



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

Distr.
GENERAL

CAT/C/EST/Q/5
20 January 2010

Original: ENGLISH

COMMITTEE AGAINST TORTURE
Forty-third session
2-20 November 2009

**List of issues prior to the submission of the fifth periodic report of
ESTONIA (CAT/C/EST/5)***

**Specific information on the implementation of articles 1 to 16 of the Convention, including
with regard to the Committee's previous recommendations**

Articles 1 and 4

1. Please provide updated information on any steps taken by the State party to bring the definition of torture in the Penal Code into conformity with article 1 of the Convention, as recommended by the Committee in its previous concluding observations (CAT/C/EST/CO/4, para. 8).
2. In the light of the previous concluding observations of the Committee, please indicate any steps taken to ensure that torture is made punishable by appropriate penalties which take into account its grave nature, as set out in article 4, paragraph 2, of the Convention (CAT/C/EST/CO/4, para. 13).
3. Please indicate whether the Convention can be invoked directly before the State party's domestic courts. If so, please provide statistical data and specific examples on cases where the Convention's provisions were invoked in court.

* The present list of issues was adopted by the Committee at its forty-third session, according to the new optional procedures established by the Committee at its thirty-eight session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

Article 2

4. In its previous concluding observations, the Committee expressed its concern about the independence, mandate and resources of the Chancellor of Justice, as the national protection mechanism, as well as its ability to investigate all complaints of violations of the Convention (CAT/C/EST/CO/4, para. 11). Please provide information on steps taken to establish a national institution for the promotion and protection of human rights, in accordance with the Paris Principles, as well as on the resources made available to the institution to carry out its mandate.

5. Please provide information on steps taken by the State party to further guarantee, in practice, the fundamental rights of detained persons from the very outset of detention, including the right of access to a lawyer and a medical doctor, if possible, of their own choice, as well as the right to inform a relative, be informed of their rights and be promptly presented to a judge, pursuant to the recommendation of the Committee (CAT/C/EST/CO/4, para. 9).

6. Please provide further information on the distinction between crimes and misdemeanours, the new term for “administrative offences”. Furthermore, please specify the fundamental legal safeguards applicable in the case of detention, previously called “administrative detention”, as well as how these safeguards are guaranteed in practice. Are all suspects registered from the very outset of detention, including in case of misdemeanours?

7. Pursuant to the Committee’s previous concluding observations, please provide updated information on the efforts by the State party to reduce the pretrial detention period (CAT/C/EST/CO/4, para. 19).

Article 3

8. With reference to the previous concluding observations, please provide information on any steps taken to ensure that the State party fulfils all its non-refoulement obligations under article 3 of the Convention, in particular to consider all elements of an individual case, and provides, in practice, all procedural guarantees to the person expelled, returned or extradited (CAT/C/EST/CO/4, para. 12). Please indicate any requests for extradition received and provide detailed information, including which are the countries of return, on all cases of extradition, return or expulsion that have taken place since the previous report.

9. Please provide:

(a) Information on whether the asylum procedures applicable in the State party fully comply with article 3 of the Convention. Furthermore, please provide information on steps taken by the State party to guarantee that asylum-seekers who submit their request at the border have full access to the asylum procedures. Information should also be provided on the appeal process available.

(b) Disaggregated data, by age, sex and nationality on:

- (i) The number of asylum requests received and the number of those that have been granted asylum;
- (ii) The number of rejected asylum-seekers expelled or deported – please indicate the country of return;
- (iii) The number of asylum requests submitted at the border.

10. Please provide information on procedures in place for reviewing the sufficiency and appropriateness of diplomatic assurances, as well as to monitor compliance with those assurances after the return. Please provide detailed information on all cases where diplomatic assurances have been provided and accepted by the State party.

Articles 5 and 7

11. Please indicate whether the State party has rejected, for any reason, any request for extradition by a third State for an individual suspected of having committed an offence of torture, and thus engaging its own prosecution as a result, since the consideration of the previous report. If so, please provide information on the status and outcome of such proceedings.

Article 10

12. In light of the recommendations of the Committee, please provide information on measures taken by the State party to reinforce its training programmes for all law enforcement personnel on the absolute prohibition and prevention of torture and other ill-treatment, including excessive use of force, and treatment of detainees and vulnerable persons (such as minors, persons with disabilities, minority groups), as well as for prosecutors and judges on the State party's obligations under the Convention (CAT/C/EST/CO/4, paras. 14 and 23). Please provide information on steps taken to adopt a code of ethics for the police.

13. Please indicate steps taken to ensure adequate training for all medical personnel acting in detention facilities to detect signs of torture and ill-treatment in accordance with international standards, such as that outlined in the Istanbul Protocol.

14. Please indicate if the State party has developed and implemented a methodology to evaluate the implementation of its training and educational programmes, and its effectiveness and impact on the reduction of cases of torture and ill-treatment. If so, please provide information on the content and implementation of such methodology, as well as on the results of the measures implemented.

Article 11

15. Please provide information on any new interrogation rules, instructions, methods and practices and arrangements for custody that may have been introduced since the consideration of the last periodic report. Please also indicate the frequency with which these are reviewed.

Articles 12 and 13

16. Please provide comprehensive and disaggregated statistical data relevant to the monitoring of the implementation of the Convention on the national level, according to the Committee's previous recommendations (CAT/C/EST/CO/4, para. 25). Please provide information, including statistics, on the number of complaints of torture and ill-treatment filed since the previous report, their investigation and prosecution, and results of the proceedings, both at the penal and disciplinary levels. This information should be disaggregated by sex, age and ethnicity of the individual filing the complaint.

17. In its previous concluding observations, the Committee recommended that the State party should establish a prompt, impartial and effective complaints system in all places where persons are deprived of liberty to undertake investigations into all allegations of torture and ill-treatment committed by law enforcement officials and to punish the offenders with sentences proportional to the gravity of their offence (CAT/C/EST/CO/4, para. 15). In this respect, please provide information on steps taken to by the State party in response to the Committee's recommendation.

18. Please provide updated data on the number of:

- (a) Deaths in detention and incidents of inter-prisoner violence;
- (b) Investigations undertaken into deaths in detention and inter-prisoner violence and elaborate on the methods of investigation;
- (c) Such cases where the person responsible was brought to justice, as well as the outcome. In this respect, please provide updated information on the outcome of the court case regarding the incidents in Murru prison in 2006 (CAT/C/EST/CO/4, para. 16).

19. Please inform the Committee of measures taken to establish a prompt, impartial and effective complaints system to undertake investigations into all acts of ill-treatment and excessive use of force by law enforcement personnel and to prosecute and punish the offenders.

20. Please indicate whether law enforcement officials suspected in prima facie cases of torture and ill-treatment are as a rule subject to suspension or reassignment during the process of investigation.

21. Please provide information on:

- (a) Steps taken to regulate the powers of prosecution vis-à-vis the judiciary. The Committee, in its previous concluding observations, expressed its concern about the fact that the court does not have the right to continue proceedings at its own discretion if prosecution drops charges (CAT/C/EST/CO/4, para. 17).
- (b) Whether the State party has revised its Code of Criminal Procedure in order to obligate the prosecution to justify before the court any prolongation of the initial six-month pretrial detention period.

Article 14

22. Please provide details on steps taken to ensure that adequate compensation is provided to victims of torture and other ill-treatment and elaborate on the allocation of adequate resources to ensure that as full rehabilitation as possible is made available to all victims of torture, ill-treatment, trafficking, and domestic and sexual violence. Please provide data on the number of requests made for compensation, the number granted, and the amounts ordered and those actually provided in each case.

Article 16

23. Please provide:

(a) Updated information on measures taken to alleviate the overcrowding of penitentiary institutions and improve the conditions of detention, pursuant to the Committee's previous recommendations (CAT/C/EST/CO/4, para. 19). Please also elaborate on the State party's plans to renovate existing and build new prisons.

(b) Information on steps taken by the State party in response to the need stressed by the Committee in its previous concluding observations to provide adequate food to all detainees and improve the health and medical services in detention facilities, including by making available appropriate treatments, especially to HIV- and tuberculosis-infected detainees (CAT/C/EST/CO/4, para. 19).

24. Please provide:

(a) Updated information on measures taken to adequately prevent, combat and punish human trafficking since the adoption of the Committee's previous concluding observations and the follow-up information to those concluding observations.

(b) Further information on the implementation of such measures and the resources available for that purpose, as well as on the impact and effectiveness of the measures implemented – including investigations, prosecutions and convictions – in reducing cases of human trafficking.

(c) Updated statistical data on the incidence of trafficking since the consideration of the previous report. Statistical data should also be provided on the number of complaints concerning human trafficking, and the related investigations, prosecutions, convictions and sanctions, as well as on compensation provided to victims.

(d) Updated information on specific training and awareness-raising programmes developed by the State party for law enforcement personnel on human trafficking, as well as on the outcome of these programmes.

25. In light of the Committee's previous concluding observations (CAT/C/EST/CO/4, para. 21), please provide information on:

(a) Steps taken to adopt a specific law on domestic violence and to provide access to protection and medical and legal services for victims, including counselling services, protection orders, legal aid and safe and adequately funded shelters;

(b) Measures taken to ensure that such violence is promptly investigated, prosecuted and punished and that adequate training to sensitize law enforcement personnel to domestic violence, including sexual violence and violence against children, is developed;

(c) The implementation and resources made available for the implementation of these measures. Furthermore, data should be provided on the impact and effectiveness of these measures, including the National Action Plan on Domestic Violence 2008-2011, in reducing cases of domestic violence.

Please also provide statistical data on the number of complaints concerning domestic violence and the related investigations, prosecutions, convictions and sanctions, as well as compensation provided to victims.

26. Please provide detailed information on:

(a) Legal and practical measures taken by the State party to simplify and facilitate the naturalization and integration of stateless persons and non-citizens, with reference to the previous concluding observations of the Committee (CAT/C/EST/CO/4, para. 22). In this respect, please also elaborate on the content and implementation of the State Integration Programme 2008-2013, as well as its impact and results.

(b) The practical steps taken to guarantee that stateless persons and non-citizens are informed of their rights in a language they understand and have access to the fundamental legal safeguards from the moment they are deprived of their liberty, without any discrimination. Please elaborate on the changes the Ministry of Justice has made to regulation and practice in this regard.

(c) Any claims made by or on the part of stateless persons and non-citizens concerning violations of their rights under the Convention. How has the State party reacted to these claims?

(d) Measures taken by the State party to address the causes and consequences of the disproportionate presence of stateless persons in prison and to prevent this phenomenon. Please provide updated statistical data in this regard.

(e) Any changes in the State party's position on ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, as recommended by the Committee and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (CAT/C/EST/CO/4, para. 22, and A/HRC/7/19/Add.2, para. 90).

27. Please provide information on steps taken by the State party to:

(a) Address concerns about reports of racially motivated harassment and racial, ethnic or religious profiling, including by law enforcement officials and border guards. In this respect, please indicate steps taken to establish adequate mechanisms to identify and punish the perpetrators.

(b) Establish adequate training programmes for all law enforcement officials, focusing on human rights education in general and racism and discrimination in particular, as well as on the results of these programmes.

28. Please indicate steps taken by the State party to improve the living conditions for patients in psychiatric institutions, in accordance with to the Committee's previous concluding observations (CAT/C/EST/CO/4, para. 24). Please also provide information on steps taken to guarantee the proper implementation of the safeguards set out to secure their rights, inter alia by regular visits by independent monitoring bodies. Furthermore, please provide information on steps taken to develop alternative forms of treatment, especially community-based treatment.

Other issues

29. Please indicate what steps have been made to accept the competence of the Committee under articles 21 and 22 of the Convention, as recommended by the Committee in its previous concluding observations (CAT/C/EST/CO/4, para. 26).

30. Please provide updated information on measures taken by the State party to respond to any threats of terrorism and please describe if, and how, these measures have affected human rights safeguards in law and practice, and how the State party has ensured that those measures taken to combat terrorism comply with all its obligations under international law. Please describe the relevant training given to law enforcement officers, the number and types of convictions under such legislation, the legal remedies available to persons subjected to anti-terrorist measures, whether there are complaints of non-observance of international standards and the outcome of these complaints.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

31. Please provide detailed information on relevant new developments on the legal and institutional framework within which human rights are promoted and protected at the national level that have occurred since the previous periodic report, including any relevant jurisprudential decisions.

32. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level that have occurred since the previous periodic report, including on any national human rights plans or programmes, and the resources allocated to it and its means, objectives and results.

33. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report in 2007, including the necessary statistical data, as well as on any events that occurred in the State party and are relevant under the Convention.
