

LITHUANIA

CAT CAT/C/CR/31/5 (2003)

1. The Committee considered the initial report of Lithuania (CAT/C/37/Add.5) at its 584th and 587th meetings, held on 17 and 19 November 2003 (CAT/C/SR.584 and 587), and adopted the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the initial report of Lithuania and the additional information provided by the high-level delegation.

3. The report, which mainly addresses legal provisions and lacks detailed information on the practical implementation of the Convention and statistical data, does not fully conform to the reporting guidelines.

B. Positive aspects

4. The Committee welcomes the ongoing efforts by the State party to reform its legal system and revise its legislation in order to safeguard fundamental human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, including:

(a) The adoption of a new Criminal Code and Code of Criminal Procedure which prohibit the use of violence, intimidation, degrading treatment or treatment impairing a person's health, and a Code of Enforcement of Punishments, all of which entered into force on 1 May 2003;

(b) The promulgation of Order 96 (8 June 2001) of the Prosecutor General on Control in Ensuring Protection of the Detained and Arrested Persons Against Torture and Inhuman or Degrading Treatment or Punishment;

(c) The adoption of the Law on Compensation of Damage Resulting from Unlawful Actions of Institutions of Public Authority on 21 May 2002;

(d) The Law on the Establishment of Administrative Tribunals (1999) providing for the examination of complaints concerning acts, actions or omissions of public officials;

(e) The transfer of responsibility for enforcement of criminal punishments from the Ministry of the Interior to the Ministry of Justice by Law No. VIII-1631 of 18 April 2000;

(f) The ratification of several human rights treaties, notably the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and ongoing cooperation with the Committee for the Prevention of Torture;

- (g) The ratification of the Rome Statute of the International Criminal Court in 2003;
- (h) The development of a National Human Rights Action Plan approved by resolution of the Parliament of Lithuania No. IX-1185 of 7 November 2002;
- (i) The development of institutional structures for human rights, in particular the Parliamentary Ombudsman, the Ombudsman for Equal Opportunities of Women and Men and the Children's Rights Ombudsman;
- (j) The establishment of the Witness and Victim Protection Service of the Police Department;
- (k) The steps initiated to reduce overcrowding by, inter alia, introducing a crime of misdemeanour which prescribes non-custodial punishments.

C. Subjects of concern

5. The Committee expresses concern about the following:

- (a) The absence of a comprehensive definition of torture as set out in article 1 of the Convention, and lack of a specific criminal offence of torture in criminal law (art. 4);
- (b) The failure in practice to enable detained persons to obtain access from the outset of their detention to a lawyer, independent doctor or family members;
- (c) Allegations of ill-treatment of persons in custody that may amount to torture, particularly any that may take place during police interviews;
- (d) Procedures related to expulsion of foreigners which in some instances may be in breach of article 3; the conditions in the facilities where foreigners awaiting expulsion are kept and the absence of data on the age, sex and country of destination of expelled foreigners or stateless persons, specifically those at the Foreigners Registration Centre;
- (e) The large increase in complaints about the treatment of prisoners by the police (largely due to the State's own positive efforts to make the complaint process more confidential) and that, according to the State party, almost half of such complaints have been upheld. The Committee is further concerned that investigations into allegations against police officers are not conducted by a body independent of the police;
- (f) Reports that some State-appointed lawyers have shown little interest in how their clients who are detained are treated;
- (g) The lack of information on compensation and rehabilitation provided to victims of torture and/or ill-treatment;
- (h) That conditions in places of detention are poor, as acknowledged by the State party, and that

some prisoners "live in fear" of inter-prisoner violence, as noted by the European Committee to Prevent Torture;

(i) The lack of information provided regarding allegations of brutality against conscripts in the army.

D. Recommendations

6. The Committee recommends that the State party:

(a) Adopt a definition of torture that covers all the elements contained in article 1 of the Convention and incorporate into the Penal Code a definition of a crime of torture that clearly responds to this definition;

(b) Ensure that all detained persons have immediate access to a doctor and a lawyer, as well as contact with their families at all stages of detention (art. 2);

(c) Take all appropriate measures to prevent acts of torture and ill-treatment by, inter alia:

(i) Ensuring that health-care personnel are trained to identify signs of physical and psychological torture;

(ii) Emphasizing the importance of training prison officials to develop good communication skills between themselves and with detainees, as a measure to reduce the resort to prohibited physical coercion, and to reduce inter-prisoner violence;

(iii) Taking other appropriate measures to prevent acts of ill-treatment by members of the police, and establish a fully independent and impartial investigation system;

(d) Ensure in practice that the public prosecutor's actions are monitored to ensure that any persons who allege ill-treatment or torture or who require medical examination are permitted by the public prosecutor to receive such examinations at their request and not only at the order of an official;

(e) Take urgent and effective steps to establish a fully independent complaints mechanism, ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities and the prosecutions, and punish, as appropriate, the alleged perpetrators;

(f) Ensure that officials in the army promptly investigate reports of brutality against conscripts that may amount to ill-treatment or torture, and investigate other reports of abuse fairly and impartially, and hold those responsible to account;

(g) Ensure that the competent authorities strictly observe article 3 of the Convention and do not expel, return or extradite a person to a State where he/she might be subjected to torture. The Committee urges the State party to intensify efforts to ensure that holding facilities for foreigners meet international standards and requests disaggregated data in that respect;

(h) Continue efforts to provide an effective legal aid system by, inter alia, public financing of defence counsel offices, providing adequate remuneration, and involving the Bar Association in coordinating appointments;

(i) Provide information about the possibilities for redress and the rehabilitation available for victims of torture and other forms of cruel, inhuman and degrading treatment or punishment;

(j) Continue to take measures to improve conditions of detention for both remand and convicted persons;

(k) Consider making the declarations under articles 21 and 22 of the Convention and consider ratifying the Optional Protocol to the Convention;

(l) Consider consulting with non-governmental and civil society organizations when preparing all parts of the next periodic report.

7. The Committee requests the State party to provide in its next periodic report detailed statistical data, disaggregated by crime, geographical location, ethnicity and gender, on complaints relating to torture and ill-treatment allegedly committed by law enforcement officials and on the types and results of cases of police and other law enforcement personnel accused of torture-related offences, including those rejected by the court, and on the compensation and rehabilitation provided to the victims, if any.

8. The Committee requests that the State party provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 6 (d), (e) and (f) above;

9. The Committee requests the State party to widely disseminate the Committee's conclusions and recommendations and the summary records of the review of the State party's initial report in the country, including to law enforcement officials and by means of publication in the media, and through distribution and popularization efforts by non-governmental organizations.