily decreasing in recent years. With respect to terms of incarceration, the representative stated that the maximum sentence of imprisonment in Hungary was 25 years. In accordance with the new provisions adopted in October 1989, the maximum duration in police custody could not exceed 72 hours, and provisional detention could not exceed five days. Provisional detention could be extended up to two months only if it was authorized by a court order. Detention for longer periods required authorization by the Supreme Court. The suspect's family had to be informed of the detention within 24 hours. A suspect also had the right to have a lawyer present before making any declaration. The lawyer was entitled to attend all interrogations.

301. With reference to article 1 of the Convention, the representative pointed out that, since the Convention had been incorporated in internal law, the definition of torture contained therein was the one applied by the Hungarian legal system.

302. With regard to article 3 of the Convention, the representative stated that the Minister of Justice had been responsible for deciding on matters of extradition and that, in taking his decisions, he was bound by the provisions of the Convention. Expulsion could also be ordered on the basis of either a judicial decision or a decision by the police authorities; however, this second possibility was under review and in the future aliens could not be expelled from Hungary except by a court order that would take the Convention into consideration. She also indicated that Hungary was party to bilateral agreements on expulsion which conflicted with the relevant provisions of the Convention, but that these agreements were being reviewed in order to adapt them to Hungary's international commitments. Furthermore, with regard to extradition for terrorist acts, the representative stated that, in cases where suspected terrorists might be subject to torture in another State, an exception would be made to the rule that might normally justify expulsion to that State.

303. In response to questions regarding article 4 of the Convention, the representative said that questioning under duress could bring a penalty of five years, as could illegal detention or arrest

when accompanied by torture. Perpetrators of acts of torture could incur the death penalty if they had committed homicide. Regarding jail terms for perpetrators of acts of torture, they varied from 5 to 25 years imprisonment; in the case of bodily injury, the penalty was one year's imprisonment if the victim's previous state of health could be restored within eight days. With regard to abuse of authority, the maximum penalty was three years, and for physical abuse, a maximum of two years.

304. In reply to the Committee's questions regarding article 5 of the Convention, the representative confirmed that Hungary had established its jurisdiction when the offence of torture was committed on Hungarian territory, when the alleged offender was a Hungarian national and when the victim was a Hungarian national, in which case Hungary could request that the other State to extradite the offender. The representative further stated that Hungary could institute proceedings against a national of another State who had committed an act of torture either on the basis of the Convention or on that of its own national legislation.

305. Regarding the question whether Hungary's practice conformed to the provisions of articles 6 and 7 of the Convention, the representative stated that a national of another State suspected of having committed an offence specified in the Convention was subject to the same treatment and procedures as a Hungarian national.

306. In connection with article 9 of the Convention, the representative stated that Hungary had concluded agreements on mutual judicial assistance with the same countries with which it had signed extradition treaties. Where a mutual judicial assistance treaty existed, article 9, paragraph 2, applied. In the absence of a treaty, Hungary acted on the basis of the Convention.

307. With regard to article 10 of the Convention, the representative stated that some 60 per cent to 70 per cent of doctors working in detention centres and prisons were specially trained for their tasks.

308. In response to questions regarding article 11 of the Convention, the representative said that regular inspections of detention centres to guarantee the application of the laws and of conditions of detention were carried out by competent authorities of the police. In prisons, inspections were carried out by the prison directors. The public prosecutor also inspected detention centres weekly and prisons monthly, as well as upon request. The representative stated that prisoners under went medical examination upon admission to detention centres and prisons as well as upon transfer and release. Such checks were administered daily in provisional detention centres, weekly in prisons, and otherwise upon request. Medical examinations were also administered regularly on detainees in solitary confinement or subjected to measures of constraint. The maximum term allowed in solitary confinement was 10 days in a provisional detention centre, 20 days in a prison and 30 days in a penitentiary. Depending on the results of medical examinations, solitary confinement could be temporarily interrupted. Measures of constraint currently existed. Those measures were determined by ministerial decree and were not applicable to minors, the physically handicapped, pregnant women and the gravely ill. There were three pre-conditions for their application, namely, warning, proportionality and legality of application, the last of which was controlled by the public prosecutor and the doctors. The use of weapons was subject to the same conditions. Application of measures of constraint would be more clearly defined by a new law to be promulgated in 1990. With regard to the right to correspondence and visits, a suspect in detention was free to communicate with members of his family throughout the period of provisional or preventive detention.

309. On the subject of the right to complain under article 13 of the Convention, the representative informed the Committee that applications for compensation could be filed at any moment, whether the victims were suspects or convicted persons. Complaints of torture were submitted to the director of the prison, to the prosecutor in charge of supervising the application of penalties and, in the last resort, to the Parliamentary Ombudsman. The constitutional amendment ensuring the independence of the prosecutor and of the court also guaranteed an impartial investigation of any complaint of torture. In the event of any complaint of ill-treatment or torture, an incarcerated victim would be transferred to another place of detention. Both prosecutors and prison officials had the duty to inform a suspect of his or her right to lodge a complaint. In addition, there were signs posted in the prison informing inmates of this right; and inmates were allowed to complain of any ill-treatment, even that suffered by another prisoner.

310. In response to questions regarding article 14 of the Convention, the representative stated that rehabilitation in the form of free medical treatment was available both in prison, where the doctors with specialized skills were in attendance, and in other hospitals. She also stated that a victim had the right to apply for compensation regardless of his position as a suspect or convicted person, and the prosecutor had the duty to inform the victim. The representative said that currently civil proceedings had to be instituted to obtain redress, but that as of 1990 administrative redress would also be available. Where a crime of torture had been committed, liability attached to the perpetrator, but if the perpetrator was a public official, the State, as employer, was liable for compensation or reparation. The representative then referred in detail to recent measures taken to provide compensation for persons victims of torture and other crimes or injustices during the 1950s. The total number of victims was estimated at about 1 million. Measures for compensation were still partial; nevertheless, Hungary was contemplating giving compensation to all persons affected by the crimes committed in the 1950s.

311. With regard to article 15 of the Convention, the representative stated that confessions under duress could not be invoked as evidence except in the prosecution of a person accused of torture. The representative specified that the term “duress” meant any means used against an accused or convicted person, such as stopping of correspondence or visits, to extract a confession.

312. The members of the Committee expressed satisfaction that gaps in the initial report of Hungary were adequately filled in by the representative’s additional information and replies. The Committee was of the view that Hungary was already meeting the requirements of the Convention both in law and in practice. However, the process of democratization and humanization of judicial procedures was still under way and further improvement could be expected in the future, also with regard to the application of the Convention.

CAT A/48/44 (1993)

342. The second periodic report of Hungary (CAT/C/17/Add.8) was considered by the Committee at its 141st, 142nd and 145th meetings, on 21 and 23 April 1993 (see CAT/C/SR.141, 142 and 145).

343. The report was introduced by the representative of the State party, who declared that during the reporting period Hungary had undergone a profound and fundamental change. The communist one-party system with its socio-political order had been replaced by a pluralist society, a functioning democracy and the rule of law. Respect for human rights and fundamental freedoms had been a major driving force of that transition. The change of régime and modifications to the national legislation, especially to the constitution and penal laws that accompanied it, had brought the Hungarian system of law virtually into line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Particular importance was attached to the establishment of the Constitutional Court which had ruled, *inter alia*, in its decision No. 23/1990, that capital punishment was contrary to the constitutional provisions prohibiting limitations on the very substance of the right to life and human dignity (articles 8.2 and 54.1 of the Constitution).

344. During the period under review Hungary had withdrawn its reservations concerning articles 20 and 30, paragraph 1, of the Convention and it had recognized by declaration the competence of the Committee under articles 21 and 22 of the Convention. In addition, Hungary was in favour of the elaboration of the optional protocol to the Convention against Torture by a working group of the Commission of Human Rights.

345. The members of the Committee thanked the Government of Hungary for its timely report, which provided clear and complete answers to the many questions put by the Committee during the consideration of the initial report. They noted that the crime of torture could be punished in accordance with articles 226 and 228 of the Criminal Code, although they found the maximum penalties laid down by those articles extremely light, and asked for further details. Some members of the Committee took note of decision No. 23/1990 of the Constitutional Court whereby capital punishment was declared unconstitutional, and asked what Hungarian public opinion thought of the matter. They also asked whether Law-Decree No. 3 of 1998, whereby the Convention against Torture had been incorporated into domestic law, had already been invoked in decisions by the courts, whether any appeals had been lodged with the Procurator, and if so what conclusions had been reached.

346. Some members of the Committee also inquired whether there had been any cases of torture during the period under review, how many complaints had been filed, whether there were any statistics on the subject, whether the bills on the press and minorities had been considered and adopted by Parliament, whether political pluralism extended to civil society and community life as a whole and whether there was a bar council in Hungary, as well as a medical council and independent institutions for the protection and promotion of human rights in particular. They expressed the hope that the ratification, announced by Hungary, of the European Convention for the Protection of Human Rights and Fundamental Freedoms would rapidly become effective.

347. With regard to the implementation of article 2 of the Convention, some members of the

Committee asked for clarification of the amendments made to judicial supervision, and of the punishment to which an official would be liable if he employed coercion against a suspect during interrogation.

348. Turning to article 3 of the Convention, some members of the Committee requested further information on the application of the existing extradition procedure in Hungary.

349. Concerning article 4 of the Convention, some members of the Committee pointed out that, according to the information provided by the Government of Hungary, the provisions of the article had not been fully incorporated into Hungarian criminal law and that article 226 of the Criminal Code appeared to provide an extremely restrictive definition of what constituted an act of torture. In that respect, they asked whether all forms of torture, as defined by the Convention, constituted an offence under the Criminal Code.

350. As for articles 7 to 12 of the Convention, some members of the Committee asked for further information on legal practice in respect of each of the articles.

351. In connection with article 10 of the Convention, some members of the Committee asked to be provided with copies of the course manuals issued to officials in connection with combating torture, and to be given a description of the courses themselves. They also emphasized that adequate training in that sphere should be provided to persons responsible for receiving refugees.

352. On article 13 of the Convention, some members of the Committee referred to the report by Amnesty International concerning alleged ill-treatment of certain foreigners in Hungary and asked for information on existing machinery to investigate any complaints; more precisely, they referred to two allegations of torture in the report by Amnesty International and asked whether an investigation had been carried out, if it had been completed and, if so, what conclusions it had reached.

353. The representative of the reporting State, replying to the questions and comments, stated that pluralization was not confined to the political sphere but was also extended to civil society, which had various means at its disposal for exercising control over respect for human rights. As far as national or ethnic minorities were concerned, all of them had their respective associations. The gypsies - the largest minority in Hungary - had formed about 150 associations on various levels, which were very active in human rights-related activities. There was also a parliament of gypsies which defended the rights of that minority at the national level. As to professional groups, the influential Hungarian Lawyers Association constituted a guarantee of respect for human rights, including protection against torture. A bill on the rights of national and ethnic minorities was before the Parliament. The bill had been discussed in the Council of Europe at Strasbourg and had been found to represent a good approach to the issue; it covered all aspects and needs of minorities, both national and ethnic. A bill concerning the regulation of the media was being debated in Parliament and it was hoped that it would shortly be enacted.

354. The representative further stated that a bill providing for Hungary's accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights was currently before the Parliament. Public opinion polls had revealed a slight majority in favour of abolition of the

death penalty. Progressive abolition of harsh penalties was a tradition of Hungarian legal doctrine, and it should not be difficult to follow up the Constitutional Court's opinion that the death penalty should be abolished not only for political offences but also for other offences to which it had hitherto been applicable. The representative explained that anyone could refer to the Convention in court and judges could refer to it directly, but this had not been done so far because the domestic law had proved to be adequate in this respect. Statistics concerning cases of torture up to 1990 were available in the report; the later statistics were only of a general character. The representative also provided the Committee with a detailed description of the office of the ombudsman for the protection of civil and political rights and of the ombudsman for the protection of the rights of national and ethnic minorities in his country.

355. With regard to article 3 of the Convention, the representative said that if no agreement existed with a country whose nationals should be prosecuted for torture, Hungary would have recourse to the relevant provisions of the Convention itself, and would extradite an alleged torturer even in the absence of an extradition agreement.

356. With respect to article 4 of the Convention, the representative stated that the punishment of acts related to torture could only be carried out according to the Penal Code. Torture, as defined in the Convention, constituted in Hungarian law an aggravating circumstance affecting certain acts which involved deprivation of personal freedom. Article 228 of the Criminal Code sanctioned punishments for such acts, and the penalties had been increased under Act 17 of 1993, which also obliged judges to deal very severely with such offences, taking into account article 4 of the Convention.

357. As to whether Hungarian practice conformed to articles 6 and 7 of the Convention, the representative indicated that a national of another State suspected of having committed an offence specified in the Convention was subject to the same treatment and procedures as a Hungarian national. Under the Convention, problems relating to extradition must be settled according to the principles of universal jurisdiction. He also pointed out that Act XXXII issued in 1993 provided that every detainee must be informed in his mother tongue of his rights as they related to all phases and aspects of his detention.

358. In connection with article 10 of the Convention, the representative informed the Committee that necessary information on human rights, including that concerning the Convention against Torture, could be obtained by citizens from the official gazette, the press and professional publications. In that connection, he referred to the Acta Humana series published by the Hungarian Centre for Human Rights, issue No. 4 of which contained a study analyzing the Convention against Torture. He also described how such information was provided to students, law enforcement personnel, public officials and medical personnel. Provision of Convention-related information also formed part of postgraduate training for teachers who were provided with manuals by the Centre for Human Rights of the United Nations Secretariat.

359. With reference to article 11 of the Convention, the representative said that Act XXXII of 1993 represented an overall measure for improving all relevant provisions of the law dealing with interrogation rules, instructions, and arrangements for any form of arrest, detention or imprisonment.

360. With respect to article 13 of the Convention, the representative stated that the judiciary were competent to take decisions on all matters relating to detention, but Act XXXII of 1993 clearly established that any such decisions were open to appeal. As far as the allegations by Amnesty International were concerned, he said that they involved a one-sided statement made by alleged victims. Under Hungarian law, each victim had the right to turn to a competent local prosecutor to request proceedings against the enforcement authorities. The information available to the Government indicated that no such report had so far reached any prosecutor; that did not mean that such a report would not be made later as the alleged events were of very recent date. It would seem premature, however, to deal with those allegations as the full facts of the case were not yet available.

361. With regard to article 15 of the Convention, the representative indicated that cases involving evidence found to have been obtained by infringement of the law were always deemed invalid and were at the same time punishable under the Criminal Code, article 227 of which established prison sentences of up to five years for persons found guilty of obtaining evidence under duress.

Conclusions and recommendations

362. The Committee noted with satisfaction the progress made in Hungary towards democracy and the implementation of the Convention against Torture both in the legislative sphere and in legal practice.

363. The Committee expressed the hope that specific provisions of the Hungarian Criminal Code and new administrative measures would make it possible still more effectively to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment.

364. The Committee also suggested to the Hungarian authorities that they should develop still further training programmes for the various professions concerned with the application of the Convention.

CAT A/54/44 (1999)

78. The Committee considered the third periodic report of Hungary (CAT/C/34/Add.10) at its 356th, 357th and 361st meetings, held on 17 and 19 November 1998 (CAT/C/SR.356, 357 and 361) and has adopted the following conclusions and recommendations:

1. Introduction

79. The Committee examined the initial report of Hungary in 1989 and its second periodic report in 1993. The third periodic report of Hungary complies with the relevant guidelines but whereas it was due in 1996, it was submitted in April 1997. Hungary has recognized the competence of the Committee to receive and consider communications, under both articles 21 (1) and 22 of the Convention. It has also adhered to the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

2. Positive aspects

80. The Committee notes with satisfaction that Hungary earlier this year withdrew its reservation on geographical limitation to the 1951 Geneva Convention relating to the Status of Refugees, that previously excluded non-European asylum seekers. The Committee also notes with satisfaction, *inter alia*, the new legislation on asylum; Act LIX 1997 on Criminal Punishment System; the Ombudsman mechanism and Hungary's compliance with the previous recommendations of the Committee.

3. Subjects of concern

81. The Committee is concerned with the provisions of article 123 of the Criminal Code of Hungary that makes torture punishable only if the soldier or policeman committing the act was aware that by so doing he or she was committing a criminal offence. The Committee is also concerned about the persistent reports that an inordinately high proportion of detainees is roughly handled or treated cruelly before, during and after interrogation by the police and that a disproportionate number of detainees and/or prisoners serving their sentence are Roma.

82. The Committee is disturbed by information to the effect that a number of complaints of torture or treatment contrary to article 16 of the Convention do not result in the initiation of investigations by prosecutors.

83. The Committee is concerned about reports on conditions in prisons, detention centres and holding centres for refugees such as, *inter alia*, overcrowding, lack of exercise, education and hygiene.

4. Conclusions and recommendations

84. The Committee recommends that all necessary measures, including, in particular, prompt access to defence counsel assistance soon after arrest, and improved training, be taken to prevent and eradicate torture and all acts of cruel, inhuman or degrading treatment or punishment.

85. The Committee requests that Hungary should include in its next periodic report all relevant statistics, data and information on:

(a) The number of complaints about ill-treatment; the proportion they represent in relation to the total number of cases investigated and, in particular, the proportion of Roma complaints, detainees and prisoners;

(b) The number and proportion of cases discontinued by prosecutors, i.e. cases of torture or violations of article 16, the reasons, if any, for such discontinuance and the measures taken to ensure the complete impartiality and effectiveness of the investigation of the aforesaid complaints or accusations;

(c) Complaints against military personnel for alleged torture of civilians and the justification for military prosecutors handling such cases.

86. The Committee further urges the State party to take all appropriate action necessary to bring the Hungarian translation of article 3 (1) of the Convention in line with the authentic text of the aforesaid article.

87. The Committee urges the State party to re-examine article 123 of the Criminal Code and to effect the necessary amendments thereto in order to ensure its consonance with the terms and purposes of the Convention.