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COMMITTEE AGAINST TORTURE

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

Third periodic reports of States parties due in 1998

Addendum

FINLAND*

[16 November 1998]

* The initial report submitted by the Government of Finland is contained in document CAT/C/9/Add.4; for its consideration by the Committee, see documents CAT/C/SR.65 and 66 and Official Records of the General Assembly, Forty-sixth Session, Supplement No. 44 (A/46/44, paras. 182-208). For the second periodic report, see CAT/C/25/Add.7; for its consideration, see CAT/C/SR.249 and 250 and Official Records of the General Assembly, Fifty-first Session, Supplement No. 44 (A/51/44, paras. 120-137).

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CONTENTS

Introduction

1. This is the third periodic report submitted by Finland to the United Nations on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The previous report was submitted in the autumn of 1995 (CAT/C/25/Add.7) and the first in the autumn of 1990 (CAT/C/9/Add.4).

2. In accordance with the new guidelines for the submission of reports (CAT/C/14/Rev.1) adopted by the Committee against Torture on 2 June 1998, the report is presented in three parts. Part I explains the most important legislative and organizational reforms, supervision by the authorities as well as practical measures taken in the fields covered by the Convention and on the basis of individual complaints.

3. During the consideration of the previous report in May 1996, hardly any information was found that would need to be supplemented in Part II of the report.

4. Part III gives an account of the measures taken to implement the conclusions and recommendations adopted by the Committee on the previous report (A/51/44, paras. 120-137). No significant problems relating to the implementation of the Convention have been found in Finland. The Committee recommended the establishment of an independent agency to investigate offences allegedly committed by the police. Recently the situation has been changed so that the investigation is led by the prosecutor. The Committee also paid attention to certain procedures provided for in the legislation on aliens. The Aliens' Act has been amended by provisions which entered into force on 1 January 1998. In addition, an extension of the competence of the Ombudsman for Aliens is under consideration.

5. The Committee recommended the incorporation of a definition of torture into the legislation as well as the incorporation of a special provision into the criminal procedure concerning the exclusion from judicial proceedings of evidence which has been established to have been obtained as a result of torture. This has not been considered appropriate as the national legislation covers all acts of torture even without a specific provision thereon. An absolute prohibition of the use of certain evidence would, on the one hand, be against the principle of the free weighing of evidence included in our procedural law. On the other hand, the prohibition of the use of information obtained as a result of torture is manifest in case law. No final decision has yet been made regarding the preventive detention system, which has aroused the interest of the Committee.

6. This report has been prepared in the Ministry for Foreign Affairs in cooperation with various ministries and the Office of the Parliamentary Ombudsman. In addition, for the preparation of the report, a few non-governmental organizations were requested to present their views on issues which in their opinion should be addressed in the report. The interest of the organizations proved to be minor.

7. Measures to combat ethnic discrimination and to promote tolerance as well as the Finnish legislation on aliens have been discussed in detail in the

thirteenth and fourteenth reports of Finland on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination submitted to the United Nations in November 1997. This report will be available to all interested.

I. MEASURES AND DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION

Article 2

Prison administration

8. The number of prisoners has decreased considerably in Finland during the past few decades. This decrease has continued in the 1990s. In 1997, the average prison population in Finland was 3,000, which is approximately 300 prisoners fewer than in 1995 when Finland submitted its previous periodic report. The decrease in the number of prisoners has mainly resulted from a decrease in the number of prisoners convicted for offences against property, the number of whom has decreased almost to half in this decade. However, the number of prisoners serving a sentence for a crime of violence and/or robbery has risen. Also, the number of prisoners serving a sentence for drug-related crimes has risen during the past few years.

9. The number of convicted prisoners serving a sentence has decreased since 1995, but the number of remand prisoners has risen slightly. Also the number of young prisoners, especially of those under 18 years of age, has decreased during the past few years. In 1997, approximately 340 prisoners under 21 years of age started serving their sentences.

10. The number of female prisoners has not undergone major changes during the past few years. In 1997, the average number of female prisoners was 144, which is slightly less than in 1996.

11. By a legislative amendment, which entered into force on 1 May 1995, the basic provisions relating to the treatment of prisoners were transferred from the Prison Administration Decree to the Act on the Enforcement of Sentences (128/1995). Chapter 1, section 5, of the Act provides that prisoners have to be treated fairly and with respect for their human dignity. The provision also contains a prohibition of discrimination. Furthermore, a provision was incorporated in the Act stating that the prisoner shall be heard when making a decision concerning his living or work or transfer to other activities as well as another important decision concerning his other treatment (chapter 1, section 6, of the Act). The aim of the amendment was to emphasize the legal protection of the prisoner and the fundamental importance of the human treatment of prisoners.

12. Also, provisions concerning prisoners' correspondence were specified in connection with the amendment. In accordance with the new provisions, correspondence between a prisoner and an authority supervising the penal institution or a body monitoring implementation of human rights, to which the prisoner may under international conventions address communications or file complaints, shall be delivered uncensored and without delay.

13. The amendment extended the prisoners' earlier obligation to work into an obligation to participate in work, training or other activity improving the prisoner's ability to engage in different activities. These activities, which have been increased and invested in considerably during the past few years, include, inter alia, activities and programmes improving the prisoner's physical, psychological or social abilities, programmes aiming at decreasing the use of intoxicants by prisoners as well as cognitive skills training programmes aiming at increasing prisoners' abilities to solve problems. The cognitive skills training activity started in five prisons in the autumn of 1997.

14. In the spring of 1998, a government bill for the amendment of the Act on the Enforcement of Sentences was given to Parliament. The proposal aims at preventing drug-related crimes in prisons.

15. The four tables annexed to this report indicate the prison population range, the average number of remand prisoners and imprisoned fine defaulters, the age groups of prisoners as well as the principal offences of prisoners.

Prison conditions of the Roma and foreigners

16. Under Finnish law, people may not be registered according to their ethnic origin. Therefore no statistics exist on Roma prisoners.

17. The Advisory Board for Romany Affairs, working subordinate to the Ministry of Social Affairs and Health, has indicated that Roma prisoners face problems in prisons. These include conflicts between Roma prisoners and other prisoners and between Roma prisoners as well as pressure on the Roma prisoners by other prisoners. Roma prisoners often request transfers to other prisons. In extreme situations, Roma prisoners have been placed in solitary confinement in order to settle down threatening situations. An amendment aiming at improving the position of prisoners in solitary confinement is being discussed by Parliament.

18. Attention has been paid to the position of Roma prisoners. In the autumn of 1997, the Prison Department of the Ministry of Justice sent prisons a letter regarding measures to increase tolerance and to prevent racism. Attempts have also been made to improve the situation, inter alia by including information on Romani culture in the training of prison guards. Also in some prisons, e.g. in the juvenile prison, the Romani language and culture are being taught by a person belonging to the Roma population. A cooperation group was established in the Prison Department of the Ministry of Justice in 1995.

19. Roma contact persons have been designated for prisons on a voluntary basis in cooperation with the Prison Department in 1997. These contact persons create contacts with Roma prisoners and the prison authorities.

20. The number of foreign prisoners - both immigrants and those residing in Finland only temporarily - has risen during the past few years. The Ombudsman for Aliens working subordinate to the Ministry of Social Affairs and Health has, as a part of his duties, aimed at ascertaining the conditions of

foreigners in prisons, inter alia through visits. According to the opinion of the Ombudsman for Aliens, the conditions of foreign prisoners have given no cause for objections, nor have the prisoners filed complaints.

Administrative detention of foreigners

21. On 16 October 1997, the Council of State adopted the Decision-in-Principle for the Government Programme on Immigration and Refugee Policy. According to the Programme, detention of foreigners is a form of administrative detention that should only be exercised as an extreme safeguard in the case of asylum seekers.

22. The programme obligated the Ministry of Labour and the Ministry of the Interior together urgently to examine the possibilities of using reception centres for asylum seekers as detention facilities for foreigners. Section 47, subsection 2, of the Aliens' Act is proposed to be amended to read: "a detained foreigner shall, as soon as possible, be transferred to a detention facility reserved specifically for this purpose". The proposal for an Act on the Integration of Immigrants and Reception of Asylum Seekers contains a provision (sect. 25) according to which "the detention of asylum seekers referred to in section 46 of the Aliens' Act may be arranged at the reception centres as provided for by Decree". Both Acts are under consideration in Parliament.

Psychiatric hospital treatment of criminal patients

23. After the submission of the previous report, the Mental Health Act (1116/1990) and the Act on State Mental Hospitals (1292/1987) were amended by Acts 383/1997 and 384/1997, which entered into force on 1 June 1997. The legislative amendments were considered necessary because the examination and treatment of criminal patients, especially at the initial stage, has been deemed as special medical care. The amendments aimed at centralizing the demanding treatment of criminal patients to hospitals which can meet the requirements of their treatment. The possibilities of the National Board of Medicolegal Affairs, operating under the Ministry of Social Affairs and Health, to decide on the place of treatment of a criminal patient were increased: since the amendment, it has decided the place where the involuntary treatment of an accused will start. Also the participation of municipalities in the activities of the Board of Forensic Psychiatry of the National Board of Medicolegal Affairs and in the administration of State mental hospitals was increased.

Military discipline

24. After the submission of the previous report of Finland, the Military Discipline Act (331/1983) was amended so that confinement can no longer be imposed in disciplinary proceedings. A court can still order confinement.

25. When the provisions of the Constitution Act on fundamental rights were reformed, more detailed provisions, inter alia on interference in personal integrity and deprivation of liberty, were incorporated in section 6 of the Constitution Act. The new fundamental rights provisions entered into force on 1 August 1995. In accordance with subsection 3 of the section, only a court

of law may impose a punishment constituting the deprivation of liberty. According to the travaux préparatoires, the purpose of the provision is to cover all forms of deprivation of liberty which amount to punishments, which is why its scope of application is wider than the concept of imprisonment used in chapter 2, section 1, subsection 1, of the Penal Code. According to the travaux préparatoires, the deprivation of liberty referred to in the provision comprises, inter alia, confinement in accordance with the Military Discipline Act.

26. The Act on the Amendment of the Military Discipline Act (991/1997) entered into force on 1 January 1998. Prior to the entry into force of the Act, it was possible, through disciplinary proceedings, to impose confinement from one to eight days. Since the beginning of 1998, it has no longer been possible to impose confinement in disciplinary proceedings. A court may, however, still sentence a person to confinement. The minimum period of confinement is one day and the maximum is 30 days. Confinement shall be enforced at the main guardhouse or so that the person sentenced is otherwise guarded.

27. In 1996 confinement was imposed or pronounced as a sentence 172 times and in 1997, 209 times. In 1996 the proportion of confinement of all sanctions imposed in proceedings in accordance with the Military Discipline Act and the Military Court Procedure Act was 3 per cent and in 1997, 4 per cent.

Article 4

Punishability of torture in Finland

28. The proposal for section 6, subsection 2, of the Constitution Act (prohibition of torture), presented in paragraph 11 of the previous periodic report, which was part of the reform of the fundamental rights, was adopted in Parliament as such. According to the prohibition of torture, “no one shall be sentenced to death, tortured or otherwise treated in a degrading manner”.

Occurrence of torture in Finland

29. Cf. section on the Parliamentary Ombudsman.

Article 5

Scope of application of the Penal Code

30. Parliament has adopted the proposal referred to in the previous report (para. 22) for new provisions on the scope of application of the Finnish Penal Code. According to the proposal, chapter 1, section 7, of the Penal Code provides that Finnish law always applies to international offences regardless of where they have been committed. The Decree relating to the section further provides that the offences referred to in the Convention against Torture are international offences. The Act and the Decree entered into force on 1 September 1996.

Article 10

Staff training

31. Human rights education given in comprehensive schools, high schools and vocational schools as well as to different professional groups (the police, the personnel of the Frontier Guard and prison administration, prosecutors, trial lawyers, social welfare and health-care personnel and the civil servants of ministries and administrations subordinate to them) has been explained in detail in the thirteenth and fourteenth reports.

Article 11

Police identification file

32. During the consideration of the previous report by Finland, the maintenance of a police description register was brought forward. The so-called ID-mark file no longer contains any information referring to ethnic origin.

The Parliamentary Ombudsman

33. The fundamental rights reform of the Constitution Act was supplemented with a provision according to which, in the performance of his/her duties, the Parliamentary Ombudsman shall supervise the implementation of fundamental and human rights (sect. 49, subsect. 2). A corresponding provision on the supervisory duty of the Chancellor of Justice of the Council of State was added to section 46 of the Constitution Act.

34. Also since the submission of the previous periodic report, decisions of the Parliamentary Ombudsman have contained no references to torture. However, issues relating to human dignity have often formed the basis of the decisions by the Ombudsman even when no specific reference thereto has been made. Issues relating to human dignity have emerged especially during inspections of closed institutions when examining the facilities of the institutions and the treatment of the persons held in them. The following decisions of the Parliamentary Ombudsman can be given as examples:

(a) Institutions for the mentally handicapped. The Deputy Parliamentary Ombudsman found, in accordance with her observations, that the detention rooms in central institutions for special care of the mentally handicapped did not always meet with the requirement of human treatment of the handicapped (record No. 121/2/95);

(b) Prisons. The Parliamentary Ombudsman and the Deputy Parliamentary Ombudsman have in their different decisions paid attention, inter alia, to the conditions of the Turku Central Prison and the Helsinki County Prison (Turku Central Prison, Nos. 557, 710 and 1617/4/94 and 118/4/96 and Helsinki County Prison, No. 2369/4/96). During an inspection of the Turku Central Prison, the Deputy Parliamentary Ombudsman drew attention to the fact that the prison conditions shall, where possible, be arranged to correspond to the general living conditions of society. During her inspection she noted that the use of

buckets for toilets and the lack of space deviated from the general living conditions of society. In addition, due to the lack of ventilation among other things, the quality of air and hygiene at the institution were poor (No. 693/3/98);

(c) Inspections of police prisons. Ordered by the Deputy Parliamentary Ombudsman inspections were started in 1997 in police prisons. In connection with the inspections, the functioning of and conditions in police prisons were examined. In this connection, the Deputy Parliamentary Ombudsman has commented, for example, on the sufficient distribution of food (Nos. 652/2/95 and 2741/4/95);

(d) Psychiatric hospitals. On the initiative of the Deputy Parliamentary Ombudsman, the use of detention in psychiatric hospitals is being investigated (No. 1893/2/97);

(e) The Defence Forces. The Parliamentary Ombudsman ordered that charges for a crime committed in office be brought against a major who had harassed his subordinates, inter alia, by laying hands on them, and thus made himself guilty of improper behaviour of a soldier. The complainants in the preliminary investigation were three female office workers (Nos. 656 and 657/4/96).

35. In general, the Office of the Parliamentary Ombudsman notes that the reform of the Constitution Act has not as such essentially changed the supervisory duties of the Parliamentary Ombudsman. The Ombudsmen have for years in their decisions, for the purpose of guiding authorities, emphasized the observance of fundamental and human rights, for example with regard to degrading treatment. On this point, reference is made to the previous periodic report.

36. English summaries of the annual reports of the Parliamentary Ombudsman from the years 1994-1996, where the observance of fundamental and human rights by the Parliamentary Ombudsman is explained in more detail, are annexed to this report.

Article 12

Reform of the public prosecution service

37. After the submission of the previous report, the Finnish public prosecution system was reformed. At the first stage, the local prosecutors were made full-time, independent authorities. The local prosecutors only deal with prosecution issues. This reform entered into force on 1 December 1996. At the beginning of December 1997, the Office of the Prosecutor-General was established. The Office is led by the Prosecutor-General and the Deputy Prosecutor-General, who are also superiors of other prosecutors. The Office of the Prosecutor-General also has 10 State prosecutors who, inter alia, are responsible for the prosecution in difficult criminal cases of general importance. The Prosecutor-General is completely independent of other authorities in his work.

Article 14

The Centre for Torture Survivors

38. The Centre for Torture Survivors in Finland, established in September 1993, has since 1997 been operating at the Deaconess Institute in Helsinki. The Centre is a national service unit of specialized medical care which concentrates on the mental, psychotherapeutic and physiotherapeutic assessment, treatment and rehabilitation of tortured refugees, asylum seekers and their families living in Finland. In addition the Centre provides training, consulting and job guidance to people coming in contact with torture survivors, mainly to professionals in the social and health-care fields and in labour administration. The rehabilitation and consultation services are free of charge. Training and job guidance are subject to a charge agreed upon.

39. The staff of the Centre consists of three doctors specialized in psychiatry, a social worker, a physiotherapist, a psychologist and an office secretary. The customers are admitted for examination by referral from a doctor, public-health nurse or social worker. Customers may also themselves contact the Centre. In 1997 the doctors, the physiotherapist and the psychologist had altogether 1,049 appointments (1,120 appointments in 1996) and 92 patients were treated at the Centre (69 patients in 1996), 7 of whom were women and 85 men.

40. With the support of the European Human Rights Fund, a three-year project, “Family and Network Evaluation and Treatment for Torture Survivors and Other Victims of Organized Violence”, was started at the Centre for Torture Survivors in the spring of 1996. The project aims at creating new treatment models in order to enhance the rehabilitation and integration in Finland of severely traumatized refugees and their families.

II. ADDITIONAL INFORMATION REQUESTED BY THE COMMITTEE

41. During the consideration of the previous report, the Committee heard the representatives of the Government of Finland on 2 May 1996. Individual questions presented during the consideration were answered orally, and they will not be handled again in this report. Regarding the Voluntary Fund for Victims of Torture, it should be mentioned that the Government of Finland made a voluntary contribution of Fmk 998,000 (US$ 185,000) to the Fund in December 1997.

III. MEASURES TAKEN FOR THE IMPLEMENTATION OF THE CONCLUSIONS AND RECOMMENDATIONS OF THE COMMITTEE

42. The Committee against Torture considered the second periodic report of Finland and adopted its final conclusions and recommendations (A/51/44, paras. 120-137) at its 249th and 250th meetings on 2 May 1996. The Committee recommended the incorporation of a definition of torture in legislation (132), the completion of the procedure for the abolition of preventive detention (133), the establishment of an independent agency to investigate offences allegedly committed by the police (134), and supported the idea of the reinforcement of the position of the Ombudsman for Aliens or the establishment of an office of a human rights ombudsman (135). In addition, the Committee

gave attention to the returning of asylum seekers as well as the extradition and expelling of foreigners (136) and recommended that a special provision be incorporated into the criminal procedure legislation concerning the exclusion of evidence obtained as a result of torture (137).

43. The first subject of concern mentioned by the Committee (para. 128) was that in the criminal law of Finland there is no provision containing a specific definition of torture. The Committee also recommended (para. 132) that such a definition be incorporated into the legislation in accordance with article 1 of the Convention. Finland has not, however, considered it necessary to have a separate definition of elements of torture. When Finland ratified the Convention, it was ensured that all the acts referred to in the Convention are punishable under Finnish law. For this purpose, for example, attempted assault was made punishable even though there was no national need for such an amendment.

44. Finland has thus adopted a practice of applying general provisions, especially the provisions of chapter 21, sections 5-7, of the Penal Code on assault when public officials commit acts referred to in the Convention. Any public officials committing such acts would, in addition, be sentenced for breach of their official duties as referred to in chapter 40, section 10, of the Penal Code, which would increase the severity of the penalty.

45. Resorting to general provisions with a wide scope of application - and, consequently avoiding special provisions where possible - has been the basic approach in reforming the Finnish criminal legislation. An advantage of the approach adopted by Finland is that it decreases the number of penal provisions and the problems of interpretation caused by close and often overlapping penal provisions. The basic approach has worked well in practice, and it has not been considered necessary in Finland to change this approach.

46. Concerning the abolition of preventive detention, the Government proposal in which the abolition of legislation on preventive detention could have been included is still under preparation and it is too late to give it to the sitting Parliament before the election in the spring of 1999. The Ministry of Justice has not taken a final stand on the issue of preventive detention.

47. Concerning the investigation of offences allegedly committed by the police by an independent agency, such investigations have been transferred from the police to the prosecutor. In accordance with the new subsection 2 of section 14 of the Pre-trial Investigation Act, the public prosecutor shall always be in charge of the investigation of an offence allegedly committed by a police officer. Petty offences constitute the only exception. The said subsection 2 entered into force on 1 December 1997. The Prosecutor-General in December 1997 designated the prosecutors who, where necessary, shall be in charge of the investigation of an offence committed by a police officer. The starting point is that the prosecutor in charge of the investigation does not work in the same geographical area as the police officer suspected of the offence in question.

48. Concerning the reinforcement of the Office of the Ombudsman for Aliens and the establishment of an office of a special human rights ombudsman, on

24 April 1998, the Ministry of Labour set up a working group to prepare an extension of the sphere of competence of the Ombudsman for Aliens as well as the transfer of the Office of the Ombudsman from the Ministry of Social Affairs and Health to the Ministry of Labour. The sphere of competence is proposed to be extended to cover the supervision and promotion of the implementation of the principle of non-discrimination with regard to all ethnic minorities, not only with regard to aliens. The Ombudsman would thereafter be called the Minorities Ombudsman. It has also been proposed that the powers and the right to receive information of the Ombudsman be extended.

49. Concerning the return of asylum seekers, as mentioned earlier, the fundamental rights provisions of the Finnish Constitution Act were totally reformed by amendment which entered into force on 1 August 1995. Section 7, subsection 4, of the Constitution Act provides that no foreigner may be expelled, extradited or returned if, on account of this, he risks the death penalty, torture or other degrading treatment. The prohibition against return is meant to cover all factual situations where a foreigner, as a result of measures taken by Finnish authorities, is transferred to another State. The prohibition also relates to a transfer to a State from where the person might be extradited further to a third State and, in consequence thereof, be under threat of death penalty or torture.

50. The Aliens Act contains a corresponding provision under which no person may be returned, extradited or expelled to an area where he may run the risk of becoming subject to persecution or inhuman treatment. The prohibition against return also concerns areas where no such danger exists but from where the applicant might be sent to a risk area.

51. The Finnish Aliens Act has been partly revised. The amendments entered into force on 1 January 1998. The Asylum Appeals Board, which earlier acted as the appeal instance in asylum matters, was abolished and replaced by the District Administrative Court of Uusimaa in Helsinki.

52. The asylum procedure and the procedure for removal from the country were combined. The application for asylum is decided by the Directorate of Immigration operating under the Ministry of the Interior. If the decision on asylum and residence permit is negative, the Directorate of Immigration decides on refusal of entry at the same time. There are two different asylum procedures: the normal procedure and the accelerated procedure.

53. Normal procedure. A decision made by the Directorate of Immigration may be appealed to the District Administrative Court. An appeal suspends the enforcement of the decision. Anyone who is dissatisfied with the decision of the District Administrative Court may apply for leave to appeal from the Supreme Administrative Court. An application for leave to appeal suspends the enforcement of the decision. The leave may be granted only if, in view of the application of law in other similar cases or uniform legal praxis, it is important to submit the case to the Supreme Administrative Court for a decision, or if there are other weighty reasons for granting a leave to appeal. If the Supreme Administrative Court refuses to consider the matter, the decision can be enforced.

54. Accelerated procedure. An application for asylum will be considered manifestly unfounded and be processed according to the accelerated procedure in the cases where:

(a) The applicant does not plead serious violations of human rights or other grounds relating to prohibitions against return or fear of persecution for reasons of race, religion, nationality, membership of a certain social group or political opinion;

(b) The applicant aims at misusing the asylum procedure;

(c) The applicant has entered Finland from a safe country where he/she could have received protection and where he/she can safely be returned; or

(d) The applicant can be sent to another State that is responsible for the consideration of the application for asylum in accordance with the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities - Dublin Convention.

55. The decision of the Directorate of Immigration on a manifestly unfounded application for asylum made in an accelerated procedure is not final but has to be submitted to the District Administrative Court for decision. The applicant has a possibility to be heard before the decision is submitted. The County Court with a composition of one judge may decide the matter. The decision shall be made without delay.

56. In accordance with the amendments which entered into force on 1 January 1998, the list of safe countries of origin, i.e. countries which can be considered safe for their own citizens, has been abandoned. The list of safe countries to be compiled later this year will include only safe countries of asylum.

57. The Finnish policy on foreigners was discussed in more detail in the thirteenth and fourteenth reports.

58. Concerning the use of a statement obtained under torture as evidence, as stated earlier, it is illegal and punishable in Finland to obtain evidence under torture. Our system of evidence is, however, strongly based on the principle of the free weighing of evidence and the legislation does not include any provisions expressly disallowing the use of evidence obtained through prohibited means. A crime possibly related to the obtaining of evidence or an act resulting in private-law liability for damages is handled as a separate legal issue. Therefore, there is no express provision even on the use of information obtained under torture. The inadmissibility of such information is, however, self-evident in judicial practice. It is also clear that in the weighing of evidence, information obtained under torture does not constitute proof.

59. The new provisions on criminal procedure, which entered into force on 1 October 1997, emphasizing the oral and immediate nature of the judicial procedure, also have an effect on the presenting of evidence in courts. In accordance with the provisions (chapter 17, section 11 of the Code of Judicial

Procedure), the starting point is that a statement entered in the pre-trial investigation record may not be used as evidence during the trial. This prohibition naturally also applies to any statements possibly obtained under torture. Emphasizing the principle of oral and immediate trial would, in practice, make it impossible even to try to use a statement obtained under torture as evidence in court. The witnesses have to be heard in court in the immediate and oral main hearing.

60. Finland is still not willing to incorporate into its legislation an express prohibition of the use in court of a statement obtained under torture. Such a provision, which is not expected to have any practical significance in our country, would mean that our whole system of evidence should be re-evaluated. In that case, also the use of evidence obtained in violation of different other prohibitions to obtain evidence would have to be regulated with express legislative provisions. An international comparison and experiences from different countries indicate that problems are not solved by prohibitions against the use of evidence but that they are more likely to increase. Nor does the Convention against Torture expressly require the incorporation of a prohibition into the legislation.

List of annexes*

1. Table concerning the prison population range in 1975-1997

2. Table concerning the average number of remand prisoners and of imprisoned fine defaulters in 1975-1997

3. Table concerning the age groups of prisoners serving a sentence in 1976-1995 and in 1997

4. Table concerning the principal offences of prisoners in 1976-1996 and 1997

5. Summary of the report of the Finnish Parliamentary Ombudsman 1994

6. Summary of the report of the Finnish Parliamentary Ombudsman 1995

7. Summary of the report of the Finnish Parliamentary Ombudsman 1996

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* These annexes may be consulted in the files of the Office of the United Nations High Commissioner for Human Rights.