



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

Distr.
GENERAL

CAT/C/CR/32/6
11 June 2004

Original: ENGLISH

COMMITTEE AGAINST TORTURE
Thirty-second session
3-21 May 2004

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

Conclusions and recommendations of the Committee against Torture

BULGARIA

1. The Committee considered the third periodic report of Bulgaria (CAT/C/34/Add.16) at its 612th and 614th meetings (CAT/C/SR.612 and 614), held on 17 and 18 May 2004, and adopted the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of Bulgaria and the opportunity to continue its dialogue with the State party.

3. While noting that the report only covers the period up to May 2000, the Committee appreciates the detailed responses to the written list of issues and the replies provided to the questions raised by the Committee members during the dialogue, which furnished information concerning measures to implement the Convention taken by the State party since 2000.

B. Positive aspects

4. The Committee notes the following positive developments:

(a) Ongoing efforts by the State party to reform its legislation related to the implementation of the Convention and aimed at strengthening the protection of human rights. In particular, the Committee welcomes the following:

- (i) The entry into force of the Law on the Ombudsman on 1 January 2004;
 - (ii) The adoption by the National Assembly of the Law on the Protection against Discrimination on 16 September 2003 and other practical measures in the field of protection against discrimination, such as the recruitment of Roma into the police force;
 - (iii) The entry into force of the new Law on Asylum and Refugees on 1 December 2002, notably the establishment of the State Agency for Refugees as the single central refugee authority deciding on asylum, as well as the introduction of the possibility of judicial review for decisions taken in the accelerated procedure;
 - (iv) The Code of Conduct of the Policeman adopted and introduced into practice by order of the Minister of the Interior in October 2003;
- (b) The issuance of instruction No. I-167 of the Minister of the Interior of 23 July 2003 establishing procedures to be followed by the police upon detention of persons at the structural units of the Ministry of the Interior;
- (c) The setting up of a specialized Human Rights Commission within the National Police Service in August 2000, with a network of regional coordinators;
- (d) The transfer of the investigation detention facilities to the Ministry of Justice in January 2000;
- (e) The access given to non-governmental organizations, such as the Bulgarian Helsinki Committee, to visit prisons on a regular basis;
- (f) The information provided by the representative of the State party during the dialogue that 13 underground investigative detention (pre-trial) facilities were closed in April 2004 and that the State party is seeking urgent solutions for the remaining 5 underground facilities;
- (g) The cooperation with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and information offered by the representative of the State party that it has authorized the publication of the report on the visit by the CPT in 2002.

C. Subjects of Concern

5. The Committee expresses concern about the following:

- (a) The absence in domestic law of a comprehensive definition of torture as set out in article 1 of the Convention;
- (b) Numerous allegations of ill-treatment of persons in custody, in particular during police interviews, which may amount to torture and which disproportionately affect the Roma;

(c) The lack of an independent system to investigate complaints, and that allegations of ill-treatment are not always investigated promptly and impartially, resulting in an apparent situation of impunity for those responsible;

(d) The reported lack of prompt and adequate access by persons in custody to legal and medical assistance and to family members, and that access to free legal aid is quite limited and ineffective in practice. Furthermore, the reported inconsistencies in providing the required medical records to detainees hinder their ability to lodge complaints and seek redress;

(e) Poor conditions in homes for persons with mental disabilities and the insufficient steps taken thus far by the authorities to address this situation, including the failure to amend the legislation relating to involuntary placement in such an institution for purposes of evaluation and the lack of judicial appeal and review procedures;

(f) The legislative and other measures to ensure full respect of the provisions of article 3 of the Convention continue to be insufficiently effective, and that the allegations regarding the expulsion of foreigners, especially by order of the National Security Service on national security grounds, is not subject to judicial review;

(g) The insufficient data relating to compensation and rehabilitation available to victims of torture or their dependants in accordance with article 14 of the Convention;

(h) The extremely poor material conditions prevailing in detention facilities, in particular in investigative detention facilities, some of which are still underground or lack basic facilities for outdoor activities, where persons can be held for up to two years, and the lack of independent inspections of such places;

(i) The imposition of a particularly strict regime, notably for the first five years, upon all prisoners serving life sentences.

D. Recommendations

6. The Committee recommends that the State party:

(a) Adopt a definition of torture that covers all the elements contained in article 1 of the Convention and incorporate into the Penal Code a definition of a crime of torture that clearly reflects this definition. Furthermore, the Committee invites the State party to consider the advisability of incorporating into law the provisions of Ministry of the Interior instruction No. I-167;

(b) Strengthen the safeguards provided in the Code of Criminal Procedure against ill-treatment and torture and pursue efforts to reduce incidents of ill-treatment by police and other public officials, and devise modalities for collecting disaggregated data and monitoring the occurrence of such acts in order to address the issue more effectively. The State party is encouraged to pursue its efforts to recruit persons of Roma origin into the police;

(c) Take measures to establish an effective, reliable and independent complaint system to initiate and undertake prompt and impartial investigations into all allegations of ill-treatment or torture and to punish those found responsible. The Committee requests that the State party provide it with statistical data regarding such reported cases and the results of the investigations, disaggregated by, inter alia, gender, ethnic group, geographical region and type and location of places of deprivation of liberty where they occurred;

(d) Ensure that, in law as well as in practice, all persons deprived of their liberty are duly registered at the place of custody and guaranteed, and informed of, the rights to have access to counsel, to contact next of kin and to a doctor. In this respect an independent free legal aid system for detainees should be established. Strict rules on the maintenance of medical records for all detained persons should be established and rigorously adhered to;

(e) Undertake all necessary measures to address the situation in homes and hospitals of persons with mental disabilities to ensure that the living conditions, therapy and rehabilitation provided are not in violation of the requirements of the Convention. The Committee also urges the State party to ensure that the placement of children in social care homes is regularly reviewed. It urges the State party to provide monitoring and reassessment of diagnoses by specialists, with appropriate appeal procedures;

(f) Ensure that no person is expelled, returned or extradited to a country where there are substantial grounds for believing that he/she would be in danger of being subjected to torture and that, in accordance with article 2, paragraph 2, of the Convention, exceptional circumstances are not invoked as a justification for so doing and to this end, consider measures to enable monitoring at airports, borders and other points of removal;

(g) Strengthen its efforts to avoid any act not in conformity with the Convention regarding admittance of asylum-seekers into the territory and strengthen cooperation between the State Agency for Refugees and the Ministry of the Interior;

(h) Ensure that all persons who have been victims of a violation of their rights under the Convention have access, in law as well as in practice, to the means of obtaining redress, including an enforceable right to fair and adequate compensation;

(i) Take measures to improve the conditions in detention facilities, in particular the investigative detention facilities, with a view to closing the remaining five facilities that are underground, and ensure that all detention facilities provide at least minimal outdoor exercise for detainees;

(j) Ensure close monitoring of inter-prisoner and other violence, including sexual violence, in detention facilities and social care homes, with a view to preventing it. The State party is requested to provide disaggregated data on this problem in the next periodic report;

(k) Review the regime of detainees serving life sentences, including those serving life sentence without possibility of parole.

7. The Committee recommends that the State party circulate and make publicly available in the country the State party's report to the Committee and the present conclusions and recommendations, in appropriate languages, through official web sites, the media and non-governmental organizations.

8. The Committee requests the State party to provide, within one year, information in response to the Committee's recommendations in paragraph 6 (b), (c), (d), (i) and (k), above.

9. The Committee recommends that the State party submit its next periodic report on 25 June 2008, the due date of the fifth periodic report. That report should combine the fourth and fifth periodic reports.
