Distr.
GENERAL

CAT/C/SR.141
30 July 1993

ENGLISH
Original: FRENCH

COMMITTEE AGAINST TORTURE

Tenth session

SUMMARY RECORD OF THE 141st MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 21 April 1993, at 10 a.m.

Chairman: Mr. VOYAME

CONTENTS

GE.93-12958 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Report of Panama (CAT/C/17/Add.7)

1. At the invitation of the Chairman, Mr. Saenz Fernandez, Mr. Rodriguez and Mrs. Vallarino took places at the Committee table.

2. Mr. SAENZ FERNANDEZ (Panama), introducing the report, said that his Government had been working to improve the Panamanian penal and penitentiary system in an effort to adapt it to contemporary thinking and modernize criminal justice. The task had not been easy: during the uprising of 20 December 1989, all the detention centres had been destroyed and, in the wake of those events, there had been a substantial increase in crime. The Government had nevertheless made considerable progress in bringing the Panamanian legal system in line with the requirements of the Convention; in particular the conditions of pre-trial detention had been made less harsh.

3. Panama which had gained its independence in 1903, had a territory of 75,500 km2 and approximately 2,300,000 inhabitants. It had a unitary, representative and independent government and was divided into nine provinces, subdivided into districts. The mechanisms and instruments for the protection of human rights were based on the Constitution of the Republic, according to which there were three distinct powers, namely, the legislative, the executive and the judicial. The highest court was the Supreme Court of Justice, composed of nine judges and four divisions - the civil division, the criminal division, the administrative litigation division and the general division. Recent legislation had modified the powers vested in the administrative litigation division, establishing an arrangement for the protection of human rights whereby the division was empowered to nullify administrative acts taken by the authorities if the acts were in violation of human rights and in contravention of the international instruments to which Panama was party. It was not required that the person applying to the division should have previously exhausted administrative remedies, and decisions of the division were not subject to appeal.

4. The Panamanian legal system also included judges of the superior courts, the district courts and the municipal courts. The nine provinces were divided into four judicial districts; to the first judicial district, in Panama, belonged the Supreme Court of Justice, the first and second superior courts and the district and municipal courts. The three other districts had a superior court composed of three judges, which had both civil and criminal jurisdiction, and district courts and municipal courts.

5. The Public Prosecutor's Department consisted of an Attorney-General, a Procurator for the Administration, chief district procurators, district procurators and examining officials. An investigation could be opened - without complaints or charges necessarily being brought - on the basis of information provided to the Public Prosecutor's Department from various sources - including the media or telephone calls.

6. In Panama, legal proceedings were carried out in three phases. The first was a preparatory phase or summary investigation, undertaken by the Public Prosecutor's Department in order to investigate an offence with full respect for the necessary safeguards. There was always a presumption of innocence, and the burden of proof lay with the Public Prosecutor's Department. In addition, any person suspected of an offence, whether placed in pre-trial detention or not, was entitled to legal assistance from the start of the proceedings; if that person did not have sufficient financial means, legal counsel would be appointed by the court. The suspect thus had access to every possible means for his defence and for bringing evidence to that end. During that first phase, the judge or examining official had to take into consideration evidence favourable to the accused as well as evidence against him. He also had to carry out a criminological study to assess the suspect's possible motives and gain some insight into his personality (level of education, social and family ties, etc.). In addition, during the preparatory phase, the suspect could be placed in pre-trial detention only in the jurisdiction where his trial was to be held, so that he could, if necessary, be in direct contact with the examining magistrate or official. He had the right to be informed, in a manner commensurate with his level of education, about the proceedings of which he was the object and, if he so wished, to receive a copy of the pre-trial detention order. Respect for the principles set forth in the international instruments ratified by Panama was guaranteed throughout that phase of the proceedings.

7. During the preparatory phase, the examining magistrate or official must guarantee respect for the suspect and ensure that he had access to all available remedies. The phase was limited to two months; in exceptional circumstances, it could be extended to four months, for example where there were several offences or suspects. The authorities tried to comply with that requirement even though, in certain circumstances beyond their control, the complexity of the various remedies and formalities obliged them to prolong the preparatory phase. To offset the disadvantages of lengthy pre-trial detention, Act No. 3 of 1991 provided for more flexible measures. In addition, pregnant women, persons over 65 years of age, and drug or alcohol-dependent persons in a specialized facility undergoing therapeutic treatment which should not be interrupted could not be placed in pre-trial detention except under exceptional circumstances.

8. Finally, during the preliminary phase, the examining magistrate or official must show due diligence with regard to both the examinations and the indictment: his decisions must be well-founded and reasoned and he must not only explain the nature of the offence but also the evidence linking the accused with it. The accused had the right to call the actions of the examining magistrate or official into question by making a preventive application of habeas corpus to the competent court, which would then determine whether the evidence presented was sufficient and whether pre-trial detention was justified by the circumstances.

9. During the preparatory phase, the Judicial Code prohibited any promises to, or threats or other forms of coercion against the suspect. Any official or magistrate who violated that provision of the Code and used threats, pressure, ill-treatment or torture, or asked loaded or tendentious questions,

was criminally responsible for his acts and subject to punishment. Under article 769 of the Judicial Code, any confession or statement obtained through torture or other forms of coercion was not admissible.

10. The second phase of the proceedings began with the defendant's appearance before the competent court. During the intermediate phase, the court had 15 days to decide whether there was an objective or subjective connection between the accused and the offence committed. It had to determine which rules had been violated and whether there was reason to absolve the accused from criminal liability, which would provide grounds for the provisional or final suspension of the proceedings. In extreme circumstances, the court could return the case to the examining magistrate for further investigation.

11. Following the intermediate phase, and after a period during which the Public Prosecutor's Department and, as appropriate, the civil party had time to gather evidence in support of their cases, the final phase began. The accused could bring a complaint if he considered that the court had been in error in evaluating the evidence or applying procedural rules. The trial was then held with the parties present, and the court had to deliver its decision within the ensuing 10 days. Convicted persons had the right to appeal to a higher court or to apply to the Supreme Court of Justice for judicial review.

12. In order to ensure the impartiality and independence of legal proceedings, efforts had been made to attract worthy candidates at every level of the magistrature, through competitive examinations open to all members of the legal profession; thus everyone would have the advantage of a free and expeditious system of justice, with all possible guarantees. Of course, like all human institutions, the judicial system was imperfect. To eliminate the risk of judicial error as much as possible, the State had established a judicial institute and a council for judicial ethics; anyone considering himself to have been victim of a violation of a particular ethical or moral principle in the course of the administration of justice could make application to the council, composed of the most eminent jurists in the country, which would then determine whether the official in question had in fact violated any principles. The judicial institute gave members of the judiciary an opportunity to keep abreast of developments in legal thinking and modern scholarship and case law. In the same spirit, the university would be organizing a criminology seminar on human rights in the near future.

13. Under the Constitution, the national authorities were bound to ensure the welfare, honour and security of all persons within their jurisdiction. Thus, all administrative, judicial and legislative authorities and the executive branch had to ensure that national laws and the provisions of the international human rights instruments were respected. It should be noted in that context that the detention camp built by the United States Government after the events of December 1989 was no longer in existence. Only a tiny handful of individuals had been tried for political offences; about 18 months before, some individuals who had attempted to threaten national security had been convicted for sedition and rebellion. During the proceedings against them, they had enjoyed all the safeguards provided under the law. In

addition, the Government was currently considering amnesty for persons charged with political offences; the President of the Republic had let it be known that if that measure failed to achieve consensus in Parliament, he would probably invoke the right of pardon.

14. Remission of penalties was also under consideration, with a view to reducing the prison population. Approximately 3,500 persons were currently incarcerated, none of whom had been in pre-trial detention for more than one year. For the majority - some 60 per cent - the proceedings had not been concluded. Efforts were being made to speed up the legal process and, in accordance with the guidelines of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held recently in Havana, the Panamanian authorities had begun to reform criminal procedure with a view to simplifying the court system, in particular by reducing the number of courts. Similarly, they were endeavouring in certain circumstances to replace pre-trial detention by other measures including house arrest or bans on leaving the country; the use of such measures had of course to be justified by the official taking them. The person concerned could contest any measure taken against him by making application of habeas corpus or amparo during the preparatory phase of the proceedings.

15. With regard to implementation of the Convention, Panama had adopted the definition of torture set forth in that instrument, which was now incorporated in its domestic law. The Judicial Code prohibited the use of torture or any cruel or inhuman treatment for prisoners, while under the Penal Code any human rights violation in that context was punishable by a prison term of six months to 15 years. Articles 21 and 22 of the Constitution of the Republic established the right of everyone to a fair trial, the presumption of innocence, the protection of individual rights and the right to be informed of the charges against him. Finally, in respect of extradition, Panama complied with the international rules concerning judicial cooperation between States.

16. The penitentiary system was based on the principles of security, rehabilitation and social defence. Under article 28 of the Constitution, ill-treatment or cruel treatment of prisoners was prohibited. Each prisoner was informed of his rights and obligations and of the disciplinary procedures in force in the prison system. Prisons also had an educational and rehabilitation function and should provide training. Workshops for cabinet-making, mechanics, and other skills had been set up within the prison system: the number of hours of work was regulated and work was remunerated. Part of the wages went to the prisoner for his personal needs, another share was deposited in a savings account and another went to the prisoner’s family.

17. The new detention centre of La Joya, on 17 hectares of land, had four main buildings. Each floor had 32 cells, holding 125 prisoners, and each building had a large dining hall, a place of worship and a visiting area for visits from lawyers, family members or representatives of diplomatic services dealing with foreign prisoners. The new centre, which would begin operations in May 1993, would also have a rehabilitation centre for women. All activities in the centre would be organized in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

18. The CHAIRMAN thanked Mr. Fernandez for his highly detailed presentation and gave the floor to the Committee members.

19. Mr. SORENSEN (Rapporteur for Panama) said that following its consideration of Panama's initial report, the Committee had noted that many questions remained unanswered and had asked the Panamanian Government to provide in its supplementary report full information on legal and practical measures taken to ensure the implementation of each article of the Convention. In that connection, the Committee could not but welcome the report submitted by Panama (CAT/C/17/Add.7) and thank the Panamanian delegation for the additional information it had provided orally.

20. According to the indicators in the core document (HRI/CORE/1/Add.14), individuals under 15 years of age represented 47.1 per cent of the population in Panama and those over 65 years of age 47 per cent, which meant that the active population was only 5.9 per cent. Those figures were surprising and, if there was an error, the Panamanian delegation should make the necessary corrections.

21. With reference to the implementation of article 2 of the Convention, he asked whether information about an arrest, including the time, date, and the identity of the official making the arrest, was recorded on a special form or whether such information was simply communicated orally. With regard to the independence of the judiciary, he asked how judges were appointed and whether they could be removed.

22. With reference to the implementation of article 16 of the Convention, Mr. Fernandez had indicated that persons suffering from mental illness could not be imprisoned, which seemed entirely justified, and that such individuals were transferred to hospitals. But would the hospitals accept that type of patient - in many countries, hospital directors claimed they did not have adequate facilities. How did things stand in Panama?

23. Turning to paragraph 21 of the report (CAT/C/17/Add.7), he pointed out there was no mention of prohibiting the extradition of a person to a State where he might be subject to torture, although the provisions of article 3 of the Convention were quite clear on that matter. As the issue of extradition was extremely important, the Committee needed to be better informed on that point.

24. With regard to admitting refugees, the delegation might give further details on the rules applicable to refugees requesting asylum. As to implementation of article 10 of the Convention, he requested more precise information on the extent to which health care personnel were informed of the rules and instructions relating to the prohibition of torture and of the ways of recognizing and assisting victims of torture. In that connection, he pointed out that the United Nations could provide advice and support under technical assistance programmes to any State so requesting. As regarded the implementation of article 14 of the Convention, the Committee usually pointed out that victims were entitled to moral, material and medical support. In that connection, did Panama have medical rehabilitation centres for torture victims? Also, what was the procedure for compensating victims? He asked whether compensation was provided by the person responsible for the

ill-treatment or by the State, or whether the State provided the compensation directly and subsequently sought reimbursement from the person responsible. Could the Panamanian authorities supply statistics and figures on the number of staff members of camps evacuated in December 1989 who had been found guilty of acts of torture and imprisoned? Lastly, he would like to know more about beneficiaries of the amnesty act. In that regard, he thought that the issue of impunity was very important, because if those committing acts of torture were not punished, the victims would always feel that justice had not been done.

25. Mr. BURNS (Co-rapporteur for Panama) congratulated the Panamanian Government on its written report (CAT/C/17/Add.7) and the Panamanian delegation on its oral presentation. He was particularly impressed by the fact that Panama had, in addition to the judicial institute, a council for judicial ethics, further support of the independence of the judiciary.

26. The Panamanian Government said in its report that there were no political prisoners while Mr. Fernandez had, in his statement, noted that a small number of individuals had been tried and convicted of crimes of belief, which seemed to indicate that the country did in fact have some political prisoners. In that connection, he asked how many persons had been convicted for crimes of belief and how many were still in prison.

27. With reference to paragraph 2 of the report, he wished to know whether in its domestic law Panama had adopted the definition of torture used by the Organization of American States or the one contained in article 1 of the Convention: as a State party, Panama was bound to incorporate all the Convention's norms in its domestic legislation. Paragraph 4 of the report stated that "a person [might] not be detained for more than 24 hours without being placed at the disposal of the competent authority"; did the detention in question refer to police cutody or detention in the custody of other State agents, and what precisely, was the competent authority referred to? Turning to paragraph 6 of the report, he asked whether the person arrested had the right to counsel from the moment he or she was questioned by the police. According to paragraph 14 of the report, police officers on duty who violated the law could be exonerated on the ground that they had obeyed the orders of their hierarchical superior, who was responsible for any offence committed. Were those provisions fully in conformity with those of article 2(3) of the Convention?

28. He asked also whether Panama applied fully the universal jurisdiction principle provided under article 5 of the Convention and, with regard to the implementation of article 7, how the Panamanian authorities would deal with individuals found guilty of acts of torture in another country, particularly Panamanian nationals. In addition, with regard to the implementation of article 9, concerning mutual judicial assistance, he wondered what the position of the Panamanian Government would be if a Panamanian national was under investigation by a foreign country or the object of a request for assistance and Panama had not concluded a mutual assistance treaty with the country concerned.

29. With regard to the implementation of article 13 of the Convention, he wondered whether the police authorities were authorized to investigate complaints against members of the force and, if not, who was responsible for investigations and how complaints were handled. With regard to compensation for torture victims, when a police officer had committed an act of torture, was the police officer or the State responsible for compensation?

30. In respect of Panamanian case law, he was impressed by the fact, mentioned in paragraph 69 of the report, that 23 decisions relationg to the implementation of the Convention had been taken by the courts. He would appreciate a brief summary of the decisions and the issues involved. He asked also whether Panama was planning to make a declaration under article 22 of the Convention. He wished in addition to know whether Panama had special courts or authorities with jurisdiction over the armed forces and security forces and whether the proceedings of the regular courts could be suspended, for example during a state of emergency. Lastly, had Panama admitted a large number of refugees during the past two years? If so, could the authorities provide data and statistics in that regard?

31. In conclusion, he noted that neither the Special Rapporteur on torture nor the NGOs concerned with the issue had communicated any information on Panama to the Committee at its current session. Panama should be gratified. Very few countries escaped the attention of both the Special Rapporteur and NGOs investigating cases of torture.

32. Mr. KHITRIN was gratified that torture had been eliminated in Panama. He nevertheless would appreciate knowing whether the Panamanian authorities were having any difficulties in implementing the provisions of the Convention. If so, the Committee could provide it with any advice it might need in that regard.

33. He would appreciate information on the functions, competence and powers of the Public Prosecutor's Department and more details on the mechanisms of compensation and rehabilitation provided for under article 1645 of the Civil Code, concerning the division of power among the various governmental authorities. He asked what powers were vested in the Panamanian Committtee for Human Rights, when it had been established, and whether any torture cases had been brought before it.

34. With regard to implementing various articles of the Convention, he wondered whether the definition of torture under Panamanian law was strictly in accordance with the definition contained in article 1 of the Convention. If a person was charged with torture, how long was it likely to take for the court to reach a verdict? He would appreciate more information on that point.

35. He also asked whether Panama had psychiatric institutions and, if so, how they were organized, how they functioned and whether individuals were committed to them for political reasons. Lastly, noting that the Panamanian authorities were trying to comply with the minimum rules for the treatment of prisoners, he asked how many prisoners there were in Panama, what was the breakdown of the prison population and what were the specific responsibilities of prison guards?

36. Mr. MIKHAILOV thanked the Panamanian Government for its written report and the Panamanian delegation for its statement. He endorsed the favourable comments of Mr. Sorensen and Mr. Burns.

37. In regard to the implementation of article 4 of the Convention, he noted the reference in paragraph 29 of the report to articles 160 and 310 of the Penal Code, and asked whether acts of torture were offences under the general provisions of the Code or whether there were special provisions. Turning to paragraph 2 of the report, he asked what procedure was followed in implementing the Inter-American Convention to Prevent and Punish Torture, and whether cases of torture had been investigated in situ. He wondered whether the penalties under the Panamanian Penal Code were strictly in conformity with international rules for the prevention of the crime of torture.

38. Mr. EL IBRASHI thanked the Panamanian delegation for its excellent report (CAT/C/17/Add.7). A number of the questions he had had in mind had already been raised by other Committee members. He would nevertheless appreciate some clarifications on the Convention's status under Panamanian law. As stated in paragraph 1, the Convention had the force of law in Panama, the Legislative Assembly having duly ratified it by means of Act No. 5 of 1987. Paragraph 3 stated that the definition of torture in the Convention must be "taken into account" in implementing provisions banning the release from custody of individuals convicted of offences against individul freedom, accompanied by torture, degrading punishment or harassment. What precisely was the situation? Was the Convention directly applicable under domestic law or was it sufficient to "take into account" the definition it gave of torture? He also wondered whether all violations of human rights agreements were treated alike in Panama or whether a distinction was made between the various violations of international instruments.

39. With regard to the implementation of article 14 of the Convention, he wondered whether a person who considered that his rights under the Convention had been violated could bring a complaint against the allegedly guilty party. What happened if the latter was acquitted because of lack of evidence? Could the victim still apply for compensation?

40. Referring to the core document HRI/CORE/1/Add.14, he asked whether Panama had a constitutional court. Was there a minister of justice? If so, how were the functions shared between the Attorney-General and that minister? What was the relationship between the Procurator for the Administration and the Attorney-General?

41. Mr. BEN AMMAR said that according to paragraph 17 of the report, recent legislation had instituted arrangements for the protection of human rights under which the third administrative litigation division of the Supreme Court of Justice was empowered to nullify administrative acts by national authorities and, if appropriate, re-establish and make good the violated right, if the administrative acts in question violated human rights provided for under Panamanian law, including the rights enshrined in international human rights instruments. He wished to know whether the third administrative litigation division had had occasion to apply the provisions during the past two years.

42. In respect of the implementation of article 11 of the Convention, he recalled that under that article, "Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices" for persons arrested, detained or imprisoned under its jurisdiction, with a view to preventing torture. Paragraphs 44, 45 and 46 of the report cited the relevant articles of the Judicial Code and the Penal Code, but he would appreciate more information on how the systematic review rule was applied in practice.

43. Noting that Panama had the second largest fleet in the world, he asked how the Government implemented the provisions of the Convention in the case of the very large number of crewmen.

44. Paragraph 31 of the core document (HRI/CORE/1/Add.14) referred to some international organizations that were working to ensure respect for human rights, including NGOs. Were the latter able to inspect prisons and detention centres in Panama on a regular basis?

45. Like Mr. Burns, he asked whether the Government intended to recognize the Committee's competence under articles 21 and 22 of the Convention. If it did, the declarations should be made before the forthcoming World Conference on Human Rights, which would emphasize the Government's determination to work for full implementation of the Convention against Torture.

46. Lastly, he asked whether Panama provided human rights education at every level of the educational system, and whether the media were trying to disseminate human rights ideas throughout the country.

47. Mr. GIL LAVEDRA also thanked the Panamanian delegation for its excellent report. He congratulated the Government on the innovative steps it had taken to depenalize the judicial system. In that connection, he wondered whether public opinion, which tended to favour more severity, had welcomed the changes.

48. He would appreciate knowing what percentage of prisoners were awaiting trial. What judgements had been made by the courts in cases involving violations of human rights?

49. Paragraph 5 of article 2181 of the Judicial Code (para. 3 of the report) stipulated that persons convicted of offences against individual liberty, accompanied by torture, degrading punishment or harassment, were excluded from the right of release from custody. Was that an absolute rule?

50. Paragraph 49 of the report (CAT/C/17/Add.7) stated that acts of torture, harassment and other degrading treatment, or acts violating human rights could be prosecuted ex officio. The Public Prosecutor's Department would open an investigation as soon as it was informed of such acts, without requiring a complaint or charge to have been submitted by the victim. Could some specific examples be given of cases where the Public Prosecutor's Department had initiated proceedings ex officio?

51. He hoped the Panamanian delegation could clarify the relationship between paragraphs 14 and 40 of the report. Paragraph 14 stated that under article 34 of the Constitution, a person committing a manifest violation of a constitutional or legal precept could not be exempted from liability on the grounds that he acted under orders from a superior; however, in the case of members of the police force on duty, responsibility for the offence fell solely on the hierarchical superior who had given the order. Yet, article 44 of Act No. 16 of 1991 (para. 40 of the report) prohibited law enforcement officers from inflicting, instigating or condoning any act of torture and other cruel, inhuman or degrading treatment or punishment, and from invoking orders from a superior as justification for torture or other cruel, inhuman or degrading treatment or punishment. Was there not a contradiction?

52. He urged the Panamanian Government to recognize the Committee's competence under articles 21 and 22 of the Convention.

53. Mr. DIPANDA MOUELLE also welcomed the legislative measures taken by the Panamanian Government in order to implement fully the provisions of the Convention against Torture. He too wished to know whether the steps taken by the Panamanian authorities to depenalize and humanize sanctions had been well received by the public. He would appreciate more information on the council for judicial ethics, its members and its decisions. Were they simple opinions or enforceable decisions? Could the council members be removed and, if so, by whom?

54. The CHAIRMAN said that he wished to ask some questions about how the Convention was implemented. Certainly the human rights enshrined in international instruments had the force of law under Panamanian law, but could the Assembly derogate from those rights in the exercise of its legislative functions (para. 27 et seq. in the core document)? Given that in law, the most recent legislation was applicable, what happened when a law and a provision of the Convention were in conflict?

55. In respect of extradition, it seemed that in Panama it was not necessary for the country requesting extradition to have entered into an extradition treaty with Panama. What precisely was the situation?

56. As regarded the implementation of article 14 of the Convention, he recalled that article 14 stipulated that the State must ensure that the victim of an act of torture had a right to compensation.

57. It was noteworthy that not a single act of torture had been reported by NGOs in Panama. Could the Panamanian delegation confirm for the Committee members that no case of torture had been brought to its attention? If such practices existed in spite of everything, what had the Panamanian authorities done to eliminate them?

The meeting was suspended at 12 p.m. and resumed at 12.05 p.m.

Report of Hungary (CAT/C/17/Add.8)

58. At the invitation of the Chairman, Mr. Boytha, Mr. Lontai and Mr. Szapora took places at the Committee table.

59. Mr. BOYTHA (Hungary) said that since submitting its initial report, his country had taken new measures to improve the implementaton of the Convention against Torture. The convention had become an integral part of Hungarian law and could be invoked directly before the courts. During the Committee's consideration of Hungary's initial report, the Government had provided additional information on some aspects of the law and how it was enforced and the Committee had concluded that Hungary had satisfactorily fulfilled its obligations under the Convention. Since then, following the establishment of a pluralist democracy and the move towards a market economy, Hungary had made more progress in implementing the Convention. Many laws and decrees had been amended, as mentioned in the report before the Committee (CAT/C/17/Add.8). In his statement, he would restrict himself to the most recent measures. Hungary had ratified the eight basic human rights instruments, which were now part of its domestic law. At the forty-ninth session of the Commission on Human Rights, Hungary had co-sponsored resolution 34/1993 on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Also in 1993, the Hungarian Parliament had adopted an amendment to ensure more effective respect for fundamental human rights and increase the penalties for offences against children and young people. In addition, the statute of limitation did not apply to the most heinous crimes. Another law enacted in 1993, increased the penalties for acts of torture: persons guilty of torture were liable to up to five years' imprisonment. Violations of individual freedom and of human dignity and abduction were also subject to heavier penalties.

60. In the case of persons sentenced to life imprisonment, judges could consider release after 15 years of detention. It should be noted that the death penalty had been abolished in Hungary in 1990. Drug traffickers were liable to prison sentences of 5 to 15 years. Under arrangements introduced in 1993, foreign prisoners were authorized to get in touch with their country's diplomatic representative and to use their native language, and exchanges of correspondence were no longer restrictied. The changes had been made to bring Hungarian legislation in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

61. During the last 50 years in Hungary, many people had lost their lives, liberty or property. A law had been enacted to partially rectify those wrongs. Act No. 32/1992 provided for the compensation of victims of both the national-socialist and communist regimes and their families up to the amount of one million forints.

62. Parliament would soon be considering a bill on the restructuring of the Public Prosecutor's Department according to the generally applied principles in Europe. The Department would be under the supervision of the executive branch.

63. The Parliament was also considering a bill relating to the treatment of foreign residents, whether they were refugees, immigrants or in transit.

64. All the measures taken by the Government to help Hungary meet its obligations under the Convention against Torture were only one aspect of the movement towards democracy and a market economy, the other being measures to dissseminate information about the Convention, including university level and other courses for people whose work was directly or indirectly related to the question of torture.

65. Mr. MIKHAILOV (Rapporteur for Hungary) thanked the Hungarian delegation for its first report (CAT/C/17/Add.8), which had been submitted on time and which, in very few pages, had replied clearly and fully to the many questions the Committee had raised.

66. He recalled that the definition of torture had been incorporated into Hungarian domestic law by Law-Decree No. 3 of 1988. Torture was referred to in three articles of the Criminal Code, article 226 on physical violence, article 227 on interrogations under duress and article 338 on illegal detention. Torture was punishable by a maximum sentence of three years' imprisonment (extended to eight years when there were aggravating circumstances). He considered that the maximum sentences provided for torture were very light and would appreciate clarification on that matter.

67. In respect of paragraphs 6 to 8 of Hungary's report (CAT/C/17/Add.8), he noted that by decision No. 23/1990 (X.31) the Constitutional Court had found the death penalty unconstitutional. He wished to know what the Hungarian public thought about the question. With rising criminality it might become a major issue.

68. It would have been helpful to have indicated whether the Rules on the Enforcement of Punishments, referred to in paragraph 2 of the report, were part of the Criminal Code or were parallel to it. With regard to paragraph 15, he wondered whether only the Code on Criminal Procedure had been amended or whether the Criminal Code also provided for sanctions.

69. He would appreciate clarification on the changes in the legal system mentioned in paragraph 22 of the report.

70. In his view, paragraph 39 of the report treated articles 7 to 12 of the Convention a bit too summarily. He would appreciate details on the legal practice with regard to each of those articles.

71. Lastly, he would like to know, in concrete terms, whether there had been any cases of torture and the number of complaints, if any, in addition to any statistics on that matter.

72. Mr. BEN AMMAR (Co-rapporteur for Hungary) said he was pleased to recall that during its examination of Hungary's initial report (CAT/C/5/Add.9), the Committee had concluded that the country had fulfilled its obligations under the Convention.

73. During that examination the issue of new legislation on the courts and the Public Prosecutor's Department had arisen. Had those new texts appeared?

74. It had also been stated that the Convention against Torture had been incorporated into the national legal system by means of Law-Decree No. 3 of 1988. He wondered whether that law had already been invoked in decisions and whether complaints had been brought before the Attorney-General. If so, what had the outcome been?

75. He deplored the fact that a simple regulation informed individuals that they might disobey any order constituting a crime; he wondered whether the Government might not consider enacting a law, which would be more binding than a regulation.

76. In regard to article 10 of the Convention, which dealt with training programmes, he would appreciate seeing the textbooks dealing with the prevention of torture as well as transcripts of the courses themselves.

77. Paragraph 1 of the report (CAT/C/17/Add.8) stated that Hungary was undergoing profound changes and that a pluralist society and the rule of law had replaced the former system. He wished to know whether the two bills that Parliament was to have considered in autumn 1992 had been promulgated as law. Those were two important bills, one relating to the press - described as a "fourth power", capable of drawing attention to cases of torture - and the other relating to minorities. To his mind, a clear law was necessary to define the rights of minorities, which represented a significant group in Hungary.

78. He wondered whether the death penalty had been abolished for all offences, including political offences. He would also like to know whether Hungary planned to endorse the draft optional protocol to the Convention against Torture, which provided for visits to detention centres.

79. With regard to evidence, referred to in paragraph 15 of the report, he would appreciate more details on the sanctions against any State agent employing duress or threats against a suspect during an interrogation.

80. He would appreciate more details on the proposed reform of the law governing the enforcement of punishments. He also wished to know whether convicts were informed of their rights and whether, for instance, they signed a document to that effect. He would also like to know what authority supervised the prison system and whether, in practice, convicts could easily get in touch with a visiting judge.

81. In terms of the number of police officers convicted, he pointed out that there were no statistic after 1990; data for 1991 and 1992 would be welcome.

82. Noting that Hungary was now under a pluralist regime, he wondered whether that pluralism extended to all of society and to associations. In particular, he would like to know whether there was a lawyers' council, a physicians' council and independent institutions for the protection and promotion of human rights.

83. Mr. LORENZO said that while welcoming the progress made in Hungary, he wondered to exactly what extent Hungary was respecting article 4 of the Convention. It seemed that in Hungary acts of torture, as defined under article 1 of the Convention, did not really constitute offences, and he cited paragraph 29 of the report before the Committee, which he compared to paragraphs 13 to 16 of the initial report. Article 226 of the Criminal Code seemed to define torture in a very restrictive manner. According to the definition given in the Convention, acts other than those referred to in that Code could be considered as acts of torture. He would like to know whether all those forms of torture were definitely offences under the Criminal Code.

84. He would appreciate clarification of the meaning of the last sentence in paragraph 32 of the report, which was far from clear. He would appreciate seeing the text of the Criminal Code on that point.

85. Mr. BURNS congratulated Hungary on its new constitutional structure and the provisions it had adopted to prevent torture. He noted that Hungary had recognized the Committee's competence under articles 20, 21 and 22 of the Convention.

86. Referring to a report from Amnesty International on the alleged treatment of some foreigners in Hungary, in particular in dealings with the police in certain camps, he asked how complaints were investigated. Was there an independent body or did the police investigate its own actions?

87. In respect of article 3 of the Convention, he would appreciate information on Hungary's extradition practices. Did Hungary initiate proceedings against a national of a State with which it had no extradition treaty and no tradition of mutual assistance if the person involved ran the risk of being tortured?

88. Mr. SORENSEN, referring to paragraph 11 of the report which stated that Hungary intended in the near future to ratify the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, said that he hoped ratification would take place soon.

89. He was disappointed by paragraph 39 of the report, which stated that there had been no change in the regulations concerning the implementation of articles 7 to 12 of the Convention. In its statement, the Hungarian delegation had nevertheless qualified that assertion a little, for which he was grateful. To his mind, the importance of education in preventing torture could not be too strongly emphasized. He stressed the fact that adequate training must be provided for persons dealing with refugees and observed, more broadly speaking, that States were bound under the Convention to provide training.

90. The CHAIRMAN, referring to the allegations of torture made by Amnesty International, asked whether an investigation had been carried out, whether it had been completed and, if so, what the findings had been.

The meeting rose at 1.00 p.m.