



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.
GENERAL

CAT/C/39/Add.5 (SUPPL)
4 March 2004

ENGLISH
Original: SPANISH

COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Third periodic reports due in 1997

Addendum

CHILE*

[26 February 2004]

* For the initial report submitted by the Government of Chile, see CAT/C/7/Add.2; for its consideration, see CAT/C/SR.40 and 41, and Official Records of the General Assembly, forty-fifth session, Supplement No. 44 (A/45/44), paras. 341-375. An additional report (CAT/C/7/Add.9) was submitted by the Government of Chile and considered by the Committee. See documents CAT/C/SR.77 and 78, and Official Records of the General Assembly, forty-sixth session, Supplement No. 46 (A/46/44), paras. 237-262.

For the second periodic report, see CAT/C/20/Add.3; for its consideration, see CAT/C/SR.191 and 192, and Official Records of the General Assembly, fiftieth session, Supplement No. 44 (A/50/44), paras. 52-61.

The information submitted in accordance with the consolidated guidelines for the initial part of reports of States parties is contained in document HRI/CORE/1/Add.103.

GE.04-40666 (E) 160404 230404

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Background

1. The Committee against Torture will consider the third periodic report of Chile on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment at its thirty-second session, to be held in May 2004. Chile submitted this report to the Committee in February 2002. In view of the two years that have elapsed between these two dates, new information for the Committee on the measures taken by Chile during this period to implement the commitments made under the Convention is provided below.

2. In order to make this background information easier to understand, it has been presented under headings indicating the corresponding articles of the Convention against Torture and the number of the paragraph in the third report that is being updated.

Introduction

Paragraph 19

3. The reform of criminal procedure has been implemented in 12 of Chile's 13 regions as of January 2004. In the Metropolitan Region, the largest and most complex region in Chile, implementation has been postponed for six months and will be initiated in the second half of 2005. Preparations for the introduction of the reform in this region continue. To date, chief prosecutors have been appointed and a public competitive examination has been organized to fill deputy prosecutor posts and to select and appoint the judges who will hear criminal cases and those responsible for safeguarding the rights of defendants and others involved in criminal trials (guarantee judges).

4. As regards the set of provisions comprising the reform of criminal procedure, the only bill still pending, relating to provisions adapting the Chilean legal system to the new system of criminal procedure, has been in force since 21 May 2002, as Act No. 19,806.

Paragraph 23

5. The modernization of the Chilean Investigative Police is continuing on the basis of the following changes: (a) a map for institutional development, the Plan Fénix II, has been established. This plan is made up of various programmes and projects for the modernization of the Police. To ensure that police investigations are more thorough, a number of programmes exist for equipping criminal investigation laboratories, including the AFIS (automated fingerprint identification system) Project and the IBIS (Integrated Ballistics Identification System) Project, and for equipping regional laboratories. This support increases the efficiency of police investigations and reduces the probability that investigators will resort to unlawful coercion or torture; (b) the reform of criminal procedure, which is about to be implemented throughout the country, requires an increase in the number of police officers in order to meet the demands of the Public Prosecutor's Office for investigations of crimes and to redefine the competencies of police officers in the light of the new procedure. Since 1999 the Investigative Police has been preparing for this and training its members in order to provide an appropriate response to the requirements of the new adversarial model. It is of vital importance that the fundamental rights

of individuals, in particular the right to physical and mental integrity, be respected. Police officers must perform their work in strict compliance with the safeguards established for suspects and victims, otherwise the evidence obtained will be unlawful and may be dismissed and not used in the trial. Once the investigation phase is concluded, the police must attend the oral and adversarial proceedings in order to report publicly on the “legality” of their work and respond in satisfactory fashion to questioning by the defence. The measures adopted to familiarize the police with the new environment and a culture of human rights have been implemented in two ways: reform of professional training and establishment of the Department for the Coordination of Criminal Procedure Reform.

Following paragraph 26

6. With reference to new measures to prevent and punish torture, after receiving opinions from the churches and lay, social and political institutions, the President of the Republic, Ricardo Lagos Escobar, announced his human rights proposal entitled “No future without a past” to the country on 12 August 2003. The proposal contains a set of measures intended to: (a) make progress in clarifying the truth of human rights violations that occurred under the military regime from 11 September 1973 to 10 March 1990 and (b) increase the social compensation to which the victims are entitled. The measures under consideration include the appointment of special judges to hear human rights cases; proposed legislation to improve judicial investigation of human rights violations and expedite the submission of information; improvements to pensions, education benefits, problems of succession and medical care for victims’ relatives; and strengthening of an institutional system that will ensure that human rights are respected in the future through the ratification of human rights treaties, reinforcement of human rights education and the establishment of an Institute of Human Rights and Public Freedoms. One of the central measures of this proposal was the establishment in September 2003 of the National Commission on Political Imprisonment and Torture.

Article 2

Paragraph 30

7. As previously mentioned, implementation of the reform of criminal procedure in the Metropolitan Region has been postponed until the second half of 2005.

Paragraph 33

8. With reference to the abolition of arrest on suspicion, the purpose of Act No. 19,693 of 28 September 2000 was to enhance the efficiency of Chile’s Carabineros and Investigative Police. Article 260 bis of the Code of Criminal Procedure was thereby amended. This amendment enables the police to request the identification of any person in cases where there are grounds for doing so: evidence that the individual has committed or attempted to commit a crime or an offence, or is about to do so, or might be able to provide useful information for the investigation of a crime or offence. In such cases identification takes place on the spot; the individual is required to produce identification documents issued by the authorities and is given an opportunity to find and show these documents. If a person refuses to prove his identity, or if when given an opportunity cannot do so, the police take the person to the nearest police unit for identification. If the person has not been able to prove his identity, he will be given an

opportunity to do so there; if this is not possible the police will offer to release him immediately if he gives written permission for his fingerprints to be taken; these may be used only for identification purposes and will subsequently be destroyed. Police authority to require persons to identify themselves must be exercised as expeditiously as possible, and the process may not take more than four hours.

9. Act No. 19,789 of 30 January 2002 amends, inter alia, article 85 (b) of the Code of Criminal Procedure concerning the police procedure for searching the clothes, luggage or vehicle of a person whose identity is being checked. Requirements such as those indicated in the previous paragraph have been included - i.e., provision is made for destroying the fingerprints once the formality has been completed, and a period of six hours is established after which the individual must be released.

Paragraph 38

10. As regards effective administrative measures adopted by the Gendarmería (prison police) to prevent acts of torture, it should be added that:

- The existing Regulations for Prisons establish in article 39: “Detainees shall have the right to inform their families or a person named by them on entering the establishment of their imprisonment or transfer to another establishment. This information shall be transmitted by the detainee by means of a single communication using the telephone of the establishment, unless the competent Court has decreed that the person should be held incommunicado, in which case the information shall be transmitted by social assistance staff or, in their absence, by staff in charge of entry formalities as soon as possible and within 24 hours of the entry or transfer. In special cases, such as mass transfers or entries, the Prison Administration shall make the communication referred to above by equally efficient means”;
- The issuing of a new edition of the Prison Establishment Regulations is being studied with a view to adapting the text to the criminal procedure reform and the system for the enforcement of sentences;
- The cooperation agreement between the British Embassy and the Ministry of Justice was ratified in 2003 and has been extended until 2005 for implementation in all establishments under the authority of the Gendarmería;
- In 2004, as part of the programme on strategic planning and human rights, the Gendarmería will draw up plans for improved compliance with international human rights standards in three regions of Chile (V, IV and VII). Early in 2006 this programme will be extended to all Gendarmería establishments;
- New internal monitoring and control mechanisms have been established:
 - The Administrative Prosecutor’s Office which, along with its other competencies, has taken on the most important inquiries involving possible responsibility on the part of members of the Gendarmería for unlawful acts committed in the performance of their duties;

- The Officials' Assistance Unit, which has assumed responsibility for the defence of officials in proceedings for coercion applied in their duties and for constitutional remedies filed against the institution;
- The Information, Complaints and Suggestions Office (OIRS) (Dec. Ext. No. 1972/31.07.01), composed of a national and regional department. These offices have been operating since 2002 and have received an average of 4,000 visits and 30 complaints per month. The main topics discussed during visits are: transfers, prisoners' work, benefits, status of the prisoner's case, etc. The main complaints are: overcrowding in prisons, defects in the internal regime and delays in registering prison visits.

Paragraph 41

11. As regards effective administrative measures adopted by the Carabineros to prevent acts of torture, the latter's Department of Order and Security constantly reiterates the instructions issued concerning the rights of detainees. To the instructions mentioned in the third periodic report of Chile should be added subsequent instructions concerning police procedures in cases involving the detention of adults and minors; these relate, inter alia, to identity checks (Communication ® No. 3 of 3 January 2002); temporary deprivation of liberty for security reasons in cases of drunkenness and consumption of alcohol on public highways (Communication No. 1060 of 28 November 2002); detention under the new criminal procedure system (Communication ® No. 204 of 26 March 2003); and deprivation of liberty of minors (Circular No. 1615 of 25 April 2003).

Paragraph 44

12. As regards the adoption of internal measures contributing to the prevention of torture by the Investigative Police, mention should be made of the establishment in 2001 of the Coordination Office for the Implementation of the Reform of Criminal Procedure (General Order No. 1794 of 2 February 2001). This Office was incorporated into the Office of the Inspector-General in 2003, where it became the Department for Coordination of Criminal Procedure Reform (General Order No. 1984 of 21 November 2003). This Department was set up with the aim of preparing, presenting and implementing plans and programmes for integrating police personnel in the reform effort. It also oversees this process and proposes amendments to the institution's regulations with a view to ensuring appropriate coordination with the Public Prosecutor's Office. Activities carried out by the Coordination Department include the provision of advisory services to police personnel in police units affected by the reform and the systematic training of Investigative Police officers, with emphasis on the constitutional guarantees and procedural rights afforded to suspects. According to the latest report assessing the criminal procedure reform,¹ the main conclusion to be drawn from the sources reviewed and the information gathered in the regions is that the new system has apparently had an impact in terms of reducing serious violations of the physical and mental integrity of detainees and police abuses in general. These achievements may be explained by the role played by detention review hearings and the work done by defence lawyers and prosecutors under the new procedure. The same report stresses the work of preparation and the concerns of the Investigative Police in

the area of human rights. A guarantee judge notes that in her region: “The treatment of suspects by the Investigative Police has improved. They are more concerned, more aware, frequently come to hearings and are very concerned about what the judges think ... They have chosen to come to the hearings and pay attention and they take notes; the senior officers come and they, too, take notes on everything come and they too take notes on everything.”²

Paragraph 45

13. As regards effective judicial means of preventing acts of torture, during the period 1999-2003 applications for *amparo* were filed with the courts of appeal for alleged ill-treatment or unlawful coercion by members of the Gendarmería.³

Article 9

Paragraph 74

14. As regards multilateral treaties on mutual judicial assistance, ratification of the Inter-American Convention on Mutual Legal Assistance in Criminal Matters, signed by Chile in 1992, remains pending. In January 2004, however, a move was made to appoint the central authority expressly required by this Convention, with the Ministry of Foreign Affairs so designated.

Article 10

Paragraph 77

15. With reference to education and information on the prohibition of torture in the training of members of the Gendarmería, a course on democratic culture has been included in the curriculum for cadets in the Gendarmería College since 2001. This is a two-semester course of two hours per week. Its purpose is to discuss Chile’s democratic institutions from the standpoint of the participation, rights and obligations of citizens.

Paragraph 82

16. As regards education and the provision of information on the prohibition of torture in the training given to members of the Investigative Police, as was indicated in the third periodic report of Chile, this system of education focuses on modern technology, efficiency and training in ethics. This is the first national police institution to initiate a process of modernization that systematically incorporates human rights in the professional training given to its officials.

17. The Police Investigations College is currently engaged in two areas of activity: (a) curriculum reform, involving planning, coordination and participation in the pertinent areas and levels, based on a review of the educational model under development, and (b) a contingency plan that seeks to adapt the curriculum to the needs of the criminal procedure reform.

18. Efforts to improve the training of its students are continuing in accordance with the requirements imposed by the State and civil society to meet the challenges posed by the criminal procedure reform, particularly as regards fundamental guarantees. The Investigative Police has concluded agreements with an external accreditation agency, the Higher Education Council,⁴ to evaluate, diagnose and develop its education model and curriculum. As a result of this exercise, the institution has initiated a process of curriculum reform. Its basic thrust derives from the need to provide ongoing professional police training, with emphasis on the development of attitudes and conduct that is consistent with a social ethic appropriate to a democratic State governed by the rule of law. As part of this curriculum reform, the Investigative Police has decided to reinforce the ethics and human rights courses taught in the Police Investigations College and to update their content, with emphasis on a wide-ranging group of academic activities relating to fundamental guarantees.

19. Implementation of the criminal procedure reform has had a major impact on the Investigative Police in terms of professional training and the number of officers it will have to provide to the system. The competencies required of police investigators in the new adversarial system have been redefined, particularly as regards their professional attitude and moral conduct, with emphasis placed on respect for and protection of life, the dignity of the individual, human rights, the principle of proportionality in the use of force, observance of professional secrecy, and professional honesty and impartiality.

Paragraph 88

20. With reference to the prohibition of torture in provisions concerning the duties of officers in charge of detainees, it should be added that the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 37/194 of 18 December 1982, are integral to the work of Gendarmería health officers who work with prison inmates.

Article 11

Following paragraph 96

21. With reference to the systematic review of rules and instructions relating to interrogation methods and practices and the custody and treatment of persons in detention and in prison, Carabineros comply strictly with existing constitutional and legal provisions and with their own institutional regulations, in particular Carabineros Regulation No. 11 and the Code of Ethics.

Article 12

Paragraph 98

22. As regards prompt and impartial administrative investigations of acts of torture carried out by competent authorities of the Gendarmería, the information contained in the inquiries carried out in 1998 is updated below, and the inquiries for 1999, 2000, 2001, 2002 and 2003 are added.

1998

23. A total of 20 administrative inquiries were registered in 1998 concerning acts constituting alleged abuses by members of the Gendarmeria of persons in their custody, including investigations of cases of physical, verbal and mental ill-treatment and sexual harassment. These inquiries were all completed by December 2003.

Date of decision	Region	Reason for inquiry	Disciplinary measures	Date of decision	Stage of proceedings
02.02.98	I	Assault	5% fine	14.05.99	Completed
06.07.98	I	Assault	Proceedings dismissed	10.11.98	Completed
22.10.98 (Res. No. 370)	I	Physical ill-treatment	Acquittal	18.04.00	Completed
07.04.98	V	Unnecessary violence	Proceedings dismissed	08.06.98	Completed
20.04.98	V	Assault	Acquittal	20.10.98	Completed
21.04.98	V	Assault	Proceedings dismissed	10.08.98	Completed
23.03.98	VI	Assault	Proceedings dismissed	05.05.98	Completed
26.02.98	VIII	Irregularities involving conditional release	Proceedings dismissed	10.07.98	Completed
06.04.98	VIII	Surgical operation suspended	20% fine	31.03.99	Completed
17.07.98	VIII	Improper confiscation of identity card	Proceedings dismissed	01.07.99	Completed
11.08.98	VIII	Verbal abuse	Proceedings dismissed	15.03.99	Completed
02.02.98	IX	Psychological ill-treatment	10% fine	22.06.99	Completed
14.01.98 (Res. No. 17)	R.M.*	Ill-treatment and harassment			Pending
09.04.98 (Res. No. 88)	R.M.	Lesbian activities	5% fine	02.03.00	Completed
14.04.98	R.M.	Improper release	Reprimand	08.07.98	Completed
14.05.98	R.M.	Confiscation of 325 dollars	5% fine, 20% fine and acquittal	01.04.99	Completed
12.06.98	R.M.	Assault	Proceedings dismissed and acquittal	14.06.99	Completed
04.08.98	R.M.	Confiscation of 100 francs	Reprimand	17.12.98	Completed
01.09.98	R.M.	Assault	Proceedings dismissed	22.01.99	Completed
23.09.98	R.M.	Sexual harassment	15% fine	25.02.99	Completed

* R.M.: Metropolitan Region.

1999

24. A total of 22 administrative inquiries were registered in 1999 concerning acts constituting alleged abuses by members of the Gendarmería of persons in their custody, including the investigation of cases of physical, verbal and mental ill-treatment and sexual harassment. As of December 2003, 19 inquiries had been completed and only 3 were pending.

Date of decision	Decision No.	Region	Reason for inquiry	Disciplinary measures	Date of decision	Stage of proceedings
18.01.99	17	I	Assault	Proceedings dismissed	20.01.00	Completed
22.02.99	135	V	Firing service weapon	Reprimand	13.09.99	Completed
23.03.99	263	V	Assault	Acquittal	20.07.99	Completed
27.04.99	442	VIII	Physical ill-treatment	Proceedings dismissed	06.10.99	Completed
27.04.99	443	VIII	Physical ill-treatment	5% fine	23.09.99	Completed
02.06.99	575	VIII	Death of prisoner	Proceedings dismissed	17.09.99	Completed
14.06.99	624	VIII	Verbal ill-treatment	10% fine	28.10.99	Completed
14.07.99	732	VIII	Ill-treatment, unlawful coercion	15% fine	06.03.00	Completed
13.08.99	851	VIII	Unlawful coercion	10% fine	25.11.99	Completed
06.07.99	428	IX	Death of prisoner	20% fine	09.03.00	Completed
01.03.99		X	Acts of sodomy	Proceedings dismissed	28.04.99	Completed
07.05.99		X	Assault	15% fine	18.08.98	Completed
12.01.99		R.M.	Improper handling of release	Reprimand	08.06.99	Completed
24.02.99		R.M.	Sexual harassment	Reprimand	16.07.99	Completed
18.03.99	231	R.M.	Assault			Pending
22.03.99	253	R.M.	Assault	Proceedings dismissed	17.05.00	Completed
21.04.99	352	R.M.	Authorization to visit welfare centre denied	Reprimand	16.06.00	Completed
25.05.99	482	R.M.	Sentence completed 11 months previously			Pending
16.07.99	637	R.M.	Harassment and psychological ill-treatment	Proceedings dismissed	26.09.00	Completed
22.07.99	657	R.M.	Death of prisoner	Acquittal	09.09.03	Completed
24.08.99	756	R.M.	Assault	Proceedings dismissed	12.08.03	Completed
26.03.99	637	D.N.	Death of prisoner			Pending

2000

25. A total of 28 administrative inquiries were registered in 2000 concerning acts constituting alleged abuses by members of the Gendarmería of persons in their custody, including the investigation of cases of physical, verbal and mental ill-treatment and sexual harassment. As of December 2003, 26 inquiries had been completed and only 2 were pending.

Date of decision	Decision No.	Region	Reason for inquiry	Disciplinary measures	Date of decision	Stage of proceedings
06.06.00	254	I	Assault on prisoners	Proceedings dismissed	03.11.00	Completed
24.05.00	220	I	Assault on prisoners	5% fine and 10% fine	29.12.00	Completed
11.10.00	519	I	Assault on prisoner	Proceedings dismissed	14.02.01	Completed
25.09.00	477	I	Release not granted	Reprimand and acquittal	03.04.01	Completed
11.10.00	451	II	Abuse of authority and acceptance of bribes	Dismissal	15.01.02	Completed
15.06.00	390	III	Assault on prisoner	15% fine and 10% fine	29.12.00	Completed
31.07.00	477	III	Irregularity in calculation of sentence	Acquittal and 5% fine	12.10.00	Completed
17.08.00	866	V	Assault on prisoners	10% fine/reprimand	04.12.00	Completed
19.04.00	395	VI	Assault on prisoners	5% fine	03.07.00	Completed
30.05.00	581	V	Assault on prisoners	5% fine	12.10.00	Completed
25.09.00	990	V	Ill-treatment of prisoners	Proceedings dismissed	21.12.00	Completed
16.03.00	123	VI	Assault on prisoners	18% and 13% fine	23.08.00	Completed
25.09.00	452	VI	Assault on prisoners	Proceedings dismissed	05.12.00	Completed
11.08.00	681	VII	Assault on prisoners	10% fine/reprimand	09.08.02	Completed
27.12.00	1 713	VIII	Assault on prisoners	15% fine	29.05.01	Completed
15.03.00	288	VIII	Assault on prisoners	Proceedings dismissed	12.12.00	Completed
27.11.00	1 589	VIII	Unlawful coercion and sale of marijuana	Proceedings dismissed	06.09.01	Completed
10.10.00	1 391	VIII	Delayed release	Proceedings dismissed	22.02.01	Completed
10.04.00	434	VIII	Physical ill-treatment of female prisoners	Proceedings dismissed	28.09.00	Completed
18.07.00	961	VIII	Delayed release	Proceedings dismissed	17.01.01	Completed
15.06.00	377	IX	Physical ill-treatment of prisoners	Proceedings dismissed	31.08.00	Completed
07.11.00	942	X	Unlawful coercion	Proceedings dismissed	07.06.01	Completed
07.11.01	857	X	Unlawful coercion			Pending
09.03.00	55	XII	Ill-treatment of prisoners	Proceedings dismissed	14.09.00	Completed
07.11.00	1 118	R.M.	Assault on prisoner	Reprimand	24.09.03	Completed
07.09.00	903	R.M.	Unlawful coercion and other complaints	Proceedings dismissed	14.04.03	Pending
29.09.00	963	R.M.	Assault on prisoner	15% fine	23.04.01	Completed
21.06.00	609	R.M.	Punishment of female prisoners	Proceedings dismissed	24.05.01	Completed

2001

26. A total of 30 administrative inquiries were registered in 2001 concerning acts constituting alleged abuses by members of the Gendarmeria of persons in their custody, including the investigation of cases of physical, verbal and mental ill-treatment and sexual harassment. As of December 2003, 24 inquiries had been completed and only 6 were pending.

Date of decision	Decision No.	Region	Reason for inquiry	Disciplinary measures	Date of decision	Stage of proceedings
24.09.01	676	I	Ill-treatment of prisoners	Proceedings dismissed	05.12.01	Completed
02.05.01	330	I	Abuse of authority and sexual harassment	Proceedings dismissed	07.01.02	Completed
18.05.01	237	II	Assault on juvenile prisoners	10% fine and reprimand	05.02.02	Completed
05.11.01	594	II	Assault on prisoners	15% fine	19.02.02	Completed
16.11.01	1 631	II	Assault on transfer prisoner			Pending
20.03.01	121	III	Delayed release	Reprimand	18.04.02	Completed
13.02.01	169	V	Assault on prisoners			Pending
24.08.01	1 020	V	Sexual relations with female prisoner	Proceedings dismissed	09.11.01	Completed
30.08.01	505	VI	Assault on prisoners	Proceedings dismissed	27.12.01	Completed
20.09.01	556	VI	Unnecessary violence	Acquittal	29.04.02	Completed
31.05.01	764	VIII	Assault on prisoners	Proceedings dismissed	25.06.01	Completed
28.03.01	391	VIII	Physical coercion of juvenile prisoner	Proceedings dismissed	26.04.01	Completed
23.08.01	658	IX	Ill-treatment of prisoners	10% fine/reprimand	18.12.01	Completed
22.01.01	39	X	Assault on prisoners			Pending
23.11.01	926	X	Assault on prisoners	5% fine/reprimand	09.07.02	Completed
23.11.01	925	X	Sexual harassment of female prisoners	Proceedings dismissed	07.06.02	Completed
12.10.01	810	X	Assault on prisoners	Acquittal and proceedings dismissed	12.06.02	Completed
08.06.01	411	X	Assault on prisoners	Acquittal	03.10.01	Completed
23.08.01	629	X	Verbal and physical ill-treatment of prisoners	Proceedings dismissed	10.09.02	Completed
31.12.01	1 040	X	Physical ill-treatment of prisoners	Proceedings dismissed	24.06.02	Completed
21.03.01	175	X	Assault on prisoners	Acquittal	09.10.02	Completed
23.10.01	371	XI	Physical ill-treatment and persecution	Acquittal	09.06.03	Completed
16.08.01	250	XII	Physical assault on juvenile prisoner	Proceedings dismissed	09.11.01	Completed
26.12.01	3 459	D.N.	Assault on prisoners	Proceedings dismissed	24.02.03	Completed
21.09.01	1 113	R.M.	Assault on prisoners	Proceedings dismissed	07.12.01	Completed
04.12.01	3 240	D.N.	Assault on prisoners			Pending
05.04.01	384	R.M.	Assault on prisoners			Pending
03.01.01	02	R.M.	Assault on prisoners	Proceedings dismissed	13.05.03	Completed
07.08.01	962	R.M.	Sexual practices contrary to morals accompanied by threats			Pending
27.04.01	1 081	D.N.	Physical ill-treatment of juvenile prisoner	Acquittal	08.01.03	Completed

2002

27. A total of 25 administrative inquiries were registered in 2002 concerning acts constituting alleged abuses by members of the Gendarmería of persons in their custody, including the investigation of cases of physical, verbal and mental ill-treatment and sexual harassment. As of December 2003, 8 inquiries had been completed and 17 were pending.

Date of decision	Decision No.	Region	Reason for inquiry	Disciplinary measures	Date of decision	Stage of proceedings
18.10.02	858	I	Assault on prisoners			Pending
27.11.02	1 001	I	Assault on prisoners			Pending
24.06.02	501	II	Assault on prisoners			Pending
03.09.02	559	IV	Assault on prisoners	Reprimand	14.07.03	Completed
18.12.02	821	IV	Assault on prisoners	Proceedings dismissed	19.02.03	Completed
01.04.02	238	VI	Assault on prisoners			Pending
03.07.02	1 777	VI	Assault on prisoners			Pending
02.09.02	682	VI	Assault on prisoners			Pending
01.10.02	1 132	VII	Assault on prisoners	Fine/reprimand	18.06.03	Completed
22.11.02	1 828	VIII	Assault on prisoners			Pending
03.04.02	463	VIII	Assault on prisoners			Pending
15.05.02	705	VIII	Assault on prisoners			Pending
06.06.02	807	VIII	Assault on prisoners			Pending
10.06.02	826	VIII	Assault on prisoners			Pending
23.12.02	2 031	VIII	Assault on prisoners			Pending
26.06.02	532	IX	Assault on prisoners			Pending
10.04.02	328	X	Assault on prisoners			Pending
29.08.02	1 154	R.M.	Assault on prisoners			Pending
07.10.02	2 849	R.M.	Assault on prisoners	Proceedings dismissed	22.05.03	Completed
24.10.02	1 368	R.M.	Assault on prisoners			Pending
04.11.02	715	IV	Sexual abuse of prisoners	Acquittal and proceedings dismissed	16.05.03	Completed
19.04.02	310	VI	Sexual abuse of prisoners			Pending
22.10.02	1 237	VII	Sexual abuse of prisoners	Proceedings dismissed	04.07.03	Completed
13.11.02	1 205	X	Sexual abuse of prisoners	Proceedings dismissed	21.07.03	Completed
22.04.02	1 020	R.M.	Sexual abuse of prisoners	Fine	16.12.02	Completed

2003

28. A total of 18 administrative inquiries were registered in 2003 concerning acts constituting alleged abuses by members of the Gendarmería of persons in their custody, including the investigation of cases of physical, verbal and mental ill-treatment and sexual harassment. By December 2003, 5 inquiries had been completed and 13 were pending.

Date of decision	Decision No.	Region	Reason for inquiry	Disciplinary measures	Date of decision	Stage of proceedings
23.08.03	510	III	Assault on prisoners			Pending
23.01.03	40	IV	Assault on prisoners	Proceedings dismissed		Completed
28.10.03	1 706	V	Assault on prisoners			Pending
11.08.03	1 319	V	Assault on prisoners			Pending
25.09.03	2 912	VIII	Assault on prisoners			Pending
27.10.03	3 347	VIII	Assault on prisoners			Pending
21.08.03	822	IX	Assault on prisoners			Pending
26.11.03	1 238	IX	Assault on prisoners			Pending
22.08.03	1 109	R.M.	Assault on prisoners			Pending
26.09.03	1 261	R.M.	Assault on prisoners			Pending
11.11.03	1 535	R.M.	Assault on prisoners			Pending
23.04.03	567	R.M.	Assault on prisoners	Fine	16.07.03	Completed
06.11.03	1 513	R.M.	Assault on prisoners			Pending
28.03.03	951	R.M.	Assault on prisoners	Fine/suspension from employment	09.09.03	Completed
20.02.03	141	II	Unlawful coercion	Fine	03.11.03	Completed
11.09.03	928	IX	Sexual abuse of prisoners			Pending
09.04.03	286	IX	Sexual abuse of prisoners	Reprimand	21.10.03	Completed
24.09.03	2 891	R.M.	Ill-treatment of prisoners			Pending

Paragraph 101

29. With reference to prompt and impartial administrative inquiries into acts of torture by competent authorities, information concerning Carabineros for the years 2001, 2002 and 2003 is set out below.

Official proceedings instituted following the excessive use of force or unnecessary violence which determined some degree of administrative responsibility on the part of Carabineros personnel

Table 1

	2001	2002	2003
	Second half		First half
Investigations	62	143	64
Inquiries	0	4	3
Total	62	147	67

Disciplinary measures imposed on Carabineros officers for excessive use of force or unnecessary violence

Table 2

	2001	2002	2003
	Second half		First half
Disciplinary penalties	21	39	13
Removal from post or dismissal	1	0	0

The disciplinary measures referred to in Table 2 correspond to “days of detention”.

Paragraph 104

30. With reference to prompt and impartial administrative investigations into acts of torture by competent authorities, information concerning the Investigative Police is set out below:

- An administrative inquiry was conducted in 2000 in respect of eight officers of the Judicial Police Headquarters in Calama, for unlawful coercion of a detainee and humiliation and criminally arrogant treatment of a lawyer in proceedings in the Third Criminal Court of Calama. Proceedings against three of the officers were dismissed, three were severely reprimanded and the remaining two received a warning.
- An administrative inquiry was opened in 2002 in respect of officers of the Lebu Criminal Investigation Brigade and the Concepción Homicide Brigade for alleged unlawful coercion. The inquiry is in the hands of the prosecutor’s office; to date there have been no findings.

- Two administrative inquiries were opened in 2003: the first originated in the submission of an application for annulment of proceedings on the grounds that a statement had allegedly been obtained by Investigative Police officers by means of unlawful coercion applied against individuals suspected of aggravated robbery in the Iquique prosecutor's office. The inquiry is in the hands of the prosecutor's office and there have been no findings to date; the second originated in a criminal complaint against Investigative Police officers for alleged unlawful coercion and mental torture which was submitted to the Punta Arenas Guarantees Court. The inquiry is in the hands of the prosecutor's office and there have been no findings to date.

Paragraph 109

31. As regards judicial proceedings brought against Investigative Police officers for the offence of unlawful coercion of detainees, five officers were involved in proceedings in December 2003: one in the Second Criminal Court of Melipilla and, in Santiago, two in the Twelfth, one in the Fourteenth and one in the Thirtieth Criminal Courts.

Article 14

Paragraph 113

32. With reference to the right to reparation, compensation and rehabilitation for acts of torture, the Corporation of Beneficiaries of the Programme of Compensation and Full Health Care for Victims of Human Rights Violations (PRAIS) was established in 1999 and is represented in all regions of Chile. Through this Corporation the beneficiaries have been drawing attention to the need for legal support for the existence of the Programme. In June 2001 an international conference organized jointly by the Ministry of Health and the Programme of Compensation (PRAIS) was held on "Consequences of Torture and the Health of the Chilean Population".

33. The number of Programme beneficiaries has been increasing steadily, particularly in the light of the impact on victims and their relatives of the increase in court proceedings relating to human rights violations perpetrated under the military regime. More than 110,000 beneficiaries had been registered by December 2002. In 2003, applications to join PRAIS increased still further as a result of the commemoration of the thirtieth anniversary of the military coup d'etat and the President's announcement of his human rights proposal, which was intended to promote discovery of the truth and improve the compensation due to the victims. In September 2003 registered PRAIS beneficiaries numbered 180,000, of whom 50,000 were direct victims. Accordingly, the Ministry of Health reasserted its commitment to the Programme and instructed all directors of health services in Chile to take steps to strengthen the Programme and improve the care provided to beneficiaries.

Numbers of registered and approved beneficiaries of the PRAIS Programme throughout Chile as at 30 September 2003

Health service	Total beneficiaries	Direct victims
Arica	242	163
Iquique	2 261	905
Antofagasta	3 215	642
Atacama	1 050	478
Coquimbo	7 729	3 478
Viña del Mar	Registered with the Valparaíso Health Service	
Aconcagua	387	123
Valparaiso	12 677	2 984
O'Higgins	10 305	2 061
Maule	11 546	6 928
Ñuble	1 414	636
Arauco	See information for Concepción	
Concepción	27 402	4 567
Talcahuano	See information for Concepción	
Bio Bio	See information for Concepción	
Araucanía Norte	3 260	1 467
Araucanía Sur	15 473	4 312
Valdivia	8 127	1 905
Osorno	6 346	1 013
Llanchipal	3 155	751
Aysén	92	22
Magallanes	4 633	887
Metropolitano Central	5 770	1 154
Metropolitano Occidente	22 775	5 993
Metropolitano Norte	Registered in Metropolitano Occidente	
Metropolitano Sur Oriente	22 823	6 007
Metropolitano Oriente	3 574	1 430
Metropolitano Sur	6 048	1 440
Total	180 304	49 346

34. The human rights proposal put forward by President Lagos will ensure that the desire of the PRAIS beneficiaries for legal regulation and extension of the medical benefits and the full reparation granted under the Programme becomes a reality.

National Commission on Political Imprisonment and Torture

35. The National Commission on Political Imprisonment and Torture was established by Ministry of the Interior Supreme Decree No. 1040 of 26 September 2003 in the context of President Ricardo Lagos's human rights proposal entitled "No future without a past".

This Commission acts as an advisory body to the President of the Republic. Its duties are: (a) to identify those persons who experienced deprivation of liberty and torture by agents of the State or persons in their service for political reasons during the period from 11 September 1973 to 10 March 1990 and (b) to propose to the President of the Republic the conditions, characteristics, forms and modes of reparation that could be granted to persons acknowledged to have been political prisoners or torture victims who have not received any reparation in this capacity. The Commission will carry out its task within six months. It began work on 11 November 2003 in the Metropolitan Region and on 1 December 2003 in the other regions of Chile and in Chilean consulates abroad. During its first two months of operation the Commission received approximately 10,000 applications, and it is estimated that a total of 25,000 may be submitted.

Notes

¹ Baytelman, Andrés and Mauricio Duce, “Evaluación de la Reforma Procesal Penal, Estado de una Reforma en Marcha”, Universidad Diego Portales, Faculty of Law, May 2003, p. 16.

² Baytelman, Andrés op. cit, pp. 155 ff.

³ (a) In January 2002, the Fifth Chamber of the Santiago Court of Appeal heard *amparo* proceedings No. 4848-2002, submitted on behalf of the prisoners in “module alpha” of the Colina II prison, concerning conditions there, which were considered by the complainants to be violations of their physical and mental integrity. In its judgement, the Court ordered the Gendarmería to cease using that sector until the necessary changes had been made to protect the rights of prisoners. The Gendarmería complied with this judgement and made changes in infrastructure relating to the sanitation services, permanent access to natural and artificial lighting, drinking water, sewage, etc. A technical team was also set up to provide the prisoners with social, psychological and spiritual assistance.

(b) In July 2002, the Court of Appeal heard *amparo* proceedings No. 624-2002 and ordered the removal of certain restrictions imposed on the prisoners of the security module referred to in (a) above, so that they might have access to newspapers, magazines, television and be able to send letters to the outside; head-shaving was not to be imposed, as it was considered to be a form of humiliation.

⁴ Among the functions of this body are the accreditation and certification of institutional projects aimed at obtaining full academic independence in Chile.
