



AI Index IOR 52/006/2003

5 November 2003

**Amnesty International's
Written Statement to the
2003 OSCE Supplementary Human Dimension Implementation Meeting
on the Prevention of Torture**

Amnesty International's research indicates that torture and ill-treatment remain prevalent in many Participating States in the OSCE region.

To date this year, we have received credible allegations of torture and ill-treatment at the hands of law enforcement officials including during demonstrations; in the course of arrest; during the questioning of suspects in police custody; during pre-trial detention; by prison officers in prisons; and during forcible deportation.

We also still receive reports that people have died in custody as a result of torture and ill-treatment.

The victims include nationals of Participating States, many of whom are racial, religious or ethnic minorities and non-nationals. Some are stopped on the street during the course of identity checks; some are criminal suspects, of whom some are suspected of politically motivated offences; others are asylum-seekers.

Our research indicates that statements alleged to have been extracted as a result of torture or ill-treatment continue to be admitted as evidence in criminal proceedings.

We consider that this continuing state of affairs results from a lack of political will to enforce the absolute prohibition of torture and ill-treatment.

We regret that this unambiguous prohibition has been the subject of some debate in a few member states- notably in Germany and the USA over the past year.

Amnesty International is also concerned that the practice, in some Participating States, of linking police promotions to the number of cases resolved may lead to police resorting to unlawful methods in their work, including resort to torture and ill-treatment in order to elicit "confessions" quickly from suspects.

Amnesty International's research also continues to expose the ongoing issue that people in some Participating States are deprived of their liberty in police stations, remand centres, prisons, immigration detention facilities, and institutions that house mentally and/or physically disabled children and adults, where the conditions are so poor that they amount to cruel, inhuman or degrading treatment or punishment. Such conditions also deprive the detainees of their rights to be treated with respect for their inherent dignity. Some but not all of the problems are caused by over-crowding.

There is no lack of standards or mechanisms at the international and regional level aimed at assisting states in preventing torture and ill-treatment. The newest of such is the Optional Protocol to the (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

AMNESTY INTERNATIONAL

INTERNATIONAL SECRETARIAT

1 Easton Street, London WC1X 0DW, United Kingdom

Tel: Int. Code: 44 (20) 7413 5500. UK Code: 020 7413 5500. Fax: Int. Code: 44 (20) 7956 1157. UK Code: 020 7056 1157

E-Mail: amnesty@amnesty.org

Web: <http://www.amnesty.org>

(Convention against Torture), adopted on 18 December 2002, to which two OSCE Participating States, Albania and Malta, are currently parties and 11 other Participating States have signed.

There is no lack of standards or guidance on how to implement the obligation to ensure independent and impartial investigations of allegations of torture. To this end we commend to you the *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and the judgment of the European Court of Human Rights in the case of *Assenov and others v. Bulgaria*.

We are hopeful that Amnesty International's recent publication, *Combating Torture: a manual for action*, (AI Index: ACT 40/001/2003), will be helpful to governments and non-governmental organizations alike in clarifying states' obligations under international law to prevent, prohibit and prosecute acts of torture and ill-treatment and to ensure reparation to victims. The Manual also recommends concrete action to implement these obligations.

If the OSCE region is to become a Torture-Free Zone, we consider that the OSCE Participating States and the political bodies and institutions of the OSCE must exercise political will to take the following eight measures, as a matter of priority to prevent and redress instances of torture and ill-treatment in the OSCE Regions:

1. All OSCE Participating States must ensure that, among other things, all persons deprived of their liberty are:

- provided with information about their rights and how those rights can be accessed;
- granted access to a lawyer, including during all questioning, and the opportunity to consult with their lawyer in confidence;
- given the opportunity to notify or have notified their family or a third person of the fact of and the location of their detention;
- provided with the opportunity to be examined by a doctor, outside the hearing of law enforcement officials;
- treated with respect for the inherent dignity of the human person.

2. All OSCE Participating States must ensure that all allegations of torture and ill-treatment are promptly and thoroughly investigated by a truly independent and impartial body, and that complainants and witnesses are protected from harassment and other forms of pressure.

3. All OSCE Participating States must ensure that statements and other evidence alleged to have been extracted as a result of torture or ill-treatment are not introduced into evidence in any legal proceedings other than proceedings brought against the alleged perpetrator of such torture or ill-treatment.

4. All OSCE Participating States must ensure that perpetrators of torture or ill-treatment are promptly brought to justice in proceedings which respect the suspect's right to a fair trial and the victim's right to information and to be treated with respect and dignity.

5. All OSCE Participating States must ensure that victims of torture and ill-treatment receive adequate reparation.

6. All OSCE Participating States must ensure that police promotion criteria do not encourage resort to unlawful conduct.

7. We also call on

- Andorra and San Marino, the two Participating States of the OSCE who have yet to do so, to ratify the (UN) Convention against Torture;
- the 53 OSCE Participating States, who have yet to do so, to ratify or accede to the Optional Protocol to the (UN) Convention against Torture; this treaty will enter into force 30 days after receipt of the 20th certificate of ratification or accession;

and

- all OSCE Participating States to submit timely periodic reports to the UN Treaty Monitoring Bodies and to publish the Conclusions and Recommendations of these bodies as well as the Recommendations of the Special Rapporteur on torture. We also urge governments to publish their plans for the implementation of these recommendations and regular progress reports on such implementation.

8. We call on the OSCE political bodies to provide strong leadership in promoting greater political will for the eradication of torture and ill-treatment. We urge the incoming Bulgarian OSCE Chairmanship to declare the combat of torture to be among its highest political priorities. We ask them to be unwavering in their commitment to raising torture concerns whenever necessary, including in their bilateral discussions with governments in the OSCE region. We ask them also to place discussion about combating torture, including in specific countries as necessary, regularly on the agenda of the OSCE Permanent Council.

9. The OSCE should consider how its bodies and mechanisms and field presences can facilitate Participating States to implement the recommendations of international, regional and national bodies and mechanisms, including the UN human rights treaty bodies; the UN Special Rapporteur on torture and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), aimed at the prevention and punishment of torture and ill-treatment.

10. We consider that regular reporting by the Director of the ODIHR on the issue of torture and ill-treatment would facilitate discussion in the Permanent Council. The ODIHR Director should also be encouraged to bring concerns about torture and ill-treatment systematically to the attention of the Chairmanship, wherever the problem occurs in the OSCE region.

11. Amnesty International believes that an annual report, prepared by ODIHR's Human Rights Section, on the situation of torture and ill-treatment would be a useful tool in refining the existing project work of the ODIHR and the OSCE field operations in areas such as police, judiciary and prison service training. Such a report should be analytical, seeking to identify specific factors leading to torture, ill-treatment and impunity, and potential remedies. Sufficient human and financial resources should be allocated to ODIHR for such work.

Participating States should be encouraged to offer their full co-operation in providing information to the ODIHR for such an annual report on prevention of torture and ill-treatment. We recommend that the first such report should be prepared for the 2004 Human Dimensions Implementation Meeting.