

LEGAL RIGHTS - CRIMINAL - Protection Against Undue Delay

IV. CONCLUDING OBSERVATIONS

CERD

- Sudan, CERD, A/49/18 (1994) 68 at para. 477.

Underlining the crucial area of the administration of justice with regard to eliminating racial discrimination, it is recommended that police power be curtailed and that judges decide on the legality of detainment within a reasonable time after arrest or the taking into custody of a suspect. The State is obligated to ensure that law enforcement officials are fully responsible for adhering to the requirements of the Convention and that excesses of the security forces are punished.

- Yugoslavia, CERD, A/53/18 (1998) 45 at para. 202.

Concern is expressed at persisting violations in Kosovo and Metohija of basic human rights standards, including article 5 (a) and (b) of the Convention, which requires that arrested persons be brought promptly before a judge, and prohibits torture and ill-treatment of persons in detention or in the course of demonstrations. Equal concern is expressed about the impunity that perpetrators of such violations seem to enjoy.

ICCPR

- Mexico, ICCPR, A/49/40 vol. I (1994) 33 at para. 172.

The conditions in prison and other detention centres and the slowness of judicial procedures continue to be a major cause for concern.

- Italy, ICCPR, A/49/40 vol. I (1994) 47 at para. 279.

The duration of preventive detention as provided for under the law, which does not appear to be compatible with the requirements of articles 9 and 14 of the Covenant, is of concern. Delays in judicial proceedings remain worrisome despite attempts to reduce them.

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- Slovenia, ICCPR, A/49/40 vol. I (1994) 56 at paras. 343 and 350.

Paragraph 343

The length of pre-trial detention, which may extend up to six months under certain circumstances, does not comply with the requirements of articles 9 and 14 of the Covenant.

Paragraph 350

The maximum period of pre-trial detention should be significantly shortened.

- Argentina, ICCPR, A/50/40 vol. I (1995) 35 at para. 163.

With respect to the Code of Criminal Procedure, the system of pre-trial detention should be carefully reviewed. Legal safeguards should be established to ensure that, in instances where pre-trial detention exceeds the maximum applicable penalty for a crime, the defendant will be released without qualification. The purpose of pre-trial detention should be clearly defined and the length of detention should be set accordingly, applying the principle of presumption of innocence. The same consideration should be given in the setting of bail.

- Russian Federation, ICCPR, A/50/40 vol. I (1995) 65 at paras. 377 and 379.

Paragraph 377

Deep concern is expressed over the practice of pre-trial detention and over the fact that temporary detention has been extended from 10 to 30 days in certain cases. The extent of the Procurator's competence to decide on matters relating to arrest or detention which cannot be challenged by the person concerned before a court is of concern. Under article 9, paragraph 3, of the Covenant, the detention of persons before they are granted a trial should not be the norm and, when it occurs, persons so detained should be granted a trial within a reasonable time or be released. It is of concern that pre-trial detention is practised, not only in cases of serious criminal charges but more so on misdemeanour charges and frequently for unreasonably long periods of time, and that no effective mechanism exists for monitoring such detention.

Paragraph 379

The lack of independence and efficiency of the judiciary and the long delays in the administration of justice, which do not conform with the requirements of both articles 9 and 14 of the Covenant are of concern. In that regard, it is noted that the judicial system in the Russian Federation cannot be effective to ensure protection of rights until there is a sufficient number of well-trained and qualified judges and lawyers.

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See also:

- Ukraine, ICCPR, A/50/40 vol. I (1995) 57 at para. 319.
- Guatemala, ICCPR, A/51/40 vol. I (1996) 33 at para. 229.

It is of concern that the absence of a State policy for combatting impunity has prevented the identification, trial and punishment if found guilty of those responsible, and the payment of compensation to the victims. The delays and failures of the process of law, and the non-compliance by the police with court decisions and orders has heightened the public perception that justice cannot be obtained.

- Peru, ICCPR, A/51/40 vol. I (1996) 48 at para. 362.

The duration of preventive detention should be reasonable and any arrested person should be brought promptly before a judge.

- Switzerland, ICCPR, A/52/40 vol. I (1997) 19 at paras. 100 and 111.

Paragraph 100

It is noted with concern that the Federal Act relating to coercive measures, which entered into force in January 1995, in some cases permits the administrative detention of foreign nationals without a temporary or permanent residence permit, including asylum seekers and minors over the age of 15, for three months while the decision on the right of temporary residence is being prepared, and for a further six months, and even one year with the agreement of the judicial authority, pending expulsion. These time limits are considerably in excess of what is necessary, particularly in the case of detention pending expulsion. The time limit of 96 hours for the judicial review of the detention decision or the decision to extend detention is also excessive and discriminatory, particularly in the light of the fact that in penal matters this review is guaranteed after 24 or 48 hours, depending on the canton concerned.

Paragraph 111

The Act relating to coercive measures should be implemented in a restrictive manner and in the spirit of the Covenant, so as to ensure that the length of detention applicable under the Act is as short as possible and that the judicial review of the detention decision or the decision to extend detention is carried out in less than 96 hours. All possible measures should be taken to ensure that foreigners who are covered by that Act are informed in a language they understand of the remedies available to them and that they are assisted by counsel.

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- Colombia, ICCPR, A/52/40 vol. I (1997) 44 at para. 283.

The length of judicial proceedings creates an unacceptable backlog of cases, including cases of human rights abuses.

- France, ICCPR, A/52/40 vol. I (1997) 62 at paras. 402 and 404.

Paragraph 402

The existing procedures for investigating human rights abuses committed by the police are of concern. The failure or reluctance of prosecutors to apply the law on investigating human rights violations where law enforcement officers are concerned, and the delays and unreasonably lengthy proceedings in investigating and prosecuting alleged human rights violations involving law enforcement officers are also of concern. Therefore, the appropriate measures should be taken to fully guarantee that all investigations and prosecutions are undertaken in full compliance with the provisions of articles 2, paragraph 3, 9 and 14 of the Covenant.

Paragraph 404

The frequent resort to and length of pre-trial detention is of concern. It is a matter of particular concern that the length of pre-trial detention should be high in case of juveniles. This would constitute violation of article 9, paragraph 3, and 14, paragraphs 2 and 3 (c), of the Covenant. Measures should be taken to reduce the length of pre-trial detention.

- India, ICCPR, A/52/40 vol. I (1997) 67 at paras. 440-442.

Paragraph 440

It is noted with concern that, although the Terrorist and Disruptive Activities (Prevention) Act has lapsed, 1,600 people remain in detention under its provisions. Measures should be taken to ensure either the early trial of these people or their release.

Paragraph 441

Concern is expressed over the overcrowding and poor health conditions and sanitation in many prisons, the inequality of treatment of prisoners and the lengthy periods of pre-trial detention, all of which are incompatible with articles 9 and 10, paragraph 1, of the Covenant. Therefore, measures should be taken to reduce overcrowding, to release those who cannot be given a speedy trial and to upgrade prison facilities as quickly as possible. In this respect, attention should be given to the United Nations Standard Minimum Rules for the Treatment of Prisoners.

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Paragraph 442

The procedure of the courts should be reformed to ensure a speedy trial for those charged with offences and a prompt hearing in civil cases and similar urgency in hearing appeals.

- Jamaica, ICCPR, A/53/40 vol. I (1998) 15 at paras. 85 and 86.

Paragraph 85

Further efforts should be made to reduce delays in the hearing of cases. This applies in particular to the delays between dismissal of capital appeals by the Court of Appeal of Jamaica and the hearing of a petition for special leave to appeal by the Judicial Committee of the Privy Council. Therefore, the appropriate legal provisions should be adopted to ensure prompt issue of a reasoned judgement by the Court of Appeal.

Paragraph 86

The State party has failed to adhere strictly to article 9, paragraph 3, of the Covenant and to domestic statutory time limits on pre-trial detention. Such time-limits should be closely observed, so as to reduce the opportunity for beatings and other forms of police brutality such as have been alleged.

- Belarus, ICCPR, A/53/40 vol. I (1998) 26 at para.146.

It is noted with concern that pre-trial detention may last up to 18 months, and that the competence to decide upon the continuance of pre-trial detention lies with the Procurator and not with a judge, which is incompatible with article 9, paragraph 3, of the Covenant. In this regard, the laws and regulations relating to pre-trial detention should be reviewed as a matter of priority to comply with article 9.

- Zimbabwe, ICCPR, A/53/40 vol. I (1998) 35 at para. 219.

The practice of a senior police officer extending to 96 hours the maximum period of detention of 48 hours before being brought to a judge or magistrate is incompatible with article 9. It is of concern that this practice provides opportunity for ill treatment and intimidation of detainees. The law relating to arrest and detention should be reviewed to bring it into conformity with article 9 of the Covenant and to ensure that individuals are not held in pre-trial custody for longer than 48 hours without court order.

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- Ecuador, ICCPR, A/53/40 vol. I (1998) 43 at paras. 286 and 287.

Paragraph 286

The holding of accused persons in detention pending trial for a maximum duration of a third of the possible sentence facing them, irrespective of the risk that they may fail to appear for trial, is incompatible with the presumption of innocence and the right to be tried within a reasonable time or to be released on bail. Bail legislation should be brought into conformity with the provisions of the Covenant and resort to preventive detention should be the exception and not the rule.

Paragraph 287

Long delays in judicial proceedings which are incompatible with the requirements of articles 9 and 14 of the Covenant, as well as the severe shortage of public defenders for the poor in Quito and Guayaquil and their total unavailability in many parts of the country, are of concern. This situation is particularly grave since Ecuadorian law requires mandatory legal assistance in court proceedings. Therefore, the question of the long judicial delays should be addressed to ensure compliance with the provisions of the Code of Criminal Procedure, which stipulates that the initial trial should be completed within 60 days. The State party is encouraged to increase the number of public defenders and to extend their presence throughout the whole of its territory.

- Italy, ICCPR, A/53/40 vol. I (1998) 50 at paras. 342, 343 and 345.

Paragraph 342

The maximum period during which a person may be held in custody following arrest on a criminal charge should be reduced, even in exceptional circumstances, to less than the present five days and the arrested person should be entitled to access to legal advice as soon as he or she is arrested.

Paragraph 343

The Italian system of holding offenders, before and after trial, in "preventive detention" until the final stages of any possible appeal have been exhausted and the sentence has been finalized, the maximum period of which is set by reference to the penalty for the offence of which the person stands accused, and can last up to six years, could constitute an infringement of the presumption of innocence (art. 14, para. 2) and the principle of the right to a fair trial within a reasonable time or to release (art. 9, para. 3). Therefore, (i) the linkage between the offence with which a person has been charged and the length of detention from the time of arrest up to final sentence should not be maintained; and (ii) the grounds for preventive detention should be restricted to those cases in which such detention is essential to protect legitimate interests, such as the appearance of the accused at the trial.

Paragraph 345

Despite steps taken to speed up both criminal and civil trials, no result has become apparent. Further measures should be taken to increase the efficiency and promptness of the entire system of justice.

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- Algeria, ICCPR, A/53/40 vol. I (1998) 52 at para. 360.

The State party must ensure that a person's detention does not exceed the limit provided by law.

- United Republic of Tanzania, ICCPR, A/53/40 vol. I (1998) 57 at para. 406.

The large number of election petitions currently before the High Court has so clogged the system that other proceedings, including trials for homicide, have been inordinately delayed. Suitable measures should be adopted to extinguish the backlog of pending cases, and a more expeditious procedure should be adopted to determine electoral disputes.

- Belgium, ICCPR, A/54/40 vol. I (1999) 26 at para. 84.

The length of pre-trial detention and the high number of detainees in prisons who are still awaiting trial are of concern. The State party is urged to review its rules and practice for granting bail. The period of five months' detention, which may be extended to eight months, to which asylum seekers may be subjected, may amount to arbitrary detention in violation of article 9 of the Covenant, unless the detention is subject to judicial review which secures the release of the person if there is no lawful purpose being served by the detention.

- Japan, ICCPR, A/54/40 vol. I (1999) 36 at para. 164.

The guarantees contained in articles 9, 10 and 14 are not fully complied with in pre-trial detention in that pre-trial detention may continue for as long as 23 days under police control and is not promptly and effectively brought under judicial control; the suspect is not entitled to bail during the 23-day period; there are no rules regulating the time and length of interrogation; there is no State-appointed counsel to advise and assist the suspect in custody; there are serious restrictions on access to defence counsel under article 39(3) of the Code of Criminal Procedure; and the interrogation does not take place in the presence of the counsel engaged by the suspect. The pre-trial detention system in Japan should be reformed with immediate effect to bring it in conformity with articles 9, 10 and 14 of the Covenant.

- Lesotho, ICCPR, A/54/40 vol. I (1999) 51 at para. 261.

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The detention of suspects for periods longer than 48 hours before they are brought before a magistrate is of concern. Firm action should be taken to enforce compliance with the State party's own legislative provision limiting pretrial detention to 48 hours before appearance before a magistrate.

- Poland, ICCPR, A/54/40 vol. I (1999) 65 at para. 351.

Persons who have to be detained should be brought to trial within a reasonable time or be released. A maximum length of pre-trial detention of 12 months, especially with the ability to extend this up to another 12 months is incompatible with article 9(3). The period of pre-trial detention should be reduced.

- Morocco, ICCPR, A/55/40 vol. I (2000) 24 at para. 108.

Concern is expressed that the maximum length of detention of a suspect before being brought before a judge may in some cases be as long as 96 hours, that the Crown Prosecutor General has power to extend this period, that persons detained may not have access to counsel during this period, and about the length of pre-trial detention.

- Kyrgyzstan, ICCPR, A/55/40 vol. I (2000) 57 at paras. 406 and 407.

Paragraph 406

The time limits ensuring expeditious commencement of criminal trials is noted with approval, but that the courts may, under the Code of Criminal Procedure, reach no decision at the end of a trial, but rather remit the case to the prosecutor for further inquiries, is of concern.

Paragraph 407

The procedure described in the preceeding paragraph should be abolished.

- Kuwait, ICCPR, A/55/40 vol. I (2000) 65 at paras. 471 and 472.

Paragraph 471

The fact that a detained person may be held in police custody for a period of four days before being brought before an investigating official and that it would appear that this period can be extended is of concern.

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Paragraph 472

The period of police custody before a detained person is brought before a judge should not exceed 48 hours. The State party should ensure that anyone arrested or detained on a criminal charge is brought promptly before a judge or other officer authorized by law to exercise judicial power (art. 9, para. 3), that all other aspects of its law and practice are harmonized with the requirements of article 9 of the Covenant, and that detained persons have immediate access to counsel and contact with their families.

- Gabon, ICCPR, A/56/40 vol. I (2001) 41 at para. 75(13).

The safeguards provided for in article 9 of the Covenant are not fully respected either in law or in practice. The length of time people can spend in police custody and pre-trial detention is of particular concern. Article 9, paragraph 3, of the Covenant stipulates that "It shall not be the general rule that persons awaiting trial shall be detained in custody". The State party should take action to ensure that detention in police custody never lasts longer than 48 hours and that detainees have access to lawyers from the moment of their detention. The State party must ensure full *de facto* compliance with the provisions of article 9, paragraph 3, of the Covenant.

- Peru, ICCPR, A/56/40 vol. I (2001) 45 at para. 76(13).

Detention for up to 15 days in cases of terrorism, drug trafficking and espionage does not comply with article 9 of the Covenant. Attention is drawn to the State party's obligation to amend its legislation so that any person who has been detained may be placed without delay at the disposal of the judiciary.

- Venezuela, ICCPR, A/56/40 vol. I (2001) 49 at para. 77(10).

The lack of information on the average time spent in detention awaiting judgement is regretted. The length of such detention may raise issues of compatibility with article 9, paragraph 3, and article 14 of the Covenant. The State party should speed up trials and abide strictly by article 9, paragraph 3, of the Covenant in order to bring the situation into line with the requirements of the Covenant.

- Dominican Republic, ICCPR, A/56/40 vol. I (2001) 54 at paras. 78(11) and 78(13).

Paragraph 78(11)

Despite the creation of more courts, the high percentage of prisoners in pre-trial detention has increased. This means that many people accused of crimes remain in detention waiting for their trials

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to end, which is counter to article 9, paragraph 3, and article 14, paragraph 2, of the Covenant. The State party should reform the law immediately to make pre-trial detention the exception rather than the rule, used only when strictly necessary.

Paragraph 78(13)

It is of serious concern that applications for *habeas corpus* are heard weeks or months after receipt. This is incompatible with article 9 of the Covenant. The State party should take prompt action to enable the courts to rule on the legality of detentions as quickly as possible.

- Uzbekistan, ICCPR, A/56/40 vol. I (2001) 59 at para. 79(12).

The length of detention (72 hours) before detainees are informed of charges being brought against them is of concern. This period of detention, before detainees are informed of the charges being brought against them, is too long and not in compliance with article 9, paragraph 2, of the Covenant. The unwillingness of the delegation to answer questions related to court review of arrest (art. 9, para. 3) is deplored. The State party should take urgent measures to bring the Law of Criminal Procedure into compliance with the Covenant so that the accused are promptly informed of any charges against them and promptly brought before a judge.

- Syrian Arab Republic, ICCPR, A/56/40 vol. I (2001) 70 at para. 81(14).

Hundreds of people have reportedly been arrested and detained without an arrest warrant or indictment, only to be released without judicial procedures having been initiated and, in many cases, after many years in detention. Anyone arrested or detained on a criminal charge must be brought promptly before a judge (article 9, paragraph 3, of the Covenant). The State party must ensure that all other aspects of its practice are consistent with the provisions of article 9 of the Covenant and that detainees have access to counsel and are permitted to contact their families.

- The Netherlands, ICCPR, A/56/40 vol. I (2001) 76 at para. 82(13).

Concern is expressed that the State party's law provides for a maximum of 3 days and 15 hours which may elapse between a suspect's arrest and his or her being brought before a judge. Such a period does not satisfy the requirement in article 9, paragraph 3, to be "promptly" brought before a judicial authority. The State party should amend this aspect of its criminal procedure to comply with the requirements of the Covenant.

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- Czech Republic, ICCPR, A/56/40 vol. I (2001) 83 at paras. 83(17) and 83(18).

Paragraph 83(17)

It is of concern that the period of up to 48 hours before being brought before a court is excessive, and that access to a lawyer is not available during that period to a suspect who cannot afford one (art. 9). The State party should ensure that detained persons are brought promptly before a court and that access to a lawyer is available from the moment of deprivation of liberty.

Paragraph 83(18)

Concern is expressed about the scope and length of pre-trial detention, the average length of which is inordinately high. The system, as it is applied, would seem to raise issues of compatibility with article 9, paragraph 3. The figures provided by the State party on the number of cases in which the prosecution's request for detention is accepted by the courts casts doubts on the effectiveness of the system of review (art. 9). The State party should ensure that its law and practice are in strict compliance with the requirements of article 9 of the Covenant.

- Guatemala, ICCPR, A/56/40 vol. I (2001) 93 at para. 85(22).

The large percentage of prisoners held in pre-trial detention is of concern. This means that a large number of persons accused of crimes remain in pre-trial detention for long periods, pending the completion of the criminal proceedings against them, contrary to article 9, paragraph 3, and article 14, paragraph 2, of the Covenant. The State party should continue to take all necessary measures to reduce the number of persons in pre-trial detention and the period during which they are detained.

- Democratic People's Republic of Korea, ICCPR, A/56/40 vol. I (2001) 98 at para. 86(18).

The compatibility of the State party's pre-trial detention practices and preliminary investigation procedures with article 9 of the Covenant is a matter of concern. The duration of detention before a person is brought before a judge is manifestly incompatible with article 9, paragraph 3 of the Covenant. Anyone arrested or detained on a criminal charge must be brought promptly before a judge. The State party must ensure that all of its practices are consistent with the provisions of article 9 of the Covenant and that detainees have access to counsel and are permitted to contact their families from the moment of apprehension.

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CAT

- Egypt, CAT, A/49/44 (1994) 14 at para. 87.

Shortcomings in suitable preventive measures to combat torture, including the length and conditions of police custody and administrative detention and the slow pace of trials of persons responsible for acts of torture or ill-treatment are of concern.

- Republic of Korea, CAT, A/52/44 (1997) 12 at paras. 61 and 67.

Paragraph 61

The fact that suspects may be detained for up to 10 days without a remand order or any form of approval by the courts is of concern.

Paragraph 67

The 30- or 50-day maximum period of detention in police premises for interrogation purposes before the suspect is charged is too long and should be shortened.

- Poland, CAT, A/52/44 (1997) 18 at paras. 100 and 108.

Paragraph 100

Legislation that permits periods of pre-trial detention which may prove excessive is of concern.

Paragraph 108

The period of pre-trial detention should be shortened and the possibility of extending it for two years should be abolished.

- Ukraine, CAT, A/52/44 (1997) 23 at para. 147.

The 18-month maximum period during which an accused person may be held in custody is considered excessive and it should be reduced.

- Namibia, CAT, A/52/44 (1997) 35 at paras. 237 and 245.

Paragraph 237

The fact that in many cases, because of the lack of judicial personnel, pre-trial detention extends for up to one year is deeply regretted.

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Paragraph 245

Measures should be introduced to reduce the accumulation of criminal cases resulting in long and illegal pre-trial detention, which violates the right of defendants to be tried within a reasonable time.

- Argentina, CAT, A/53/44 (1998) 8 at para. 68.

A reasonable time limit should be set for preliminary investigations. Undue prolongation of this pre-trial stage represents a form of cruel treatment of the individual concerned, even if he is not deprived of his freedom. The law should specify a reasonable time limit for pre-trial detention and for the completion of criminal proceedings.

- Spain, CAT, A/53/44 (1998) 14 at para. 127.

Judicial proceedings instituted following complaints of acts of torture, at both the pre-trial and trial stages, are often of a duration which is completely incompatible with the promptness required by article 13 of the Convention, including some cases in which sentences were pronounced up to 15 years after the events in question.

- Panama, CAT, A/53/44 (1998) 22 at para. 218.

The following is of concern:

The absence in Panama's legislation of a stipulated maximum duration of pre-trial detention;

The high proportion of unsentenced detainees in Panama's prisons.

- Israel, CAT, A/53/44 (1998) 23 at para. 238.

Administrative detention in the occupied territories for inordinately lengthy periods and for reasons that do not bear on the risk posed by releasing some detainees is of concern.

- Venezuela, CAT, A/54/44 (1999) 16 at para. 140.

The overcrowding in prisons, where capacity is exceeded by over 50 per cent, the lack of segregation of the prison population, the fact that almost two thirds of prisoners are awaiting trial and the endemic violence rampant in Venezuelan jails mean that prisoners are permanently subjected to forms

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of inhuman or degrading treatment.

- Bolivia, CAT, A/56/44 (2001) 40 at para. 95.

Judicial delays, which would appear to affect two thirds of the prison population, who are kept waiting for their cases to be heard, a situation which is largely responsible for the serious overcrowding of prisons and is of concern.

- Brazil, CAT, A/56/44 (2001) 49 at para. 119.

Concern is expressed about the long periods of pre-trial detention and delays in judicial procedure which, together with the overcrowding in prisons, have resulted in convicted prisoners and prisoners awaiting trial being held in police stations and other places of detention not adequately equipped for long periods of detention, a fact which could in itself constitute a violation of the provisions of article 16 of the Convention;

- Costa Rica, CAT, A/56/44 (2001) 55 at para. 134.

The explicit inclusion in the Constitution and laws of the rights and guarantees of every person deprived of liberty are noted with satisfaction, including the time limit of six hours set for the police to bring the detainee before a member of the Public Prosecutor's Office and 24 hours to place him at the disposal of a judge, and the exclusion of arrest on suspicion.

CRC

- Lebanon, CRC, CRC/C/54 (1996) 7 at para. 43.

The field of juvenile justice and the treatment of young offenders require further reform. Problems appear to exist in relation to the low age of criminal responsibility, non-separation of children from adult detainees, the lack of available health and educational facilities for young detainees, the existence and length of pre-trial custody and the non-availability of legal assistance.

- Russian Federation, CRC, CRC/C/90 (1999) 18 at para. 131.

Particular measures should be taken in order to implement, as soon as possible, the planned reform of the juvenile justice system, including the adoption of comprehensive legislation on juvenile justice;

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the introduction of special juvenile courts with trained juvenile judges and the revision of the Code of Criminal Procedure, so as to transfer the power to order the arrest of juveniles from the Procurator to the juvenile courts; the limitation of the term of pre-trial detention; the expedition of court procedures and the training of law enforcement and judicial officials in child rights and the rehabilitative aims of juvenile justice.

- India, CRC, CRC/C/94 (2000) 10 at para. 113.

Measures should be taken to reduce overcrowding, to release those who cannot be given a speedy trial and to improve prison facilities as quickly as possible.

- Grenada, CRC, CRC/C/94 (2000) 72 at para. 411.

The length of time before the hearing of juvenile cases and the apparent lack of confidentiality accorded to such cases are matters of concern.

See also:

- South Africa, CRC, CRC/C/94 (2000) 81 at para. 455.

- Cambodia, CRC, CRC/C/97 (2000) 64 at para. 395.

With regard to the situation of children in conflict with the law, concern is expressed at the lack of special legislation, policies and programmes in this area; at reports of children detained in prisons with adults; the situation of children detained for extended periods without being charged and without access to a lawyer or to a court; and the reports of detained children allegedly being subjected to beatings and other ill-treatment.

- Suriname, CRC, CRC/C/97 (2000) 84 at paras. 507 and 508.

Paragraph 507

Concern is expressed about the length of pre-trial detention.

Paragraph 508

The State party should use deprivation of liberty only as a measure of last resort and for the shortest possible period of time; improve the conditions in detention facilities; protect the rights of children deprived of their liberty, including their right to privacy; and ensure that children remain in contact

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with their families while in the juvenile justice system;

- Burundi, CRC, CRC/C/100 (2000) 17 at paras. 158 and 159.

Paragraph 158

The weakness of juvenile justice facilities in the State party is of concern. In particular, it is of concern that children who have been charged with a criminal offence are obliged to wait long periods of time before a trial is held and that the duration of pre-trial detention of children frequently exceeds the maximum prison sentence to which a child can be sentenced if found guilty. Investigations into criminal accusations made against children are extremely slow.

Paragraph 159

The State party is urged to make every effort to ensure that investigations and trials of children accused of committing criminal acts are conducted rapidly, that periods of pre-trial detention are kept to a minimum, that children are detained or imprisoned separately from adults and that conditions of detention are improved.

- Latvia, CRC, CRC/C/103 (2001) 9 at paras. 72 and 73.

Paragraph 72

The juvenile justice system is not fully in compliance with the Convention and the justice system as a whole is not efficient. In particular, concern is expressed about reports of juvenile offenders spending long periods in pre-trial detention because the justice system is overloaded.

Paragraph 73

The State party should review its law and practices regarding the juvenile justice system in order to bring it into full compliance with the Convention, in particular articles 37, 40 and 39, as well as with other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), with a view to ensuring child-friendly practices by the police and other levels of the juvenile justice system and the separation of juvenile and adult offenders in prison. In particular, the State party is reminded that juvenile offenders should be dealt with without delay and that pre-trial detention should not be longer than the period prescribed by law and should be used only as a measure of last resort.

- Lithuania, CRC, CRC/C/103 (2001) 47 at para. 308.

Juvenile offenders should be dealt with without delay and pre-trial detention should not be longer than

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the period prescribed by law and should be used only as a measure of last resort. Alternative measures to prevent pre-trial detention should be used whenever possible.

- Guatemala, CRC, CRC/C/108 (2001) 47 at paras. 283 and 284.

Paragraph 283

Concern is expressed at the long periods of pre-trial detention and at poor conditions in detention centres.

Paragraph 284

The State party is reminded that juvenile offenders should be dealt with without delay, in order to avoid periods of *incommunicado* detention, and that pre-trial detention should be used only as a measure of last resort, should be as short as possible, and should be no longer than the period prescribed by law. Alternative measures to pre-trial detention should be used whenever possible.