

COMMITTEE AGAINST TORTURE
Thirty second session
3 - 21 May 2004

ORIGINAL: ENGLISH

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

Conclusions and Recommendations of the Committee against Torture

CZECH REPUBLIC

1. The Committee considered the third periodic report of the Czech Republic (CAT/C/60/Add.1) at its 594th and 597th meetings, held on 4 and 5 May 2004 (CAT/C/SR.594 and 597), and adopted the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of the Czech Republic submitted in conformity with the guidelines of the Committee, and the inclusion of self-critical information therein, as well as the frank and open dialogue with the State party.
3. While noting that the report covers the period from 1 January 1998 to 31 December 2001, the Committee appreciates the update provided by the delegation of the Czech Republic and the detailed replies to the list of issues and to the questions raised by the Committee members during the dialogue.

B. Positive Aspects

4. The Committee welcomes the ongoing efforts by the State party to revise its legislation in order to safeguard human rights in general and, more specifically, those related to the implementation of the Convention against Torture. The Committee welcomes in particular:
 - a) The amendments to the Residence of Aliens Act No. 222/2003 Coll., effective 1 January 2004 establishing an independent judicial second instance body to review asylum cases;

- b) The amendment to the Act on Serving Prison Terms Act No. 52/2004 Coll., and certain related acts, which define conditions in prison in accordance with the standards required and offer greater protection to detainees;
- c) The Law on Probation and Mediation and the creation of a Probation and Mediation Service, Act No. 257/2000 Coll. resulting, inter alia, in the decrease in the number of prisoners;
- d) The Law on the Special Protection of Witnesses, Act. No. 137/2001 Coll.;
- e) Amendments to the Penal Code (No. 265/2001 Coll.) providing for the direction of investigation of criminal offences allegedly committed by members of the Police to the State Prosecuting Attorney instead of the Police investigator as was previously the case;
- f) The introduction in 2003 of the National Strategy on Combating Trafficking in human beings;
- g) The intention to ratify the Optional Protocol to the Convention in 2005 and the related Amendment to the Act of the Ombudsman, approved by the Governments' Legislative Council, broadening its powers to act as the National Preventive Mechanism as envisaged by the Optional Protocol to the Convention;
- h) The publication of the reports of the European Committee for the Prevention of Torture (CPT) and responses by the State party as well as assurances that measures will be taken to follow-up to the recommendations.

C. Subjects of Concern

5. The Committee expresses concern about the following:

- a) the persistent occurrence of acts of violence against Roma and the alleged reluctance on the part of the Police to provide adequate protection and to investigate such crimes, despite efforts made by the State party to counter such acts;
- b) the lack of explicit legal guarantees of the rights of all persons deprived of liberty to have access to a lawyer, and to notify next of kin from the very outset of their custody;
- c) the fact that minors are not kept separately from adults in all situations of detention;
- d) the fact that remand prisoners and those serving life sentences cannot work and are left idle without adequate-activities.
- e) the occurrence of inter-prisoner violence and the lack of statistical data that may provide a breakdown by relevant indicators to facilitate determination of root causes and the design of strategies, to prevent and reduce such occurrences;

- f) medical consultations may not always be confidential and the decision for the resort to restraints is not always covered by the law or regularly reviewed;
- g) the current system under which inmates are required to cover a portion of the expenses related to their imprisonment;
- h) the findings of the investigations into the excessive use of force by the police following the demonstrations in Prague during the September 2000 International Monetary Fund (IMF)/World Bank (WB) Meeting, according to which only one case qualified as a criminal offence;
- i) the lack of complete information from the State party on redress and compensation provided to victims of acts of torture, or to their families;
- j) the amendments to the law on the right to asylum which amplified the grounds for rejecting asylum requests and allows for the detention of persons in the process of being removed to be held in aliens' detention centers for a period up to 180 days. Furthermore, the restrictive nature of the conditions in these centers which are comparable to those in prisons;
- k) allegations regarding some incidents of uninformed and involuntary sterilizations of Roma women, as well as the government's inability to investigate due to the insufficient identification of the individual complainants.

D. Recommendations

6. The Committee recommends that the State party:

- a) exert additional efforts to combat racial intolerance and xenophobia and ensure that the comprehensive anti-discrimination legislation being discussed includes all relevant grounds covered by the Convention;
- b) take measures to establish an effective, reliable and independent complaint system to undertake prompt and impartial investigations into all allegations of ill-treatment or torture by police or other public officials, including allegations of racially motivated violence by non state actors, in particular any that have resulted in deaths, and to punish the offenders;
- c) strengthen existing efforts to reduce occurrences of ill-treatment by police and other public officials, including that which is ethnically motivated, and, while ensuring protection of an individual's privacy, devise modalities of collecting data and monitoring the occurrence of such acts in order to address the issue more effectively;
- d) strengthen safeguards provided in the Code of Criminal Procedure against ill-treatment and torture, and ensure that, in law as well as in practice, all persons deprived of their

liberty be guaranteed and systematically informed of the right to a lawyer and to notify next of kin;

- e) ensure that persons under 18 years are detained separately from adults in all circumstances;
- f) consider modalities of creating additional activities for all detainees with a view to encouraging them to occupy themselves thus reducing the amount of time spent in idleness;
- g) monitor and document incidents of inter-prisoner violence with a view to revealing the root causes and designing appropriate prevention strategies. The Committee invites the State party to provide it with such data, disaggregated by the relevant factors, in the next periodic report;
- h) ensure that medical examinations are confidential and consider possibilities of transferring the medical services from the Ministry of Justice to the Ministry of Health;
- i) reconsider the arrangements whereby prisoners are required to cover a portion of their expenses, with a view to abolishing this requirement completely;
- j) ensure that the classification of acts prohibited under the Convention is made by an impartial authority with a view to initiating appropriate proceedings. Provide information in the next periodic report on criminal investigations into suspected acts of torture or other ill-treatment pursuant to article 259a of the Penal Code;
- k) review the independence and effectiveness of the investigations into complaints of excessive use of force related to the International Monetary Fund/World Bank Meeting demonstrations of September 2000, with a view to bringing those responsible to justice and providing compensation to the victims;
- l) include in the next periodic report information on compensation provided for victims or their families in accordance with article 14 of the Convention;
- m) review the strict regime of detention for illegal immigrants with a view to its repeal and ensure that all children held in these detention centers are removed with their parents to family reception centers;
- n) investigate claims of involuntary sterilizations, using medical and personnel records and urge the complainants, to the degree feasible, to assist in substantiating the allegations;
- o) The Committee invites the State party to provide, within one year, information on its responses to the Committees recommendations contained in paras.: a), b), i), k) and m).
- p) widely disseminate the reports submitted by the Czech Republic to the Committee and the conclusions and recommendations thereto, in appropriate languages through official websites, the media and non-governmental organizations;

q) The Committee recommends that the State party submit its next periodic report on 31 December 2009, the due date of the fifth periodic report. This report will combine the fourth and fifth periodic reports.

* * *