



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

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Held at the Palais des Nations, Geneva,
on Thursday, 13 November 2003, at 10 a.m.

Chairman: Mr. BURNS

CONTENTS

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

Initial report of Latvia

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.579/Add.1.

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The meeting was called to order at 10.05 a.m.

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

Initial report of Latvia (CAT/C/21/Add.4)

1. At the invitation of the Chairman, Mr. Aksenoks, Ms. Daugaviete, Mr. Kārklīņš, Mr. Klisans, Ms. Maļinovska, Ms. Reine, Mr. Reiznieks and Mr. Rožkalns (Latvia) took places at the Committee table.
2. Mr. KĀRKLĪŅŠ (Latvia), introducing Latvia's initial report (CAT/C/21/Add.4), said that an inter-ministerial working group had been established to prepare the report. The first draft had been submitted for consideration by the National Human Rights Office and the Human Rights Institute at the University of Latvia, and many of the comments raised by those institutions had been incorporated into the final text. The draft report had also been made available on the Internet to non-governmental organizations (NGOs). After its adoption by the Cabinet of Ministers and its translation into English, the report had been submitted to the Office of the United Nations High Commissioner for Human Rights.
3. He welcomed the alternative report that had been prepared by the Latvian Human Rights Committee, an NGO that had also produced alternative reports to those recently submitted by the Latvian Government to other human rights treaty bodies. However, while such reports exemplified the ongoing dialogue that was taking place in Latvia to improve the human rights situation, it would be a mistake to think that the Latvian Human Rights Committee was the only NGO working in Latvia. He hoped that, when considering Latvia's second periodic report, the Committee might refer to information provided by other NGOs that had more expertise in the subject area under consideration.
4. Mr. AKSENOKS (Latvia) said that his country had acceded to a number of human rights instruments, including the Convention, when it had regained its independence from the Soviet Union in 1990. However, owing to Latvia's lack of experience in conducting international affairs, the Convention had not become binding until 1992. It had taken a further few years for Latvia to develop the necessary reporting procedures, which was why there had been a delay in the submission of the country's initial report. Latvia had always been committed to human rights, however, and had always cooperated with international organizations and human rights experts. His delegation hoped that its dialogue with the Committee would help the Latvian Government to improve its legislation and practices even further.
5. On regaining its independence, Latvia had inherited a large body of socialist legislation that did not meet the standards required of a modern and democratic State. As it had not been feasible to replace the legislation in force in its entirety, Latvia had had to decide, on a case-by-case basis, whether to enact new legislation or to restore the legislation that had been in force before the Soviet occupation. Because the legal principles governing criminal and administrative matters were so complex, a decision had been made to retain the Soviet legislation in that area and amend it where necessary. Although many of the laws were outdated and many of them contradicted each other, Latvia was taking steps to draft new laws in compliance with its international obligations, including in the field of human rights.

6. For 50 years, people in Latvia had been brought up in a culture devoid of respect for human rights. An extensive effort had therefore been made to raise awareness of human rights among both State officials and citizens. Since there had been no independent monitoring mechanisms during the Soviet era, the authorities had had to learn how to ensure public control over State policies while remaining open to criticism.
7. Significant changes had been made during the past decade. For example, a new chapter on fundamental rights had been included in the Constitution and a new Criminal Law had been adopted. New legislation on immigration and asylum had also been adopted, and the drafting of a new Criminal Procedure Law and Psychiatric Assistance Law had been completed. A human rights component had been added to the training curricula for police officers, prosecutors, judges and civil servants, and a number of new mechanisms, such as the National Human Rights Office, had been established to guarantee the effective protection of human rights.
8. Many of the developments that had occurred since the submission of the report had been outlined in the additional written information provided by the Government which had been circulated in the meeting room. A major development had been the adoption by the Government of a new approach to the implementation of sanctions: emphasis was no longer placed on repressive sanctions aimed at isolating the individual from society, but on progressive sanctions tailored to the individual. A growing number of people had been sentenced to community service since the introduction of that concept in 1999. The Probation Service, whose main purpose was to ensure the broad application of alternative sanctions, had started to operate in October 2003. Furthermore, a new Amnesty Law had been drafted that allowed the courts to release from imprisonment or reduce the prison terms of minors, pregnant women, women with infants, disabled persons and the elderly. As a result of all those measures, the prison population had started to decline.
9. The new Criminal Procedure Law would revolutionize the concept of prosecution. Its main aim was to ensure that the principle of equality of arms was respected in the criminal process to the maximum extent possible. It strictly regulated the measures of restraint that could be applied to suspects or accused persons. It also sought to reduce the length of pre-trial detention and to accelerate trial proceedings. The draft Law had been approved in first reading by Parliament and was expected to enter into force by the end of 2004.
10. Despite its limited financial resources, the Government was making an effort to improve the conditions of detention. Significant changes had been made to the internal prison regulations, which had been virtually non-existent in the past, and standards relating to detention conditions and the basic rights and obligations of detainees had been set. A number of prisons had been fully or partially renovated and, where possible, detainees had been reassigned to facilities with better conditions. Special attention was being paid to young offenders. For example, in January 2003, some 70 juveniles had been transferred from Brasa prison, where the conditions of detention were inappropriate, to Matisa prison, which provided sports, outdoor exercise and education facilities.
11. Since 2001, 700 new guards and 250 prison officials had been trained. All prisons were now staffed by professional guards.

12. Efforts were also being made to enhance the effectiveness of investigations into allegations of misconduct by law enforcement officials. An Inspectorate within the Ministry of Health known by its acronym, MADEKKI, was responsible for monitoring the application of involuntary medical treatment and placement in psychiatric hospitals. It also monitored the quality of the medical care provided in prisons. The Ministry of Defence was addressing the question of violence in the army, and a special unit had been established in the police force to process complaints of misconduct by police officers.

13. The State had allowed the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to inspect its places of detention and imprisonment. The reports of the CPT visits to Latvia in 1999 and 2002 contained a significant amount of constructive criticism. A few weeks previously the State had for the first time granted an NGO access to a detention centre.

14. Although his Government was proud of its achievements thus far, it recognized that much more needed to be done, and the Committee must bear in mind that reforms could not take place overnight. His Government would pay due attention to the recommendations made by the Committee, as it had done with those made by the other treaty bodies.

15. Mr. EL MASRY, Country Rapporteur, said that Latvia had made significant progress on the long road from the Soviet Union to the European Union, including in the field of human rights, and was well on the way towards becoming a democratic State governed by the rule of law. However, while he welcomed the new laws and safeguards that had been introduced to protect persons deprived of their liberty against torture and ill-treatment, it was regrettable that there had been a nine-year delay in the submission of Latvia's report. Although the country's special circumstances could not be ignored, in the light of the reporting patterns of the State party to the other treaty bodies he could only conclude that the Committee against Torture did not appear high on the Government's list of priorities. It was also regrettable that Latvia had not recognized the competence of the Committee under articles 21 and 22 of the Convention.

16. Given that over one fifth of Latvia's population were non-citizens, he would be interested in knowing why the Government had chosen not to ratify the Council of Europe's Framework Convention for the Protection of National Minorities. It had, after all, taken steps to introduce language classes in order to overcome one of the major obstacles to the naturalization process, namely the lack of language proficiency.

17. The Latvian Human Rights Committee had reported that some people living in Latvia had been forcibly turned into illegal residents because they had temporarily left the country. One such case concerned Sergejs Guscins, who had been born in Riga but had cancelled his residency permit and had left for Russia in 1990. In 1992 he had returned to Latvia but had been arrested and issued with an expulsion order. However, as he was a citizen of no country, he could not be expelled and was currently being held in detention indefinitely. The second case concerned one Jevgenijs Sudakovs, who had been born in Riga and had been conscripted there for compulsory military service. After graduating from military college he had been sent to Belarus to continue his military service, where he had automatically been registered as a citizen of Belarus. On his return to Latvia, he had been issued with an expulsion order and was currently being held in a

detention centre for illegal immigrants. The delegation should indicate exactly how many people currently found themselves in such situations and what measures were being taken to remedy them. It should also indicate whether the authorities were able to send such persons, who were neither asylum-seekers nor refugees, to a country where they ran the risk of being tortured.

18. Torture was prohibited not only under the Constitution, but also under several international treaties to which Latvia was a party. He would like the delegation to explain the grounds of the 1993 Supreme Court decision that had drawn a distinction between “torment” and “torture”. According to the Court, “torment” was any action that caused strong pain to another person, such as depriving a person of food, drink or warmth for extended periods of time or subjecting a person to conditions hazardous to his or her health. “Torture”, on the other hand, was characterized by prolonged acts that caused particular pain or suffering to the victim. Surely both of those definitions constituted torture within the meaning of article 1 of the Convention?

19. On its visit to Latvia in 1999, CPT had found that many detainees had not been able to inform a third party of their arrest and that access to a lawyer had frequently been denied or delayed; moreover, many detainees had alleged that they had not even been informed of their rights. Latvian legislation contained no provision guaranteeing detainees access to a doctor, and CPT had found that legal aid was difficult to obtain and was in fact fairly ineffective. He would like to hear about any concrete steps taken by the Government to ensure the effective implementation of detainees’ rights. He would also like to know whether the Government intended to act on the recommendation made by CPT that a forensic investigation should be conducted whenever there was reason to believe that a person had been subjected to torture or ill-treatment.

20. He welcomed the adoption in June 2003 of the new Criminal Procedure Law. It was to be hoped that the new Law would help to reduce the length of pre-trial detention and the problem of overcrowding in prisons. He therefore requested the reporting State to indicate how it intended to monitor the effectiveness of the new legislation when it entered into force.

21. One of the main safeguards against torture was an independent and efficient judicial system. He asked the delegation to outline the criteria and methods used to select judges and to explain what influence the Ministry of Justice had in that selection. He also wished to know how the Government had reacted to the concerns expressed in a recent report by the Commission of the European Communities that corruption continued to be perceived among the judiciary.

22. He welcomed the recent decision of the Constitutional Court to declare certain provisions of the prison investigation procedure unconstitutional. Those provisions related mainly to the use of solitary confinement as a disciplinary measure, and it was noteworthy that the legal case that had resulted in the decision had been based, *inter alia*, on the provisions of the Convention.

23. Turning to article 3 of the Convention, he noted that considerable progress had been made in harmonizing Latvian asylum legislation with the European regime, particularly through the introduction of safeguards and an accelerated procedure for processing applications. The safeguards included alternative status both for persons at risk of torture or inhuman treatment if returned to their countries and for persons unable to return to their countries because of military conflict. However, rejected asylum-seekers still spent very long periods - even years - in

detention before the expulsion order was carried out. During that time circumstances in the country to which they were to be deported might deteriorate, exposing them to a real risk of torture on expulsion. What steps were being taken to remedy that situation?

24. According to the CPT report, article 22, paragraph 2, of the Law on Asylum-Seekers and Refugees stipulated that no refugee could be extradited or delivered to a country where there were threats of persecution. He wished to know whether that safeguard applied also to persons detained under the 1992 Law on Entry and Stay of Foreigners and Persons without Citizenship in the Republic of Latvia. The Committee had received information from a Latvian NGO to the effect that bodies such as the Board of Citizenship and Migration Affairs and the Immigration Police did not adhere to the principle of non-refoulement. He referred to the case of Vladimirs Novosjolovs, the holder of a non-citizen's passport, who had spent two months in 1999 visiting his father in the city of Benderi in the Transdnistria region of the Republic of Moldova, which had unilaterally declared its independence from the Republic. As there had been a number of military conflicts in the region, he had followed the local authorities' advice and registered as a citizen of Transdnistria because the possession of a Latvian identity document allegedly placed his life in danger. Although the entity of Transdnistria had no legal status, the Latvian Board of Citizenship and Migration Affairs had decided in 2002 to revoke his non-citizen status and had issued an expulsion order to the Republic of Moldova. Mr. Novosjolovs had appealed on the grounds that he had no legal relationship with the Republic and his expulsion there could endanger his life and health. Comments on the case from the Latvian delegation would be welcome.

25. Latvia had submitted frequent reports to the Security Council Counter-Terrorism Committee pursuant to resolution 1373 (2001). One such report stated that the border control authorities had been asked to detain 62 persons who had been known to forge identity documents in the past. He asked whether those persons were now in detention and whether they had been formally charged. The same report stated that refugee status was not granted to persons who had committed crimes against humanity, war crimes, genocide or acts "contrary to the goals and principles of the United Nations". He wondered how such acts were defined in criminal terms, given the wide scope of the goals and principles of the United Nations.

26. The information provided on compliance with article 5 of the Convention in paragraphs 44 to 48 of the report was too general and tended to focus on crimes committed against Latvia or the interests of its inhabitants. He requested information about the competence of the Latvian courts in cases where an act punishable under article 4 of the Convention was committed outside Latvia by a Latvian citizen or non-citizen or by an alien or stateless person having permanent residence in Latvia, whether or not that person was present in the country. What was the situation where a foreigner present in Latvia had committed such an act outside the country?

27. With reference to articles 8 and 9 of the Convention, he welcomed the fact that Latvia had become a party to the European Convention on Extradition and its two additional protocols on 31 July 1997 and to the European Convention on Mutual Assistance in Criminal Matters and its additional protocols on 31 August 1997.

28. Mr. RASMUSSEN, Alternate Country Rapporteur, commended the State party's approach to the preparation of its initial report, which had involved wide-ranging consultations with NGOs and civil society as a whole. He trusted that the Committee's conclusions and recommendations would be widely circulated.
29. He welcomed the decision to transfer responsibility for supervision of the prison system from the Ministry of the Interior to the Ministry of Justice.
30. While he was impressed with the lengthy description in the report of training courses for public officials on the prohibition against torture, as required by article 10 of the Convention, he had found no mention of courses for medical practitioners. Were there any plans to train doctors who would be required to examine persons who might have been subjected to torture or ill-treatment? All doctors dealing with persons in police custody, short-term detention isolators and prisons should be trained to document such cases. He took it that the training provided to the newly employed prison guards mentioned by the delegation had also focused on the prohibition against torture.
31. With reference to article 11 of the Convention, he asked whether the State party planned to draw up a code of conduct for police interrogation.
32. The CPT delegation that had visited Latvia in 1999 had received a considerable number of complaints of ill-treatment at the hands of the police. The alleged ill-treatment, which had occurred at the time of arrest and during interrogation, had included punches, kicks and blows with a truncheon or a gun butt. The cases had been substantiated by medical evidence. How had the Latvian authorities responded to the CPT recommendation that high priority should be given to professional training for police officers of all ranks and categories?
33. CPT had also recommended that an aptitude for interpersonal communication should be a major factor in the recruitment of police officers and that considerable emphasis should be placed during officer training on the development of communication skills. Police officers should also be made fully aware that ill-treatment in custody was not acceptable and would be dealt with severely.
34. CPT had requested the Latvian authorities to take urgent measures to ensure that every person obliged to stay overnight in a police establishment received a clean mattress and blanket. Moreover, every detained person should be offered food at appropriate times, and cells measuring less than 4 m² should not be used for more than a few hours. Yet the Rules of Internal Procedure of Investigatory Prisons, which had been adopted in 2003 and were mentioned in the additional written information provided to the Committee, stated that living space should not be less than 2.5 m² or 3 m² for women and minors, areas which fell short of the CPT recommendation. According to CPT, the cells consisted of a wooden platform, a water holder and a sanitary bucket; there was no natural light and the ventilation was deficient. The communal toilets and cold-water washbasins were in a dilapidated and unhygienic place, and access to those facilities was authorized only twice a day. There was no provision for out-of-cell activities or outdoor exercise. He asked what action had been taken on the CPT recommendations regarding those conditions, which could only be described as inhuman and degrading treatment.

35. CPT had visited the 32-place short-term detention isolator in Riga in 1999 and had found that a stay in that police establishment could vary from a few days to one and a half years. Was there any time limit for such detention? According to the CPT report, access to natural light was poor and the ventilation system ineffective, and detainees were allowed one hour of exercise a day in the yard. He asked whether the authorities had acted on the CPT recommendation that all detainees should be provided with basic personal hygiene products, that they should be given the opportunity to wash every day and to maintain their cells in a clean and hygienic state, and that they should be allowed to leave their cells without delay to use the toilet. Although the additional written information indicated that short-term detention isolators were to be rebuilt, it gave the impression that little had been done since 1999. It was not clear whether people were transferred from the prison system to the isolators for police questioning, and he suggested that it would be preferable for the police to come to the penitentiary facility for that purpose.

36. While encouraged by the positive steps taken to implement article 12 of the Convention (paragraphs 75-77 of the report), he would have appreciated some statistics. Likewise, the assertion in paragraph 80 that torture victims had the right to demand compensation could have been supported with facts and figures. He noted that Latvia had made no contribution to the United Nations Voluntary Fund for Victims of Torture, and accordingly invited it to do so. It was gratifying to learn from paragraph 83 of the report that Latvian law prohibited the use of testimony acquired through torture, and also that, with reference to article 16 of the Convention, 70 young offenders had recently been transferred from regular prisons to a specially adapted young offenders' institution. Finally, the State party might wish to consider publishing its response to the 1999 CPT report.

37. Mr. MARIÑO MENÉNDEZ, referring to the explanation of the term "torture" provided by the Latvian Supreme Court in 1993 (paragraph 6 of the report), said that the whole question had been muddied by the introduction of the term "torment" and the element of mental suffering had apparently been excluded from the specific definition of torture. The reporting State should clarify the matter to the Committee.

38. Another point requiring clarification was the statement in paragraph 20 of the report to the effect that the execution of a criminal command or order excluded criminal liability, provided that the person executing the command or order was not aware of its criminal nature and that fact was not obvious. Such a stipulation appeared to downgrade the significance of torture as a crime in its own right in the context of due obedience to superior orders.

39. How did the Latvian Government establish lists of safe countries of origin or transit when dealing with asylum-seekers? Was it aware of, or did it make use of, the consensus list of such countries drawn up by the European Union? The reporting State should elucidate whether illegal immigrants to Latvia could be prosecuted under the Criminal Code for the offence of illegally crossing the State border. If such was the case, he wished to know whether they were afforded legal assistance to inform them of their right to seek asylum. In addition, the State party should elaborate on the position of stateless persons in Latvian law, especially in the context of the blanket non-discrimination provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Additional Protocols. It would be useful to have an explanation of the term "political asylum" as used in note 2 of the report.

40. The Committee would appreciate information on the existence of any provisions to protect personal data in Latvian law. Lastly, given that the report had been approved by the Cabinet of Ministers, he wished to know whether it had been published in the Official Gazette. Likewise, were the Committee's conclusions and recommendations officially published?
41. Ms. GAER said that nowhere in the report had she been able to find statistics disaggregated by gender, nationality or age; she hoped that such information would be forthcoming in Latvia's future dealings with the Committee. The additional written information provided by the Latvian Government indicated that the authorities had instituted a system of anonymous questionnaires to ascertain the extent of mistreatment of conscripts and soldiers in the armed forces. The proportion of conscripts and soldiers prepared to respond to questions about ill-treatment had declined from 10 per cent of the total number polled in 2001 to about 2 per cent in 2003. To what did the State party attribute that decline, and what had it done in general terms to tackle brutality in the armed forces?
42. Paragraph 72 of the initial report referred to the Inspection of Personnel, a special complaints body functioning within the National Police, and elsewhere in the report there were references to other institutions operating within various official structures. It would be interesting to learn whether there were any complaints bodies operating outside official structures. In the section of the additional written information dealing with procedures in Latvian law to prevent acts of torture in places of detention, it was stated that prior to 2003 no separate statistics had been available on cases of physical mistreatment by police officers, but that pursuant to the recommendations of CPT such statistics were currently being "systemized". What exactly did that mean? Subsequently, there was a mysterious reference to "an institution" that performed inquiries into cases of police brutality. She wondered just what that institution was.
43. Paragraph 80 of the report stated that torture victims had the right to demand compensation. The State party should support that assertion with information about persons who had actually received compensation and the sanctions that had been taken against those found guilty of torture or ill-treatment. On the specific issue of female detainees, she wished to know what steps the Latvian authorities had taken to ensure that women inmates were supervised by female prison staff. More generally, did the State party have a strategy for monitoring and dealing with inter-prisoner violence, especially sexual violence? To take just one example, she would like to know whether the authorities had investigated the case of Andreas Lisivnenko, what had allegedly been beaten in a prison cell until he had confessed to murdering his sister.
44. While the Committee was grateful for the supplementary information about the number of foreigners being held in illegal immigrant detention centres, it would have been preferable to receive those figures disaggregated by gender and nationality. The additional information further stated that representatives of the National Human Rights Office had visited illegal immigrant detention centres, but there was no indication that they had informed detainees of their right to lodge complaints, nor indeed was it clear that anyone had actually complained. She asked what mechanisms were in place in Latvia to check that illegal immigrants would not be tortured after being expelled from the country.

45. Mr. CAMARA said that he, too, was concerned by the distinction that the Latvian Supreme Court had drawn between “torture” and “torment”. The reporting State should clarify the implications of the distinction, which could be interpreted as restricting the scope of the definition of torture under article 1 of the Convention.

46. The CHAIRMAN noted that the Committee had not been given enough information to enable it to place the Supreme Court’s opinion in context. It was not clear whether the pronouncement related to a particular case before the court or had been intended as a general comment. The use of the term “torment” in a legal context was somewhat startling, bringing to mind as it did the writhings of the damned in the fiery pits of hell. If there was no actual crime of “torment” in Latvia there seemed to be little reason to contrast it with torture. Furthermore, in attempting to make the definition of torture more specific, the Supreme Court had restricted the definition given in the Convention, for example by insisting that torture must be “characterized by multiple or prolonged acts”.

47. A problem for countries in transition was the need to reconcile the principle of an independent judiciary with the need for reform. In that connection, he asked whether there were any lustration laws in Latvia, particularly for the judiciary. Mr. El Masry had expressed concern about corruption in the Latvian judiciary; he wondered what turnover there had been in the judiciary since 1990.

48. Lastly, referring to a point raised by Mr. El Masry and Ms. Gaer, he sought reassurance that persons could not be deprived of Latvian nationality if they did not have another one.

49. Mr. EL MASRY drew attention to note 2 of Latvia’s initial report, which listed grounds for denying extradition: liability to torture was not included among them. He sought clarification in that regard.

The public part of the meeting rose at 12.20 p.m.