

PORTUGAL

CAT A/49/44 (1994)

106. The Committee considered the initial report of Portugal (CAT/C/9/Add.15) at its 166th and 167th meetings, held on 16 November 1993 (see CAT/C/SR.166 and 167), and adopted the following conclusions and recommendations:

Introduction

107. The Committee notes with satisfaction that the report of Portugal is in conformity with its general guidelines on the presentation of the initial reports to be submitted by States parties under article 19, paragraph 1, of the Convention.

108. It listened with interest to the oral statement and explanations and clarifications of the Portuguese delegation. It greatly appreciated the spirit of trust and fruitful cooperation that characterized the dialogue with the delegation.

109. However, the Committee noted with regret that the report had been submitted more than three years late, contrary to the provisions of article 19, paragraph 1, which stipulates that States parties should submit initial reports within one year after the entry into force of the Convention for the State party concerned.

Positive aspects

110. The Committee expresses its appreciation for the efforts made by the State party in the constitutional and legislative fields to ensure that its legal system is in conformity with the Convention. Those efforts seem to be the expression of a genuine desire to create the conditions necessary to protect the physical and moral integrity of individuals and to prevent the practice of torture and cruel, inhuman or degrading treatment.

111. The Committee particularly appreciates the fact that the Constitution of Portugal:

(a) States that duly ratified international conventions are directly applicable and directly binding on all public and private bodies;

(b) Affirms the joint liability of the State, its public bodies and officials in civil matters;

(c) Declares evidence obtained under torture to be invalid, as well as clearly proclaiming that the right to physical integrity cannot be called in question when the country is under a state of siege or a state of emergency.

112. The Committee considers as positive the objectives of the institutions set up to protect and promote human rights, and the broad teaching, training and information programme being carried

out to that end.

Subjects of concern

113. The Committee against Torture notes with regret that, despite those efforts:

(a) Ill-treatment and occasionally acts qualified as torture continue in police stations and other places of detention throughout the country;

(b) Investigations into such allegations are often embarked upon rather late and last too long and offenders are not always brought to court. That situation, together with the lightness of the sentences imposed, creates an impression that the culprits act with relative impunity - an impression highly prejudicial to the implementation of the provisions of the Convention.

114. The Committee also considers that the duration of pre-trial detention, both in law and in practice, is a negative factor.

115. Moreover, it regrets the treatment of the territory of Macao, under Portuguese administration until December 1999, owing to the non-application of the Convention against Torture to that territory.

Recommendations

116. In conclusion, the Committee recommends:

(a) That the next periodic report of the State party should be submitted within the time-limit laid down in the Convention;

(b) That the State party should continue its efforts, particularly with respect to the reform of the Penal Code and the Code of Criminal Procedure, to ensure that its legislation is fully in conformity with the provisions of the Convention;

(c) That it should establish machinery for the systematic review of interrogation rules, instructions, methods and practices, particularly at police stations, as stipulated in article 11 of the Convention, and ensure that such machinery is sufficiently effective, as required by article 2, to give full effect to the commitments assumed and to implement the provisions of the Convention.

(d) That it should extend the application of the Convention to Macao, in accordance with article 2, paragraph 1, of the Convention.

117. The Committee against Torture takes note of the undertakings given by the Portuguese delegation and is convinced that Portugal will spare no effort to implement these recommendations.

CAT A/53/44 (1998)

70. The Committee considered the second periodic report of Portugal (CAT/C/25/Add.10) at its 305th and 306th meetings, on 13 November 1997 (CAT/C/SR.305 and 306), and adopted the following conclusions and recommendations:

Introduction

71. The Committee notes with satisfaction that the report of Portugal conforms to the general guidelines regarding the presentation of periodic reports. It expresses its great satisfaction at the full, detailed and frank nature of the report.

72. The Committee listened with the greatest interest to the oral statement and explanations and clarifications from the delegation of Portugal, which displayed a real willingness to enter into dialogue and great professionalism.

Positive aspects

73. The Committee expresses its gratification at the State party's impressive efforts in the legislative and institutional spheres to bring its legislation into line with the obligations resulting from its accession to the Convention.

74. The Committee particularly appreciates the following innovations:

- (a) The adoption of a new Penal Code containing a definition of torture;
- (b) The opening of certain courts on Saturdays, Sundays and public holidays so that arrested persons can be brought before them without delay;
- (c) The adoption of the Physicians' Code of Ethics;
- (d) The establishment of criminal sanctions for officials who fail to report acts of torture within three days of learning of them;
- (e) The adoption of the rule *aut dedere, aut judicare*;
- (f) The adoption and implementation of an extensive programme for education in the sphere of human rights in general and in that of the prevention of torture in particular;
- (g) The establishment of the office of Provedor de Justiça and of the Inspeccão-Geral da Administração Interna and, in particular, the powers vested in those institutions;
- (h) The recognition of the right of victims of torture and similar acts to compensation, as well as the general system for the compensation of victims of offences;

(i) The provisions of article 32, paragraph 6, of the Constitution invalidating evidence obtained by torture;

(j) The revision of the Constitution, especially the ending of the status of military courts as special courts.

Factors and difficulties impeding the application of the provisions of the Convention

75. The Committee observes that there are no particular factors or difficulties impeding the application of the provisions of the Convention in Portugal.

Subjects of concern

76. The Committee is seriously concerned about the recent cases of ill-treatment, torture and, in some instances, suspicious death attributed to members of the forces of law and order, especially the police, as well as the apparent lack of any appropriate response by the competent authorities.

77. The rules on extradition and deportation are not conducive to full observance by the State party of the Convention, especially article 3 thereof.

Recommendations

78. The State party should revise its practice regarding the protection of human rights so as to make the rights and freedoms recognized in Portuguese law more effective, and to narrow or even eliminate the gap between the law and its implementation. To that end it should devote the greatest possible attention to the handling of files concerning accusations of violence made against public officials, with a view to initiating investigations and, in proven cases, applying appropriate penalties.

79. Even though the principle of due process applies in Portugal, the legislation should be clarified in order to remove any doubts concerning the obligation on the part of the competent authorities to initiate investigations of their own accord and systematically in all cases where there are reasonable grounds for believing that an act of torture has been committed on any territory within their jurisdiction.

CAT A/55/44 (2000)

96. The Committee considered the third periodic report of Portugal (CAT/C/44/Add.7) at its 414th, 417th and 421st meetings on 3, 4 and 8 May 2000 (CAT/C/SR.414, 417 and 421), and adopted the following conclusions and recommendations.

1. Introduction

97. The Committee notes with satisfaction that the third periodic report of Portugal, which was received on time, conforms to the general guidelines for the preparation of periodic reports. It expresses its satisfaction at the full, detailed and frank nature of the report.

98. The Committee heard with interest the oral statement of the Portuguese delegation, in which details were provided of events that had occurred since the submission of the report. The Committee noted, in particular, the extension of the Convention to the territory of Macau, which had been confirmed by the Peoples' Republic of China.

2. Positive aspects

99. The Committee notes the ongoing initiatives of the State party to ensure that its laws and institutions conform to the requirements of the Convention.

100. The Committee particularly notes the following developments:

(a) The restructuring of the police agencies, which is designed to emphasize the civilian aspects of policing;

(b) The decision to set up an inspectorate of prisons;

(c) The creation of a database to streamline information relating to cases of abuse of public power;

(d) The enactment of regulations governing police use of firearms that reflect the Basic Principles on the Use of Firearms by Law Enforcement Officials;

(e) The enactment of regulations relating to conditions of detention in police lock-ups, setting out the minimum standards to be observed;

(f) The acknowledgement by the European Committee for the Prevention of Torture, as a result of its 1999 inspection, that improvements have taken place with respect to prisons, including the creation of a national drug unit for prisons and the setting up of new prison health units;

(g) The initiation of the practice of monthly prison visits by magistrates to receive prisoners' complaints concerning treatment;

(h) The introduction in 2000 of a new system of police training with a curriculum developed by a board that includes representatives of civil society;

(i) The active measures that have been taken to reduce violence in Portuguese prisons;

(j) The active dissemination of information relating to the Convention, including publication for the judiciary, in an official periodical, of the proceedings relating to the second periodic report.

3. Subjects of concern

101. The Committee is concerned at continuing reports of a number of deaths and ill-treatment arising out of contact by members of the public with the police.

102. It is also concerned at continuing reports of inter-prisoner violence in prisons.

4. Recommendations

103. The State party should continue to undertake in vigorous measures, both disciplinary and educative, to maintain the momentum moving the police culture in Portugal to one that respects human rights.

104. The State party should particularly ensure that criminal investigation and prosecution of public officers are undertaken **as a matter of course** where the evidence reveals that they have committed torture, or cruel or inhuman or degrading treatment and punishment.

105. The State party should continue to take such steps as are necessary to curtail inter-prisoner violence.