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COMMITTEE AGAINST TORTURE
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ADVANCED UNEDITED VERSION

List of issues to be considered during the examination of the fourth periodic report of ESTONIA (CAT/C/80/Add.1)

Article 1

1. As stated in the previous conclusions and recommendations of the Committee (CAT/C/CR/29/5), the definition of torture in the State party's Penal Code (article 122 of the revised code which entered into force in September 2002) does not comply fully with article 1 of the Convention, since it needs to be combined with several other provisions of the Penal Code (§§ 149 and 150 of the State report) to reach the Convention definition and, in addition, it does not include mental suffering. Please provide legal detailed explanation, including practical cases, on how this situation affects, or not, the ability to prosecute those acts under article 122, as torture. Is there any jurisprudential definition of torture which could be considered as wide as the Convention's definition? Please, provide concrete examples of cases where acts causing severe mental pain and suffering have been considered torture?

Article 2

2. With reference to the Committee's recommendations, please provide detailed information on the basic legal safeguards, including the right of detainees to have access to a doctor of their own choice as well as the right to notify any appropriate persons of their choice about their detention, in the new Code of Criminal Procedure (which entered into force in July 2004), and the measures taken to ensure their application (§ 168 of the State report). Please indicate if detained persons are always medically screened upon arrival in prisons.

3. According to information before the Committee, remand detainees are kept for long periods in "police arrest houses", transferred from one to another and, at times, also brought back from prisons to police arrest houses, for the purpose of being interrogated or for further detention. Please indicate the reason for such measures, what is being done to prevent those transfers and what the registration procedures are for new inmates in prisons and in police arrest houses. Please, comment

on allegations that arrest houses are actually used as prisons and that detention in arrest houses is used as a method for intimidation.

4. Under the new Criminal Procedure Code, detained persons have to be presented before a judge within 48 hours to validate the detention (article 217). Please provide information on any exception to this principle and on any investigation regarding its violation.

5. According to information before the Committee, masked members of a special squad ill-treated detainees at the Tartu Prison in May 2003 and, following this, an inquiry was undertaken. Please, provide detailed information on the outcome of the said inquiry, including with regard to those responsible for such action.

6. According to information before the Committee, women and children of the Russian-speaking community in the northeast part of the State party, due to their vulnerability, constitute a large component of trafficking victims. What specific measures, in general, has the State party put in place to prevent and combat trafficking in women and girls, and in particular from those vulnerable communities?

Article 3

7. Paragraph 6 of the State report provides information on what the State party considers to be a “safe country”. Please provide the list of safe countries to which asylum applicants have been expelled, returned or extradited to.

8. Please provide information on the legal mechanisms available to asylum seekers to appeal their deportation, the number of appeals and their outcome as well as on the legal assistance provided to them. Please, also indicate which legal and material conditions (§ 187 of the report) are applicable to asylum seekers while their application is pending.

9. Following the entry into force of the Amendment Act to the Refugees Act, please provide detailed practical information on how the Act has changed the process of determination of the refugees status, including any relevant statistical data.

Article 4

10. Please provide statistical information on the number of cases (§ 150 of the State report) of complaints, investigations, prosecutions and convictions under article 122 of the Penal Code during the reporting period, as well as on compensation paid to victims of such acts.

Articles 5, 6, 7, 8 and 9

11. Please provide detailed information on legislative provisions establishing the State party’s jurisdiction over acts of torture in cases where the alleged offender is present in any territory under its jurisdiction, either to extradite or prosecute him or her (universal jurisdiction), in accordance with the provisions of the Convention.

Article 10

12. Please, provide updated information on training of personnel, including judicial, law enforcement and other relevant personnel, on the Convention's provisions. What specific training is provided to medical personnel to detect torture and diagnose symptoms of torture, *e.g.* training on the application of the Istanbul Protocol? Is there any specific training on domestic violence, sexual violence and human trafficking? Please, indicate what monitoring and assessment is done of the training provided, especially to law enforcement and prison personnel. Please, also indicate which specific training the medical personnel, dealing with detainees in arrest houses, have.

Article 11

13. Following the entry into force of the new Criminal Procedure Code, please indicate the measures undertaken to review all the rules, methods, instructions and practices dealing with the treatment of persons subject to arrest, detention and imprisonment in the State party, with a view to prevent any cases of torture.

Article 12

14. Please, provide detailed information (§§ 176 to 180 of the State report) on the results of the monitoring and supervision activities of prisons, by the Ministry of Justice, of jails, by the "Police Board's police control department", of psychiatric institutions, by the Health Board, of the Illuka Reception Center for Asylum Seekers, by the Ministry of Social Affairs and of the Defence Forces, including the number and outcome of complaints and investigations for torture and ill-treatment which may have occurred during the reporting period.

15. Please provide information (§§ 128 *et seq.* of the State report) on the number of complaints, investigations, prosecutions and convictions for trafficking in human beings, which have occurred in the State party during the reporting period, as well as on compensation to the victims. What measures have been adopted in order to ensure the confidentiality of the victim's complaints?

Article 13

16. The Legal Chancellor performs the functions of an Ombudsman (§ 73 of the core document and § 197 of the State report). Please provide detailed information regarding this institution's compliance with the Paris Principles related to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134) as well as disaggregate data on the number of complaints submitted to the Legal Chancellor as reported in §§ 198 and 234 of the report. Please provide information on the Legal Chancellor's mandate, resources and activities and on the outcome of his activities, in particular in relation to rights contained in the Convention.

Article 14

17. Please, provide detailed information on the effective results of the implementation, even if provisional, of the Victims Support Act, which entered into force on February 2004 (§67 of the State report). Statistical data on compensation and rehabilitation provided to the victims would be of interest to the Committee in order to assess the practical effects of this new legislation.

Article 15

18. Please indicate clearly the provisions, in the State party's domestic legislation, which ensure that the absolute prohibition against torture is not derogated from under any circumstances, prohibiting the use of any statement obtained under torture and establishing that orders from a superior may not be invoked as a justification of torture.

Article 16

19. According to information before the Committee and despite the efforts made by the State party, conditions (no outdoor exercise, unpartitioned lavatories, no natural light, no ventilation, etc.) in certain police arrest houses (e.g. Kohtla-Järve, Jogeva and Narva) could amount to cruel, inhuman or degrading treatment. Please indicate what measures have been taken to improve those conditions, to eliminate overcrowding and prolonged detention periods in such inappropriate police facilities?

20. The legal framework of the State party for remand detainees, as well as the material conditions of detention, is of special concern for the Committee, considering that, e.g. they are locked in cells 24 hours a day, external activities do not exist, continuation of education for minors is often not possible and very limited external visits are allowed. Please, indicate which legal regime is applied to detainees on remand and what specific practical measures have been applied to them.

21. According to information before the Committee, the majority of convicted prisoners do not have access to any work or educational activities. Please explain this situation and provide information on the measures taken to modify and improve these conditions. Please, provide information on the measures taken to prevent detainees from harming themselves, more specifically regarding newly-detained persons.

22. According to information before the Committee, several cases of police violence have been reported. Please provide statistical information on the investigations, prosecutions/proceedings and convictions/sanctions of such cases and what specific measures have been taken to prevent and combat this violence.

23. Please, provide updated figures on the ethnic composition of the population (§ 14 of the core document), including stateless persons. Considering that the State party does not intend to accede to the Convention on the reduction of statelessness (§ 194 of the report), please indicate what measures have been taken to reduce its incidence in the State party.

24. Please update the data contained in §§ 191 to 193 of the State report. According to the information provided, stateless persons and non-Estonians constitute 40 - 45% of the convicted prisoners; please provide an explanation for this disproportionate figure. What specific protection is provided to stateless persons in detention, considering their vulnerable situation?

25. According to information before the Committee, there is a certain level of violence between patients in psychiatric facilities, namely the Kernu Social Welfare Home. Please provide information on the measures taken to address this issue, especially regarding adequate training for

personnel. What monitoring mechanisms are in place and what safeguards exist with regard to involuntary placement in psychiatric facilities? What measures are taken to encourage community based treatment? Please, provide information on the policy in relation to the application of means of physical restraint in psychiatric hospitals and institutions?

26. According to information before the Committee, there is a high incidence of violence against women and girls in the State party, including domestic violence, and there are no specific legal measures to address this violence. Please provide detailed information concerning the exact legal framework applied to the prevention of and to combat such phenomenon the training provided to law enforcement personnel and, in particular, the outcome of the existing measures and the redress mechanisms available to victims. What awareness-raising measures addressed to the general population have been put in place to prevent and combat such violence?

27. Considering recent events that took place in the State party, please provide information about the measures taken to prevent incitement and acts of violence against ethnic and/or linguistic national minorities, violence against non-citizens and other racially motivated violence, as well as on the results of the investigations conducted into such violence, including any prosecutions and convictions.

Other issues

28. Please indicate whether and in what way the State party's legislation prevents and prohibits the production, trade, import, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. Please indicate whether the adoption of such legislation is being actively considered.

29. Please provide information on the legislative, administrative and other measures the State party has taken to respond to the threat of terrorist acts, and please describe if, and how, these measures have affected human rights safeguards in law and practice. 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, the number of complaints of non-observance of international standards, and the outcome of these complaints.
