



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

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COMMITTEE AGAINST TORTURE

Thirty-fourth session

SUMMARY RECORD OF THE PUBLIC PART\* OF THE 650th MEETING

Held at the Palais Wilson, Geneva,  
on Tuesday, 10 May 2005, at 3 p.m.

Chairperson: Mr. MARIÑO MENÉNDEZ

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\* No summary record was prepared for the closed part of the meeting.

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The public part of the meeting was called to order at 4.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 19 OF THE CONVENTION (agenda item 6) (continued)

Fourth periodic report of Finland (continued) (CAT/C/67/Add.1)

1. At the invitation of the Chairperson, the members of the delegation of Finland resumed their places at the Committee table.
2. The CHAIRPERSON invited the members of the delegation of Finland to reply to the questions put by Committee members at the 647th meeting.
3. Ms. MOHELL (Finland), referring to Committee members' concern at the lack of a definition of torture in the Finnish Penal Code, and at the fact that the Code did not take into account the questions of intent and psychological harm, said that her Government appreciated the Committee's recommendations but remained convinced that the Penal Code fully covered actions that would constitute torture under article 1 of the Convention. Actions that did not result in physical injury would be punishable as coercion under the Code.
4. In the light of its discussion with the Committee, however, her delegation agreed that the criminalization of torture would have symbolic value and underline the importance of the matter. She accordingly undertook to recommend that the Government again give careful consideration to the whole question.
5. On preventive detention, she said draft legislation currently before Parliament contained a proposal to abolish the current system.
6. Presidential pardons for life prisoners were granted taking account of the individual prisoner's behaviour and statements from the prison governor, the Criminal Sanctions Agency and the Supreme Court. However, decisions were not substantiated. The proposed reform of the Penal Code included new provisions on parole for life prisoners, but would not change the constitutional provisions on pardons.
7. Few statistical data were available on the impact of rehabilitation or of programmes for intoxicant-abusers. Follow-up research on certain programmes showed quite good results, however, and a programme for sexual offenders had clearly reduced recidivism.
8. A working group had reported in 2003 on the problem faced by Roma prisoners, but few of its suggestions had been implemented to date. Roma prisoners who felt threatened were seldom able to tell staff the real reasons behind requests for isolation. Regrettably, the fear was sometimes related to the fact that Roma had been found to be involved in smuggling drugs into prison. Drugs were known to play a role in much of the violence among prisoners. The situation had been improved by separating Roma who felt threatened from other prisoners and providing them with activities, including specially-funded training.

9. On sexual abuse in prisons, she said new research had yielded similar results to previous studies, with 2 out of 90 prisoners stating they had been raped in prison. It was possible that medical staff had observed a higher rate but were not allowed to report cases to the prison governor.
10. It would be extremely difficult to put an end to the “slopping-out” system before 2010, when the prison-renovation programme was due to be completed.
11. Lastly, she said new provisions on judicial supervision of isolation would be included in the proposed legislation on coercive measures.
12. Mr. LEHMUS (Finland), addressing members’ questions concerning police action, said the police always applied the minimum force required to achieve the desired results. If strong resistance was met, the police were allowed to postpone their action. Private planes could be chartered for difficult deportation cases.
13. Ministry of the Interior regulations clearly stated that under no circumstances whatsoever were the police allowed to use medication, electric shocks or paralysing gases in deportations.
14. Medication could be given upon request following a medical examination by a qualified doctor and in such circumstances was regarded as treatment.
15. A comprehensive review of the Aliens Act, including the use of coercive measures in connection with removal from the country, would begin later in the year.
16. The case of the minor questioned without a legal representative present had not yet been identified. However, the Minority Ombudsman had confirmed that such cases had occurred, even though the law clearly stated that the legal representative had the right to be present during questioning of a minor. There might have been exceptional circumstances permitting a derogation: it might, for example, have been impossible to reach the legal representative and the interview might have had to be conducted without delay. His delegation would convey the Committee’s concern to the authorities with a view to preventing any repetition of such incidents.
17. With regard to the length of detention of foreigners on police premises, he said three or four weeks was exceptional. The grounds for detaining foreigners were clearly defined in the Aliens Act. They must be transferred to detention units as soon as possible after issuance of a detention order, but the distances involved frequently meant that it was necessary to hold them on police premises first. Initial court proceedings took place in the town where the foreigner was first taken into custody; he was then transferred to the unit in Metsälä if there was room, but if it was full there was no alternative but to hold the foreigner on police premises. There was no implication that the foreigner was necessarily a criminal or dangerous.
18. The Metsälä detention unit operated under the auspices of the Ministry of Labour and the treatment of detainees was regulated by law. Foreign nationals placed in detention were to be treated fairly and with dignity. Their rights were limited only as required for the purposes of detention and the maintenance of security and order.

19. On the issue of consent to body searches, he said no consent was required under the law. Such searches could be carried out if there was reason to suspect that an offence had been committed, and could include searches of body cavities; tests requiring medical expertise could be performed only by a qualified physician.

20. Ms. SAVOLAINEN (Finland), replying to members' questions concerning asylum procedures, said no lists of safe countries were used in Finland. When the authorities considered asylum applications, countries were assessed for the degree of risk to the applicant on a case-by-case basis. Particular account was taken of the stability and type of political system, the independence of the judiciary and the possibility of a fair trial, whether the country was a party to international human rights instruments, and whether serious human rights violations had taken place there.

21. The legal basis for that procedure was the requirement that applications for residence permits must be assessed individually, in part on the basis of individual interviews at which the applicant could be assisted by a legal adviser, and taking account of all factors that might have a bearing on the degree of risk to the applicant in a given country.

22. In cases where an appeal against removal did not have automatic suspensive effect, the applicant could ask the Helsinki Administrative Court to suspend enforcement of the first-instance removal order. A reasoned request for suspension was sufficient and no comprehensive appeal was necessary at that stage; an interim decision could be given within a few hours. The possibility of suspending enforcement also applied where an application was being processed in the accelerated procedure. Applicants were entitled to legal assistance at all stages and free legal assistance was available from the Refugee Advice Centre.

23. On the issue of subsidiary protection, she said international protection needs and grounds for the granting of residence permits were assessed in a single procedure, which included consideration of subsidiary grounds for protection or compassionate grounds for granting a residence permit.

24. On the question of the refugee quota, she said Finland could admit for resettlement persons considered refugees by the Office of the United Nations High Commissioner for Refugees (UNHCR) or others in need of international protection.

25. Referring to paragraph 80 of the periodic report (CAT/C/67/Add.1), she said the new application by the Pakistani asylum-seeker in question had been processed under the normal asylum procedure, particular attention being paid to reports on his psychological and physical condition. The authorities could order removal if it was determined that the applicant was not in need of international protection, if there were no other grounds for granting a residence permit, and if there was no impediment based on the principle of non-refoulement. For practical reasons, monitoring the treatment of asylum-seekers after their return to their country of origin was not possible.

26. On the question of the investigation of asylum applications in the asylum-seeker's country of origin, the immigration department of the Ministry of the Interior, in a statement to the Parliamentary Ombudsman, had noted that extending the investigation to the country of

origin did not violate Finnish legislation or international obligations, so long as the prohibition on contacting the authorities in the asylum-seeker's country was respected. In order to clarify the procedure, a new paragraph had in 2004 been added to the Ministry of the Interior's instructions on asylum, which emphasized that if it was necessary to hear the applicant's family members in their home country, the hearing must be conducted in such a way as not to jeopardize the safety of the applicant or the family members. Such hearings required the applicant's written consent.

27. As to jurisprudence concerning danger specific to women as a ground for granting asylum, according to the Government's proposed amendment to the Aliens Act, gender-based persecution of women could be taken into account separately, as a ground for granting asylum. That was prompted by the fact that in certain cases women could face persecution on grounds other than those of race, religion, nationality or political opinion. In case law, gender had been considered an element in determining a particular social group. If the requirements for granting asylum were not met but the woman could be considered to be in danger if returned to her country, she could be issued with a residence permit on the basis of a need for protection, i.e. given subsidiary protection status.

28. The statistics requested on numbers of asylum-seekers would be submitted to the Committee at a later date. They were disaggregated by nationality but not by gender or age.

29. Ms. JOUTTIMÄKI (Finland) said that Finland's mental health policy focused on promotion, prevention, treatment and rehabilitation. The main goal was to identify mental health problems and provide help at an early stage. Since the early 1990s, there had been a major shift away from institutional inpatient care for psychiatric patients towards outpatient community care. Programmes aimed to develop supportive outpatient services for long-term patients through more supported housing, day centres, support staff and guided leisure activities, as well as greater support for carers.

30. The Government had recently granted additional allocations to mental health services to support the development of the sector. Increased availability of non-urgent psychiatric care would reduce the need for involuntary treatment.

31. However, there were still situations where it was necessary to provide mental health care against the will of the patient. Under the provisions of the Mental Health Act, involuntary treatment was possible if the mentally-ill person's condition would essentially worsen without the treatment or would seriously endanger his health or the health and safety of others, and if other mental health care services were unsuitable or inadequate. Restrictive measures must be taken in as safe a manner as possible, with due respect for the dignity of the patient. In choosing the nature and extent of the restriction, particular attention must be paid to the reason for which the patient had been admitted to hospital. In the treatment of a mental illness, only such measures could be taken against the patient's will as were medically acceptable in order to avoid endangering the safety of the patient or others. The decision on involuntary treatment or examination was usually made by the doctor treating the patient.

32. The Ministry of Social Affairs and Health had issued the “Quality recommendation for mental health services” in 2001, which was based on practical experience and outlined the essential structural and operational issues on which high-quality mental health services depended.

33. On the question of children and young persons placed in public care against the will of their guardians, in certain situations, for example if the child had been abused or the parents were intoxicant-abusers, it was considered in the best interests of the child that he be taken into care. The social welfare authorities were obliged to take a child into “substitute care” if his health or development was seriously endangered by a lack of care or other conditions at home, if the child seriously endangered his health or development through intoxicant abuse, if he committed an illegal act other than a minor offence, or if support interventions in community care were not appropriate or possible or had proved inadequate. Substitute care could take the form of foster care, residential care or any other appropriate arrangement. Foster care was provided on the basis of a written contract with a family that had been approved by the social welfare authorities. Residential care could take place in a children’s home, youth home, community home or other similar child-welfare institution.

34. In response to questions on sexual violence against women in public or in private, she said that the current government programme highlighted violence as an issue of gender equality. The National Council for Crime Prevention, established by the Ministry of Justice, had developed a comprehensive, interdepartmental national programme to reduce violence, and in that context had established a working group on the prevention of violence against women.

35. The Ministry of Social Affairs and Health had developed an action plan to prevent intimate partner violence and family violence, placing emphasis on preventive measures based on social policy and the development of the social and health service system. The action plan aimed to improve the national network of primary and special social and health services for victims and perpetrators of violence, and to develop the vocational expertise needed to handle issues of violence and provide further training to social welfare and health-care staff.

36. The State provincial offices were responsible for the supervision of various types of institutions, including those for the elderly, and for regional activities relating to the action plan. Regional development groups composed of local actors had been established in each province to implement the nationally approved policies and objectives of the action plan. They would also plan regional services for victims and perpetrators of violence and organize regional training. No complaints had been lodged with the State provincial offices concerning sexual violence in institutions for the elderly.

37. Mr. KOSONEN (Finland), referring to the question why the Office of the Minority Ombudsman was administered by the Ministry of Labour, said that the Ombudsman had an independent position in relation to the administrative authorities. From the administrative perspective, such an office should be subordinate to a larger administrative unit, while at the same time enjoying guaranteed independence. The Minority Ombudsman was not connected to the Parliamentary Ombudsman. Given that the prevention of racism and the promotion of good ethnic relations came under the competence of the ministries of labour and education, the Office of the Minority Ombudsman had been administratively linked with the Ministry of Labour.

38. The Ombudsman had a statutory right to make proposals on how to combat ethnic discrimination and submitted an annual report to the Ministry of Labour. During asylum investigations, applicants had the right to contact the Ombudsman, and the Ombudsman had the right to be heard in the handling of asylum applications and in cases of expulsion of failed applicants. Certain applicants who had received a negative decision and wished to appeal were directed by the Ombudsman, after an initial evaluation, to a lawyer, legal aid counsel or the refugee advice centre, as the Ombudsman's Office did not draft appeals. The Ombudsman also provided legal advice on issues such as the application of the Aliens Act or the status of ethnic minorities to lawyers, courts and other authorities.

39. The Ombudsman was assisted in his functions by a Board composed of 16 members appointed by the Government. The Board could, on the initiative of the Ombudsman or the Chairman, establish working groups and consult experts. The role of the Board was to make proposals concerning, and to promote non-discrimination, secure the rights of foreigners and develop cooperation between various institutions and organizations in the prevention of discrimination. The Board must be composed of representatives of government departments, the association of municipalities and at least five organizations linked to the work of the Ombudsman, such as NGOs and associations of ethnic minorities. The Equal Opportunities Ombudsman had a right to participate in the work of the Board. Although the Minority Ombudsman could, exceptionally, assist a person who had been subjected to ethnic discrimination, for the most part he offered only legal advice.

40. On the question of cases pending before international control mechanisms, Finland had been involved in various cases before the European Court of Human Rights. For example, in one case a parent had lodged a complaint against the Government because her child had been taken into care, claiming a violation because she had had limited contact with the child. However, the child's legal guardian had subsequently also brought a case against the Government, claiming that the social welfare authorities had not acted expeditiously enough to take the child into care. It was clear, therefore, that the Government was under pressure from different quarters.

41. There had also been a number of cases concerning foreigners brought before the European Court of Human Rights. In the 1990s, between 10 and 15 cases had been communicated to the Government for observations. The applicants had ranged in age from those born in the 1940s to one born in 1982; 2 had been women and 22 men. The delegation would submit more detailed statistics to the Committee at a later date.

42. Mr. EL-MASRY (Country Rapporteur), thanking the delegation for its comprehensive replies to the Committee's questions, welcomed the information on the issue of the definition of torture, and hoped that when discussing it, the Government would take account of the Committee's concerns. Further statistical information would also be welcome. The Committee had received conflicting information on the situation of Roma persons held in detention. Although the delegation had mentioned that the Roma were often grouped together in prisons owing to drug-related problems, the Advisory Board for Roma Affairs had expressed concern that ethnic origin was behind the segregation of Roma prisoners. He wondered whether all

Roma prisoners were guilty of drugs offences. The delegation had explained that the Minority Ombudsman was subordinate to the Ministry of Labour, since that Ministry dealt with many aspects of action to combat discrimination. He therefore wished to know why the Advisory Board for Roma Affairs was not also subordinate to that Ministry.

43. He asked why psychological and moral torture was punished in the same way as coercion, since coercion did not constitute torture. Turning to the question of accelerated asylum procedures, he asked whether applicants could benefit from the safeguards of the Finnish asylum system during the stated five-day period in which appeal decisions were made, or whether they could be deported irrespective of their appeal status. He wished to know why, in case No. 1851/4/00 mentioned in paragraph 80 of the State party report, the asylum-seeker in question had been deported despite having submitted a new application for asylum, and on what grounds his application had been rejected.

44. Mr. PRADO VALLEJO (Alternate Country Rapporteur) asked what measures were taken to ensure that agents of the State carried out their tasks effectively, with full respect for human rights. He requested further information on the steps being taken to ensure equality for the Roma, who currently appeared to have a lower political status than the rest of the Finnish population. More specific information on the spheres of competence of the Ombudsman would be appreciated. Further details on the criminalization of torture in Finland should also be provided.

45. Ms. GAER asked whether there was a specific social reason why the statistics she had requested were not recorded.

46. Mr. KOSONEN (Finland) said that his delegation had taken note of the Committee's concerns about the definition of torture, and in particular the significance of psychological and moral injury. Those concerns would be transmitted to the Government and given thorough consideration. His Government's understanding of coercion related to its understanding of torture. Further information on that issue would be submitted to the Committee in due course.

47. Much work had been carried out in the Ministry of Social Affairs and Health and the Ministry of Foreign Affairs in order to establish the Office of the Minority Ombudsman. Almost all of Finland's government ministries gave priority attention to human rights issues, in particular the promotion and protection of ethnic minorities, including the Roma. The Government was particularly concerned about the situation of the Roma, although it was not the case that they had a lower political status than the rest of the Finnish population.

48. The Ombudsman and the Chancellor of Justice performed similar tasks, although duplication of work was avoided. The Ombudsman gave independent legal advice and recommendations, and could press charges if he or she deemed it necessary. The Ombudsman had many contacts with NGOs and civil society, and the Government did not interfere in any way in their consultations. The work of the Ombudsman was highly appreciated by the authorities and all of his or her inquiries were taken very seriously. The Government would ensure that the Ombudsman played a key role in research relating to the Optional Protocol to the Convention.



49. Ms. MOHELL (Finland) said that Roma prisoners were only segregated in detention facilities at their own request. All prisoners had the right to be isolated if there was a sound reason to believe that their personal safety was under threat. Decisions to segregate prisoners were based on the individual circumstances of each case, never on ethnic origin. Prisoners who asked to be separated had usually been detained together.

50. Mr. KOSONEN (Finland) said that although in certain asylum cases appeals did not have automatic suspensive effect, the Helsinki Administrative Court could request that interim measures be taken. Such court decisions must be implemented within a maximum of five days, and all decisions were taken in line with article 13 of the European Convention on Human Rights. Complainants had recourse to the Administrative Court and the European Court of Human Rights. The Committee's concerns regarding that five-day period would be transmitted to the Government. In the time available, the delegation had not been able to obtain all the statistics that had been requested. Efforts would be made to submit them to the Committee in writing in due course.

The meeting rose at 5.40 p.m.