



**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 841st MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 5 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 (continued)

Second periodic report of Lithuania (continued) (CAT/C/LTU/2; CAT/C/LTU/Q/2 and Add.1; HRI/CORE/1/Add.97)

1. At the invitation of the Chairperson, the members of the delegation of Lithuania resumed their places at the Committee table.
2. The CHAIRPERSON invited members of the delegation to respond to the questions raised by Committee members at the previous meeting.
3. Ms. GUSAUSKIENE (Lithuania) said that, although the Criminal Code did not contain a definition of torture per se, it did contain several articles under which persons found guilty of acts considered to be torture were punished. Moreover, a detailed definition of torture that was fully in conformity with the Convention had been established by precedent in the Supreme Court. Inhuman treatment of persons was considered to be an aggravating circumstance, and Lithuanian legislation allowed for the possibility of refusing to obey superior orders that led to torture or other forms of inhuman treatment. In 2005, the Ministry of the Interior had recorded three criminal offences for abuse of authority by police officers. In one of those cases, the perpetrator had been convicted and banned from working in the civil service for two years. In 2006, there had been three such offences; in 2007, two cases had been recorded; and thus far in 2008, one case had been recorded. Article 29 of the Constitution prohibited all forms of discrimination, and an amendment had recently been made to the Criminal Code increasing the penalty for discrimination.
4. Constitutional provisions guaranteed the right of detainees to obtain professional legal assistance from the time of their arrest and detention. Similar provisions were included in the Code of Criminal Procedure, which specified that judges and police officers were required to ensure suspects' right to defence and their right to contact a relative or any other person, including their employer. When detaining a foreign citizen, law enforcement officials concerned were required to notify the relevant foreign ministry, embassy or consular office. The Government of Lithuania complied with such requirements and ensured the application of procedural safeguards for all detainees.
5. Mr. TRUNOVAS (Lithuania), referring to the asylum process, said that the laws of Lithuania were fully in conformity with international legal standards. Decisions to grant asylum to foreign citizens were taken by the Migration Department, which was attached to the Ministry of the Interior. Asylum-seekers enjoyed a set of rights that included placement in a registration centre, processing of the necessary paperwork, access to an interpreter, education and financial support. The Migration Department was required to reach a decision on whether to grant asylum within 48 hours.
6. The Foreigners Registration Centre was for persons who had been lawfully detained in order to verify their identification and the circumstances of their arrival and to return them to their country of origin. Refugee centres, on the other hand, provided shelter and social services to

persons with refugee status. The time frame for consideration of an application for refugee status was three months but could be extended to a maximum of six months. If a person left a refugee centre and did not return for 24 hours or more, the authorities suspended financial and other assistance provided in accordance with existing legislation. In the case of a massive influx of asylum-seekers, his Government could decide to provide temporary asylum for a period of one year, which could be extended for an additional year. Refugees were integrated into Lithuanian society and received government support for education, employment, housing, social protection and health.

7. Foreigners could be detained by the police for a maximum of 48 hours. That period could be extended only by a court decision, and foreigners could be detained only at the Foreigners Registration Centre. Alternatives to detention could be ordered by the court if the individual did not pose a threat to national security; special rules applied to unaccompanied foreign minors. Lithuania respected the principle of non-refoulement of asylum-seekers; consequently, there were no cases in which it had returned an individual to a State where he or she had risked being tortured or subjected to cruel, inhuman or degrading treatment or punishment. Cases involving persons who posed a threat to national security were reviewed carefully according to general criteria, and various options were considered for expelling them to a State where they did not face the risk of ill-treatment.

8. Ms. MILASIUTE (Lithuania) said that Committee members might be interested to learn that, in the case of Batalov v. Lithuania, the European Court of Human Rights had found that there had not been a violation of article 3 of the European Convention on Human Rights regarding the prohibition of torture. Mr. Batalov had been granted residence on humanitarian grounds and had not been expelled from Lithuania, despite the fact that he was considered to pose a threat to national security.

9. Mr. TRUNOVAS (Lithuania) said that the Foreigners Registration Centre comprised two buildings, which provided separate residential facilities for men and for women. During the day, residents could move about freely, but at night there was a curfew and staff were on duty to ensure order. Moreover, residents could request assistance at any time they needed it. The Centre had a medical service, a cafeteria that served three meals a day and, since January 2008, a social worker and a psychologist. In 2007, the Centre had housed 143 individuals. The average number of residents at any one time was 28, while the average stay was 40 days. Currently there were 32 residents at the Centre.

10. Ms. MILASIUTE (Lithuania) said that non-Lithuanians were protected against torture by the Constitution. In accordance with article 18 of the Constitution, human rights were inherent rights; pursuant to article 29 all citizens were equal before the law. Although Lithuania was not a party to the Council of Europe's Framework Convention for the Protection of National Minorities, it was a party to the European Convention on Human Rights and other United Nations human rights treaties that provided protection for all persons under the jurisdiction of the State party. All treaties ratified by Lithuania were incorporated into domestic law.

11. Ms. GUSAUSKIENE (Lithuania) said that, in accordance with article 20 of the Criminal Code, evidence obtained through physical or psychological violence was not admissible in Lithuanian courts. That provision applied to Lithuanians and aliens alike.

12. The right of defence was enshrined in the Constitution and the Criminal Code, and was guaranteed from the time of interrogation. There were two types of legal assistance: the first consisted of legal advice and assistance with filling in forms and documents; the second consisted of representation during administrative or judicial proceedings. The State provided assistance where people did not have sufficient means to pay legal fees. It covered all legal fees when their annual income was 8,000 litai (LTL) or less, and 50 per cent of the fees when it was LTL 12,000 or less. In 2007, 230 people had received the first type of assistance and thus far in 2008 150 people had received such assistance. Most of them had been women.

13. Approximately 35,000 people had received the second type of legal assistance in 2007 and 25,000 in the first six months of 2008. Those figures might seem high, but they included people accused and on trial, serving a sentence and awaiting the outcome of appeals.

14. Mr. KAZLAUSKAS (Lithuania) said that State funds allocated for legal assistance so far had been sufficient and there was no reason to foresee any problems in the future.

15. Ms. GUSAUSKIENE (Lithuania) said that State-funded legal assistance was based on income. One problem was that at present people serving prison sentences or held in detention had to complete income declaration forms themselves; that would soon be resolved through the establishment of a centralized database for declaration of income.

16. Detention and remand in custody were allowed only on certain grounds which were clearly established by law. Detention was allowed to prevent the commission of administrative offences and to ensure that cases were dealt with promptly. Detention could be ordered only by an official authorized by the State. The grounds for detention must be recorded and could be appealed to a higher authority. Under article 272 of the Administrative Code a person detained for the purpose of judicial proceedings must receive the assistance of a lawyer. In June 2005, however, the Supreme Court had ruled that such persons must be provided with legal assistance at an earlier stage; moreover, if they were not assisted during the proceedings any evidence submitted should be deemed inadmissible.

17. The maximum term of remand in custody was 30 days. While appeals against custody could be lodged with a higher authority, they did not have the effect of stopping the custody; in certain circumstances, however, custody was postponed.

18. Mr. KAZLAUSKAS (Lithuania) said it should be noted that a new Administrative Code and a Code of Administrative Procedure were currently being drafted.

19. Mr. LAURINENAS (Lithuania) said it was not true that there was no legislation governing pretrial detention; however, the Pretrial Detention Act of 1996 had been redrafted and the new version would come into force in April 2009. While the 1996 Act did not permit the use of torture or other cruel, inhuman or degrading treatment or punishment during pretrial detention, the new legislation clearly prohibited such acts. It granted detainees greater rights, such as telephone contact with relatives, and also established a complaints procedure whereby detainees must receive a written reply to any complaint of ill-treatment within 14 days.

20. Providing statistics on prisons and detention facilities, he said that there were currently 950 inmates in Vilnius prison, of whom 215 were serving sentences and 79 life

sentences. The current occupancy rate was 110 per cent. There were 555 inmates in Siauliai prison, where the occupancy rate was 125 per cent. Kaunas prison had been renovated in 2004 and complied with all relevant European standards. Nevertheless, it was still overcrowded, the current occupancy rate being 138 per cent.

21. The prison hospital received patients from various detention centres and was also overcrowded. It currently held 140 patients - an occupancy rate of 117 per cent.

22. Violence in prisons and detention centres was indeed a problem. There had been two murder cases in 2004, but none in 2008 so far. In 2004, there had been 142 cases of bodily harm and 66 in 2008 to date. Criminal investigations were conducted into all cases of prison violence, not by prison staff but by procuratorial officials. In 2008, 36 criminal investigations had been conducted. He had not received information on the disciplinary or punitive measures taken against those found to be responsible for the violence.

23. A comprehensive programme had been drafted to stamp out all forms of prison violence and would be implemented shortly. The programme would focus on improving relevant legislation and detention conditions, for example by reducing the number of inmates per cell from 20 to a maximum of 8. Other goals included better work opportunities for prisoners, improving the professional skills of prison staff and involving civil society in the social rehabilitation of prisoners.

24. As at 1 October 2008 there had been 175 disabled prisoners; violence against them was not a particular problem. Disabled prisoners were provided with better facilities and treatment in prisons and detention centres, for instance in terms of food and space. A survey conducted among disabled prisoners had shown that for the time being they did not wish to be placed in a separate facility.

25. Replying to a question regarding the rules governing conditions in places of detention, he said that such rules were contained in the Internal Order Regulations of Correctional Institutions and the Internal Order Regulations of Remand Establishments. The former regulations had been adopted by the Ministry of Justice in 2003 and amended six times during the period 2003-2007. Two of the amendments concerned the confidentiality of telephone conversations with family members and the right of inmates to visits by their spouses or partners. The regulations concerning remand establishments had been adopted in 2001 and amended twice during the period 2004-2007. One of the amendments rescinded a rule prohibiting inmates from using their beds during the day. Special standards of hygiene had been adopted by the Ministry of Health in 1999. Inmates held in open establishments where they had unrestricted access to kitchens, libraries and other facilities were allocated a minimum of 3 square metres per inmate. Inmates confined to their cells were allocated 5 square metres and inmates in hospital wards were allocated 7 square metres.

26. There was one remand facility for minors and one correctional establishment for minors serving custodial sentences. The capacity of the former was 108 and there were currently 75 inmates, which was equivalent to an occupancy rate of 70 per cent; the corresponding figures for the latter were 150 and 110, equivalent to an occupancy rate of 74 per cent. In some cases minors were held in the remand facility for adults in Vilnius pending a final decision on their case. They were accommodated in a separate building, one floor of which was reserved for

women inmates. Convicted female minors were held in another facility together with adult convicted women. The facility had space for 408 inmates and average occupancy was 250 or about 60 per cent. There were currently two minor inmates in the facility and there had never been more than four.

27. Mr. TRUNOVAS (Lithuania), replying to a question regarding states of emergency, said that persons were required to carry identity documents under such circumstances. If they did not, they could be detained for up to 24 hours to check their identity and could be fined a sum equivalent to between 30 and 300 euros. However, as Lithuania had never declared a state of emergency, that provision had never been implemented in practice.

28. Mr. LAURINENAS (Lithuania) said that there were only 15 places of detention in Lithuania: 3 remand facilities, 9 facilities for convicted prisoners, including an open facility, a facility for minors and 2 special medical facilities, 1 for inmates suffering from tuberculosis and the other a general hospital. The global capacity of the facilities was 9,062 and there were currently about 7,800 inmates. Overcrowding was a problem only in the remand facilities and the general hospital.

29. In 2004, the Government had adopted a programme aimed at improving prison conditions, mainly through renovation. The opening of a new remand establishment in Kaunas in 2004 had led to an improvement in conditions in the Vilnius and Siauliai remand facilities. The number of inmates in the Vilnius facility had been reduced from about 1,200 in 2004 to a maximum of 950 in 2008. In 2004 a separate building for short-stay detainees had been built in the Marijampole facility. In Vilnius a detention centre in a former barracks had been renovated and was now an open facility for 120 inmates. Some inmates of other facilities had been transferred there and the previous open facility had been turned into a regular penitentiary with a capacity of 430. There was a special facility for inmates serving a life sentence. Renovation work on a prison building in Vilnius that had formerly housed a religious community had been commended by the European Committee for the Prevention of Torture. In the Siauliai remand facility, 77 of the 110 cells had been refurbished. The Ministry of Justice and the Prison Department had drawn up a long-term strategy (2008-2030) covering all facilities and had been approved by the Government in March 2008. During the first stage, which ran until 2012, a new hospital building with a capacity of 350, a new prison for 400 inmates and a remand establishment for 1,400 inmates would be constructed. Older buildings that failed to meet the requisite standards would then be shut down. There were also ambitious building plans for the subsequent period.

30. Mr. TRUNOVAS (Lithuania), replying to a question about human trafficking, said that comprehensive measures had been taken to address the problem and its consequences. A national strategy had been adopted and a basic legal framework which met United Nations, European Union (EU), INTERPOL and European Police Office (Europol) standards had been enacted. In June 2005, the Criminal Code had been amended to provide for the liability of corporations in addition to natural persons. In February 2008, Lithuania had signed the Council of Europe Convention on Action against Trafficking in Human Beings, and parliament was currently discussing legislation that would provide compensation to victims of trafficking. In 2006, parliament had amended legislation on the legal status of foreigners so that victims of trafficking could remain in Lithuania to collaborate with the law enforcement agencies and

obtain all necessary assistance. For the past four years, the State Department of the United States had included Lithuania in the group of countries that were making the greatest efforts to combat human trafficking.

31. Action was also being taken to reintegrate victims into society. The State funded a number of organizations that provided welfare services to victims. During the period 2005-2008 a total of 53 projects had been financed. There was also a system for identifying victims of violent trafficking. The number of victims of trafficking had declined from 8,100 in 2002 to 5,700 in 2007. A subdivision of the Police Department, staff of the Office of the Police Commissioner-General throughout the country and 32 prosecutors were assigned to deal with the problem. Special training courses were provided for the Lithuanian police and international seminars on the subject had been hosted.

32. Mr. KAZLAUSKAS (Lithuania) said that the authorities were paying special attention to corruption, for example in the customs service and at border posts. A special anti-corruption programme had been approved by parliament and an inter-ministerial commission headed by the Ministry of the Interior had been established.

33. Ms. GUSAUSKIENE (Lithuania) said that the Criminal Code made no clear distinction between domestic and non-domestic violence, including rape. Offences were punishable in both cases. However, special procedural measures were applicable in the case of domestic violence. For instance, suspects were obliged to live separately from victims in order to prevent any recurrence. Courts could also order special treatment or behaviour-alteration courses for offenders. A task force had been set up by the Ministry of Justice to undertake a comprehensive review of the problem. It had examined the causes of domestic violence, ways of protecting victims' rights, the provision of compensation, and the possibility of setting up social and psychological assistance centres as well as temporary refuges. In the light of its findings, the Ministry had drafted amendments to some articles in the Code of Criminal Procedure aimed at enhancing victims' rights and broadening the legal options available to them. The penalties for such offences depended, of course, on the seriousness of the offence and the degree of guilt.

34. Mr. KAZLAUSKAS (Lithuania), referring to cases of violence in the army, said that the Criminal Code provided for criminal responsibility for acts of violence committed against a commanding officer, a subordinate or a soldier of equal rank. Between 2005 and mid-2008, preliminary investigations had been opened into six cases involving acts of violence against a commanding officer; in five cases the accused had been found guilty. Over the same period, preliminary investigations had been opened into nine cases involving abuse of a subordinate; guilty verdicts had been handed down in six cases and one case was pending. Also between 2005 and mid-2008, 52 preliminary investigations had been opened into reports of violence between soldiers of equal rank; 26 cases had resulted in court convictions and 13 cases had been dropped.

35. Court cases involving violence in the army attracted considerable public attention. Preliminary investigations were conducted by the military police under the supervision of a prosecutor; there were no special courts. In 2008, parliament had adopted legislation providing for a gradual move towards a professional army, which was expected to reduce the incidence of violence.

36. Mr. LAURINENAS (Lithuania) said that all law enforcement officials received initial and further training in human rights. Special human rights courses were offered at university. Migration officials were also trained in human rights, including through regular training courses on asylum procedures held by the European Refugee Fund.

37. Mr. TRUNOVAS (Lithuania), turning to the issue of training for prison staff, informed the Committee that Vilnius university had established a Chair of Penitentiary Law in 1994, which specialized in the training of senior prison staff. Students could be awarded bachelor's or master's degrees in law; the bachelor's degree course included 240 class hours on relevant international law.

38. With the assistance of the Swedish Prisons and Probation Administration, Lithuania had set up a training centre for junior prison staff within the Prison Department in 1999. The establishment of the centre was the result of a 10-year project, which had included the supply of teaching materials and periodic visits by Swedish lecturers and had been completed in 2006. Lithuania continued to cooperate with the Swedish Prisons and Probation Administration, including in the organization of a training programme for parole officers in 2008 with the participation of Swedish lecturers.

39. Ms. MILASIUTE (Lithuania), replying to questions concerning discrimination against the Roma community, said that a new, three-year strategy for the integration of Roma had been adopted in 2008. The strategy document contained an analysis of the issues at stake and provided for specific remedial measures in the fields of education, employment, health care, housing and general discrimination issues, and for organizational and administrative capacity-building for Roma communities.

40. Of particular relevance were measures to educate Roma communities about their human rights and legal remedies for violations of those rights. A case in point was that of a young Roma woman who had been refused employment on the basis of her ethnicity and had won her case at first instance in 2008. She had invoked European legislation prohibiting racial discrimination and, in particular, the rule permitting a shift in the burden of proof to the accused. The case was currently pending in the court of appeal.

41. With regard to the threat of demolition of Roma homes in Vilnius, she explained that the Roma often neglected to apply for the necessary permits and that Lithuanian legislation provided for the demolition of unauthorized buildings. However, demolition could only occur on the basis of a court order and no such order had been issued.

42. Mr. KAZLAUSKAS (Lithuania) said that 226 crimes of genocide and crimes against humanity committed on Lithuanian territory under Soviet and Nazi occupation had been investigated since 1991, including over 50 cases relating to the Holocaust. In 19 cases the accused had been found guilty. Since 2005, 36 criminal investigations had been launched, and 5 had resulted in guilty verdicts. The case of Mr. Yizthak Arad had been closed.

43. Ms. GUSAUSKIENE (Lithuania) said that domestic legislation provided for compensation for victims of torture or degrading treatment and a special compensation fund had been created for that purpose. In 2006, 76 persons had applied for compensation, which

had been awarded in 26 cases. In 2007, 136 applications had been received and compensation had been granted to 54 persons in a total amount of LTL 247,342. During the first six months of 2008, 72 applications had been received, 33 of which had been successful.

44. The Law on Compensation for Injury Caused by Violent Crimes had been amended to enhance the legal basis for compensation. Additional amendments were planned to expand the definition of violent crimes and increase the amount of compensation payable. The Government also planned to improve legislation on the rights of victims of violent crimes and simplify compensation procedures, including for violent acts committed by State agents. The total compensation paid to victims of violence inflicted by State agents had amounted to over LTL 25,000 in 2004 and LTL 18,000 in 2005. A total of LTL 21,748 had been awarded to 5 out of 18 applicants in 2006. Fifteen persons had applied for compensation in 2007 and 21 during the first six months of 2008. On the basis of decisions handed down by the European Court of Human Rights, compensation had been awarded to 27 persons between 2004 and 2008.

45. Ms. MILASIUTE (Lithuania), replying to an earlier question about the ban by the municipality of Vilnius on the planned visit of the European Union's "anti-discrimination truck" in 2007, which had included an event organized by the Lithuanian Gay League, explained that the municipality had refused authorization for fear of violent protests. Since the organizers had opted against challenging the decision in court, it could not be established whether the court would have overruled the ban. Arguably, there was room for improvement of legislation governing the right of assembly. The EU Agency for Fundamental Rights had conducted a study on homophobia and discrimination on grounds of sexual orientation within the Union; its findings would be taken into account by her Government when reviewing relevant legislation.

46. Mr. GALLEGOS CHIRIBOGA, Country Rapporteur, commending the delegation for its comprehensive replies to the Committee's questions, reminded it that the incorporation of the definition of torture in its Constitution was the key to ensuring that there could be no statute of limitations on such crimes.

47. Although the delegation had provided detailed information on the rights of detainees to a lawyer and contact with family members, additional information was required on the right to an independent doctor.

48. He remained concerned at the lack of a clear definition of rape in the State party's legislation. A definition of rape and its attendant punishment should be reflected in the Criminal Code.

49. Progress had been made in addressing the problem of prison overcrowding and he was hopeful that further progress would be made, especially with regard to pretrial facilities, in the forthcoming reporting period.

50. Efforts needed to be stepped up to end violence in the armed forces, both by improving legislation and internal regulations and by addressing impunity. The Committee would welcome information on punishments for violence between soldiers.

51. Although the delegation had replied orally to some of the issues raised by the Rapporteur on follow-up to conclusions and recommendations in her letters to the State party dated 21 April 2006 and 27 October 2008, a formal reply remained pending.

52. Mr. KOVALEV expressed doubt about the alleged absence of discrimination against non-citizens in the reporting State and requested additional information on the matter.

53. He asked whether the legally prescribed inadmissibility of evidence obtained under torture was applied in practice. If not, the delegation should provide information on cases where those provisions had been violated and sanctions imposed, and give examples of cases where decisions based on such evidence had been rescinded.

54. He commended the State party for its exemplary training courses for prison staff and the gradual improvement of conditions of detention.

The discussion covered in the summary record ended at 5.20 p.m.