



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

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COMMITTEE AGAINST TORTURE

Forty-first session

SUMMARY RECORD (PARTIAL)\* OF THE 839TH MEETING

Held at the Palais Wilson, Geneva,  
on Tuesday, 4 November 2008, at 3 p.m.

Chairperson: Mr. GROSSMAN

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

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The meeting was called to order at 3.05 p.m.

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

Second periodic report of Lithuania (CAT/C/LTU/2; CAT/C/LTU/Q/2, and 2/Add.1;  
CAT/C/CR/31/5/RESP.1; HRI/CORE/1/Add.97)

1. At the invitation of the Chairperson, the members of the delegation of Lithuania took places at the Committee table.
2. Mr. KAZLAUSKAS (Lithuania), introducing the second periodic report of Lithuania (CAT/C/LTU/2), said that it focused on measures taken by his Government to implement the Committee's recommendations following its consideration of Lithuania's initial report. The section entitled: "Answers to questions and recommendations of the Committee" contained information on, inter alia, the definition of torture; access to a lawyer, independent doctor or family members; State-guaranteed legal aid; and compensation to victims. Statistical data had also been included as requested.
3. The definition of torture as contained in article 1 of the Convention was reflected in several articles of the Lithuanian Criminal Code. The list of offences involving torture was constantly being updated.
4. Gender-based torture or ill-treatment was not criminalized separately, since crimes based on national or ethnic origin, race, gender, religion or incitement to hatred were addressed in other articles of the Criminal Code. In 2005, the European Commission against Racism and Intolerance had recommended that Lithuania should recognize racist motivation as an aggravating circumstance in the administration of justice. In response, the Government had prepared an amendment to article 60 of the Criminal Code to provide for more severe punishment for perpetrators of racially-motivated crimes. It had also amended its Code of Criminal Procedure to reflect developments in international human rights protection. Increasing emphasis was being placed on effective international cooperation. Lithuanian courts drew on both domestic and international jurisprudence in efforts to enhance due process of law.
5. International cooperation in the fight against torture and ill-treatment had had a positive effect within Lithuania. His Government attached the utmost importance to the Committee's recommendations, which were used as a basis for drafting domestic instruments for the prevention of torture. Similarly, the recommendations of the European Committee for the Prevention of Torture and the decisions of the European Court of Human Rights were used to inform domestic policymaking in the field of human rights. The fight against torture and ill-treatment was an ongoing process that required a strategic approach.
6. In Lithuania, the Ministry of Justice was the body responsible for the implementation of the Convention against Torture. He had therefore focused his introductory remarks on those aspects of the Convention that fell directly within the purview of the Ministry. However, his Government was aware that combating torture was a cross-cutting challenge that required action by all State entities.

7. Mr. GALLEGOS CHIRIBOGA, Country Rapporteur, commended the reporting State for its efforts to bring domestic legislation relevant to the Convention into line with the most advanced international norms. He reminded the delegation that the consideration of State party reports was a cooperative process and that the Committee's observations were intended to help clarify certain issues so as to enhance domestic implementation of the Convention.

8. While it was commendable that the definition of torture as contained in the Convention had been incorporated into a range of legal provisions, it should also be reflected in the country's Constitution. He asked whether there was a statute of limitations relating to torture, reminding the delegation that the crime of torture was imprescriptible. Owing to the absence of torture-related data, the Committee was unable to ascertain the extent of the problem. It would be useful if the delegation could supply relevant statistics.

9. The delegation should explain how the rights of detainees specified in the State party's reply to question 3 of the list of issues were implemented in practice. With regard to question 4, the delegation should comment on concerns expressed by the Human Rights Committee that the rules governing administrative detention were not always adhered to in practice.

10. The State party had only partly replied to question 5, he wished to know whether domestic law specifically provided that no exceptional circumstances or an order from a superior or public authority could be invoked as justification of torture. Turning to question 10, he requested clarification on the State party's law and practice on asylum, especially in respect of expulsion and non-refoulement.

11. With regard to question 17, he invited the delegation to explain what was meant by "pretrial wards". Turning to question 21, he requested data on the extent of inter-prisoner violence, since such information was essential to identifying ways to address the problem. As to question 22, he had been surprised to learn that in several cases investigations into complaints of ill-treatment by prison staff had been suspended for lack of evidence. The delegation should explain the procedure applicable to cases of alleged ill-treatment of persons in custody, including persons with disabilities in detention facilities and hospitals. It should also comment on the apparent contradiction between the alleged lack of evidence of cases of ill-treatment and the fact that victims had been awarded compensation, as described in the reply to question 25. He wished to know whether the cases where compensation had been awarded concerned ill-treatment by private individuals, and whether there had been any cases where victims had been compensated for violence inflicted by public officials.

12. It appeared that Lithuanian legislation did not contain a definition of rape, nor did it provide for domestic violence as a specific offence. Given the absence of information about domestic violence in the report, he asked the delegation to elaborate on the issue of gender-based violence, which should be a matter of concern to all societies.

13. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, in the report on his mission to Lithuania (A/HRC/7/19/Add.4), had expressed concern at the severe discrimination faced by the Roma community. The Special Rapporteur had recommended that Lithuania should take measures to

sensitize Lithuanian society at large to Roma history and traditions in order to eliminate the stigma and negative stereotypes with which the Roma were currently associated. He asked how that recommendation had been implemented.

14. He commended the Government for its efforts to establish appropriate reception conditions for refugees and asylum-seekers, improve conditions of detention in foreign registration centres, and ensure the identification of possible torture victims among that group of persons.

15. He also welcomed the extensive information provided on the issue of trafficking and asked what measures were taken to protect victims of trafficking who cooperated with the police in the apprehension of traffickers.

16. Mr. KOVALEV said he wished to know what progress had been made in implementing the recommendations of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance following the Special Rapporteur's recent visit to Lithuania. His question related particularly to recommendations for developing a comprehensive programme to train law enforcement officials in the provisions of the Convention. He asked whether that training programme had been developed to the extent that it could prevent violations of the rights of persons arrested by law enforcement officials. Were statistics available on the number of cases in which law enforcement officials had violated those rights? It would be interesting to learn how human rights training programmes were evaluated and whether instructors were brought to Lithuania from abroad. He enquired whether medical personnel adhered to the guidelines of the Istanbul Protocol in assessing persons who alleged ill-treatment or torture.

17. He would appreciate details on how often the Lithuanian authorities reviewed methods of interrogation and who was responsible for carrying out such reviews. Further information on the code of ethics of the police and internal rules of procedure for prison institutions should be provided. He wished to know the extent to which the programme to upgrade prisons and conditions for detention had been implemented. He asked how many square metres were assigned to each prisoner and whether Lithuanian prisons were still overcrowded. Were there national mechanisms to monitor prison conditions and the treatment of prisoners, and did civil society have any role in prison oversight? He would be grateful for details concerning the number of law enforcement personnel who were sanctioned for violating prison rules and whether persons who lodged complaints were liable to suffer reprisals. The State party should be more specific about how investigations were conducted within prisons.

18. It was unclear whether persons arrested in Lithuania were entitled to legal counsel from the time of their arrest by a police officer or from the time the arrest was officially recorded at the police station. He asked whether the Government provided financial resources for legal assistance to persons who lacked the means to hire their own lawyer. It would be interesting to learn how many complaints of torture had been received in 2007, how many officials had been sanctioned under administrative or criminal laws, who was responsible for ordering such sanctions and what types of compensation had been provided to victims. He would appreciate details on the number of cases in which evidence had been extracted from detainees by placing them in isolation and using physical and psychological coercion.

19. According to information he had received, Lithuania was a transit country for trafficking in women and children, and there had been reports of ill-treatment and torture of such persons. He wished to know whether legislation had been enacted to reduce human trafficking, particularly of women, and what measures the Government was taking to protect Lithuanian women living abroad. He asked whether Lithuania had signed and ratified the Council of Europe Convention on Action against Trafficking in Human Beings. The delegation should provide statistics concerning such trafficking, in particular the sale of women into sexual slavery, and the number of cases of ill-treatment of women that were currently being prosecuted. It would be useful to know how many people had been arrested in such cases and whether there were any programmes to protect and assist victims of trafficking, including through the provision of financial, legal and medical assistance.

20. Given the many reports of incidents in which Roma were the victims of harassment in Lithuania, he enquired what steps the Government had taken or planned to take in order to address the problem of discrimination against the Roma. He wondered what measures had been taken by the Government to protect foreigners in Lithuania against ill-treatment, given that they apparently received no protection under Lithuania's domestic legislation. He requested a full explanation of the situation of foreigners, including asylum-seekers, in reception centres. He wished to know what action was being taken by the Government to address problems relating to the failure to separate men and women asylum-seekers in reception centres and the lack of rehabilitation for victims of psychological and sexual violence within those centres. He would welcome details concerning mechanisms to identify asylum-seekers who had been victims of ill-treatment or torture.

21. Ms. BELMIR wished to know what measures had been taken to deal with problems arising from the fact that failure to carry identity documents on one's person during states of emergency could result in being held in custody for longer than 24 hours. Since there were many sound reasons why individuals might not have such documents on their person during a state of emergency, she asked whether doctors or nurses could ensure that persons were taken into custody only until such time as they could be identified.

22. She expressed concern at the State party's continued expulsion of aliens considered to pose a threat to the security of the State, despite the fact that those aliens risked violence or a threat to their physical integrity on return to their country of origin. The delegation should clarify why such a practice was still employed, despite calls from both the Committee against Torture and the Human Rights Committee to abolish it. The two treaty bodies had also drawn the State party's attention to the need for safeguards to protect persons subject to detention for administrative offences, including either better justification for such detention or its abolition since it failed to meet international standards relating to due process.

23. It was worrying that, in some cases of pretrial detention, minors were reportedly imprisoned alongside adults. The delegation should indicate the exceptional circumstances in which that situation could arise. She would appreciate an explanation of why some persons who had been taken into custody and were brought before an examining judge were subsequently taken back into custody.

24. She reiterated the observation by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance that the Government of Lithuania should adopt an ethical and cultural strategy that addressed the deepest roots of racism, xenophobia and intolerance and was built on the promotion of reciprocal knowledge of cultures, values and the dynamics of interactions and living together among different communities.

25. Ms. SVEAASS asked what kind of health care was available to asylum-seekers in reception centres. She would be grateful for additional details concerning the results achieved by the “mental health strategy”. She wished to know what types of physical and psychiatric care were available to persons who claimed to have been tortured, and what types of monetary compensation were provided to victims.

26. The CHAIRPERSON, speaking as a member of the Committee, asked whether the maximum penalty for domestic violence was still two years’ imprisonment. That appeared to be too light a penalty for the worst forms of domestic violence. The fact that Lithuanian legislation did not treat domestic violence as distinct from assault had resulted in a paucity of data on domestic violence. He wondered whether any legislative or other initiatives were currently being considered by the Government in order to address that situation.

27. The delegation should provide additional information on reports that the Lithuanian Government was currently considering gender-based discriminatory legislation. He wished to know how many investigations had been conducted into instances of hate speech and anti-Semitic vandalism, which were reportedly on the increase in Lithuania. He asked how many such investigations had led to prosecution and how many had resulted in criminal sanctions. He wondered why, in April 2007, the city of Vilnius had refused to issue a permit for a public event sponsored by the European Commission to promote tolerance and respect for persons with disabilities, homosexuals and persons of various religions. NGOs that catered to such groups had received similar refusals. At the same time, a separate group had organized an anti-homosexual rally and had distributed anti-homosexual flyers. It was difficult to understand why, if the municipality had feared an outbreak of violence, it had not simply deployed sufficient police officers to preclude such violence. It would be interesting to know whether, since April 2007, the city had received any similar requests for permits and, if so, what its response had been.

28. According to information he had received for 2004, administrative detention was limited to 30 days, but cumulative periods of several months could be imposed through successive extensions at the discretion of the police. He wondered whether such extensions continued to be made to the 30-day period or whether action had been taken to eliminate that possibility.

29. According to the European Committee for the Prevention of Torture, prison conditions in Lithuania were unacceptable; for example, cells were filthy and some prisoners had no access to light. Did the Government have any plans to remedy the situation?

30. He expressed concern about the situation of asylum-seekers who, under article 113 of the Constitution, might be subjected to an unlimited period of detention. He requested information on the contents of new legislation governing detention that would come into effect in April 2009.

31. He asked for statistics on court cases in which individuals had successfully sought a remedy for violations of their rights. He also asked for statistics on cases brought under article 11 (2) of the Code of Criminal Procedure, including cases in which evidence had been declared inadmissible and law enforcement officers had been investigated and prosecuted on the basis of that provision.

32. Mr. MARIÑO MENENDEZ expressed concern about the regime governing custody and detention in Lithuania. In practice it seemed that pretrial detention could last longer than 48 hours. He asked what measures existed to monitor that practice. A further concern was the fact that police custody was currently governed by regulations rather than legislation, which implied that there were fewer guarantees. He enquired what impact new legislation relating to pretrial detention scheduled to enter into force in 2009 would have on the situation.

33. He asked whether the State party had ratified the United Nations Convention against Transnational Organized Crime, and whether human trafficking and enforced disappearance were classified as offences in the Criminal Code.

34. Given that the State party had ratified the Rome Statute of the International Criminal Court, he enquired whether crimes against humanity had been incorporated into Lithuanian criminal law, perhaps with a different definition. He sought clarification regarding the definition of rape in the Criminal Code, which seemed to have given rise to some problems.

35. He expressed concern about paragraph 9 of the report which, on the one hand, stated that Lithuanian legislation relating to aliens had been brought into line with European and international standards, and yet, on the other hand, stated that such provisions would not apply to aliens who posed a threat to public security. He questioned whether the principle of non-refoulement enshrined in article 3 (1) of the Convention against Torture was upheld by the State party. He asked whether diplomatic guarantees were sought from third countries to which such persons might be expelled.

36. He enquired how the Government responded to the practice of hazing, whether any cases had been brought to court and whether any sentences had been handed down. Lastly, he wondered whether the Government was considering the possibility of ratifying the Optional Protocol to the Convention.

37. Ms. GAER said that her questions would focus mainly on information contained in paragraphs 105 et seq. of the report provided by the State party in response to the Committee's recommendations. She requested further information on the number of doctors working in detention facilities and on the procedures in place to ensure that detainees had access to doctors, and not only nurses, upon request. She asked for disaggregated statistics on medical examinations carried out in detention facilities since December 2004. The delegation should also indicate what measures existed to ensure the independence and impartiality of doctors and nurses working in such facilities.

38. She enquired whether any legislation had been adopted allowing detainees to initiate appeal proceedings and what role the Seimas ombudsman played in that regard. She requested information on complaints submitted by detainees and their outcomes. She also requested

detailed information on investigations conducted by the ombudsman into allegations of ill-treatment by law enforcement officials and on their outcome in terms of penalties and compensation.

39. The information provided in paragraph 135 of the report concerning proceedings initiated in relation to the harassment of conscripts was not sufficient. She asked for additional information on the number of complaints submitted and investigations conducted. She also asked what measures the Government had taken to ensure that those investigations were conducted by an independent and competent body.

40. She requested detailed information on investigations into allegations of torture or ill-treatment by former Nazi war criminals, including information on penalties imposed or compensation awarded. She wondered what educational or remedial measures the Government had taken to deal with the problems relating to those cases.

41. She requested clarification regarding the situation of Mr. Yitzhak Arad, former chairman of Yad Vashem (Israel's Holocaust Martyrs' and Heroes' Remembrance Authority) and a member of Lithuania's historical commission responsible for investigating former Nazi war criminals. The Committee had received conflicting reports on the status of legal proceedings brought against him; she sought confirmation that they had now been dropped.

42. Mr. WANG Xuexian said that there was considerable criticism of racist and xenophobic attitudes prevalent in Lithuania, including in statements by politicians and the media. Discrimination that caused severe psychological harm or suffering came under the mandate of the Committee. He therefore asked whether the Lithuanian authorities followed up complaints of discrimination, and particularly racial discrimination, and whether any complaints had been taken to court.

43. Mr. KAZLAUSKAS (Lithuania) said that the question of Lithuania's accession to the Optional Protocol was under consideration and it was likely that the outcome would be favourable.

44. New legislation governing detention had been drafted and would enter into force in April 2009. It would ensure compliance with international standards on the matter.

45. He would respond to the Committee's other questions in detail and provide the statistics requested at a subsequent meeting.

The discussion covered in the summary record ended at 4.45 p.m.