



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

Distr.: General
1 June 2016
English
Original: Spanish
English, French and Spanish only

Committee against Torture

List of issues prior to the submission of the fourth periodic report of Uruguay, due in 2018*

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

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations (see CAT/C/URY/CO/3, para. 25),¹ the Committee requested the State party to furnish it with information on the action it had taken in response to the recommendations that it should (a) ensure or reinforce safeguards for persons who have been deprived of their liberty (para. 9); (b) undertake prompt, impartial and effective investigations (para. 12); and (c) prosecute suspected perpetrators and punish those found guilty of having committed torture or ill-treatment (para. 13). The Committee takes note of the follow-up report submitted by the State party on 16 June 2015 (CAT/C/URY/CO/3/Add.1) and expresses its appreciation for the information provided. However, the Committee considers that the recommendations contained in paragraphs 9 and 13 of the previous concluding observations have not yet been implemented (see paras. 23 and 26 below).

Article 1

2. With reference to the Committee's previous concluding observations (para. 7), please provide updated information on the measures adopted by the State party in order to align article 22 (on torture) of Act No. 18026 with article 1 of the Convention by specifying the objective of the offence, identifying discrimination as one of the motivating factors or reasons why torture may be inflicted and including acts intended to intimidate, coerce or obtain information or a confession from a person other than the victim in the definition.

* Adopted by the Committee at its fifty-seventh session (18 April-13 May 2016).

¹ Unless otherwise indicated, paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee.



Article 2²

3. With reference to the Committee's previous concluding observations (para. 8), please provide detailed information on the measures taken to ensure that all persons deprived of their liberty have access — in practice and from the very beginning of their detention — to all basic legal safeguards, including those set out in paragraphs 13 and 14 of the Committee's general comment No. 2 (2007).

4. Please indicate which measures have been adopted to ensure that the National Human Rights Institution has the independence, budget, infrastructure and the resources that it needs to fully execute its mandate in accordance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles). What measures have been taken to address the shortcomings in the staffing and other resources of the National Human Rights Commission as reported by the Sub-Committee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights?³

5. Please provide updated information on the measures taken to ensure the functional independence of the national preventive mechanism against torture, including assigning it a budget of its own and specialized medical and legal staff (para. 14).

6. Please provide detailed information on the measures adopted to ensure the full independence and impartiality of judges and prosecutors (para. 17). What measures have been taken to ensure that the laws and regulations that govern such officials' appointment, terms of appointment and security of tenure are in conformity with international standards, particularly the Basic Principles on the Independence of the Judiciary? Please also include updated information on the transfer, pursuant to a Supreme Court order, of Judge Mariana Mota.

7. With reference to the Committee's previous concluding observations (para. 20), please provide statistics, disaggregated by age and ethnic origin or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of gender-based violence, including domestic violence, since the consideration of the State party's third periodic report in April and May 2014. Please also provide information on the redress granted to victims and the support services available to them.

8. Please provide updated information, disaggregated by the age, sex and ethnic origin or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of human trafficking since the consideration of the State party's previous periodic report. Please also provide additional information on:

(a) The implementation of the National Plan of Action to Eradicate the Sexual Exploitation of Children and Adolescents,⁴ and any other measures taken to prevent, combat and punish trafficking in persons;

² The issues raised under article 2 could also touch on other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also section V of the same general comment.

³ Report of the Sub-Committee, March 2015, pp. 27-29.

⁴ A/HRC/WG.6/18/URY/1, para. 19.

(b) The measures taken to ensure that victims of human trafficking have access to basic support and assistance services (housing, medical and psychological care, etc.), as well as to effective judicial remedies and redress;

(c) The signature of bilateral and subregional agreements with other countries in order to prevent and combat trafficking in persons.

Article 3

9. Please provide detailed information on the legal and institutional developments that have taken place in the fields of refugee asylum and protection. Please describe the measures taken by the State party during the reporting period to prevent the expulsion to a third State of persons who risk being subjected to torture in that State. What procedure is followed when a person asserts this right? Are individuals awaiting expulsion, return or extradition informed of their right to seek asylum and to lodge an appeal? If so, do appeals have suspensive effect? Please provide information on measures taken to ensure that women, unaccompanied minors or minors who have become separated from their families, and victims of torture or traumatization who request asylum in the State party receive treatment that is in accordance with their specific needs during the refugee-status application process (para. 18).

10. Please provide detailed statistics on the number of requests for asylum received during the period under review, the number of requests accepted and the number of applicants whose requests were accepted because they had been tortured or were in danger of being subjected to torture if returned to their country of origin. Please include information, disaggregated by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of the previous periodic report. Please provide details on the reasons for their return and a list of the destination countries. Please provide up-to-date information on the types of appeal mechanisms available and on any appeals that have been lodged and their outcome.

11. Please indicate how many cases of return, extradition and expulsion the State party has processed pursuant to the acceptance of diplomatic assurances or equivalent guarantees during the period under consideration, as well as the number of cases in which it has offered such diplomatic assurances or guarantees. What are the minimum contents of any such assurances or guarantees, whether given or received, and what measures with regard to subsequent monitoring have been taken in such cases?

Articles 5 to 9

12. Please indicate what legislative or other measures have been taken in order to give effect to article 5 of the Convention. Are acts of torture considered universal crimes under national law, irrespective of where they occur and the nationality of the perpetrator or victim? Please provide relevant examples of proceedings brought in such cases.

13. Please inform the Committee of any extradition treaties that have been concluded with other States parties and whether such treaties include the offences referred to in article 4 of the Convention as extraditable offences. Please indicate whether the State party also considers the Convention a legal basis for extradition in respect of such offences.

14. Please indicate what mutual legal assistance treaties or agreements Uruguay has concluded with other entities, such as countries, courts or international institutions, and whether these have given rise to transfers of evidence in trials for torture or ill-treatment. Please provide examples.

Article 10

15. In connection with the previous concluding observations (para. 23), please provide updated information on the training programmes on human rights and the prohibition of torture administered by the State party with a view to ensuring that all civil servants, and members of the armed forces, police officers and other law enforcement personnel in particular, are fully familiar with the provisions of the Convention and aware that breaches will not be tolerated, that they will be investigated and that those responsible will be prosecuted. Please also indicate whether the State party has devised a methodology to assess the effectiveness and impact of the training programmes in reducing the number of cases of torture and ill-treatment, and, if it has, please provide information on the content and application of that methodology.

16. Please provide up-to-date information on training programmes for judges, prosecutors, forensic doctors and other medical staff who deal with persons in custody in the detection and documentation of the physical and psychological sequelae of torture (para. 23). Do such programmes include specific training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)?

Article 11

17. Please describe the procedures that have been set up in order to ensure compliance with article 11 of the Convention and supply information on any rules, instructions, methods or practices as well as arrangements for custody that have been introduced since the consideration of the previous report. Please also indicate how frequently these are reviewed.

18. In connection with the previous concluding observations (para. 10), please provide up-to-date statistics, disaggregated by sex, age group and ethnic origin or nationality, on the number of detainees on remand and convicts, and on the occupancy levels of all places of detention. Please provide information on measures taken to restrict the use of pretrial detention. What practical steps have been taken to meet the basic needs of persons deprived of their liberty regarding health care, access to safe drinking water and sanitation, and adequate ventilation of facilities? Please supply information on the situation of persons deprived of their liberty being held in solitary confinement, particularly those being held on the fifth floor of the Unit for Admission, Study, Diagnosis and Referral of the Metropolitan Area (former central prison). Provide information as to the measures taken to ensure that pretrial detainees are separated from convicted prisoners. Lastly, please indicate whether the State party intends to transfer the prison system from the Ministry of the Interior to another administrative unit.

19. With reference to the information provided by the State party in its follow-up report,⁵ please assess the effectiveness of measures taken to reduce overcrowding and improve conditions in juvenile detention centres. Please also indicate the measures taken to improve the infrastructure of prisons and other detention facilities, in particular the female prison in Montevideo.

20. Please supply information on the incidence of inter-prisoner violence and, in particular, on all cases in which law enforcement personnel might be implicated for negligence, and on the number of complaints that have been lodged in this regard. What preventive measures have been introduced?

⁵ CAT/C/URY/CO/3/Add.1, paras. 14 and 15; and CAT/C/URY/CO/3, para. 12.

21. In connection with the previous concluding observations (para. 11), please provide statistics on the number of deaths in custody during the period under consideration, broken down by place of detention, sex, age and ethnic origin or nationality of the deceased and the cause of death. Please provide detailed information on the results of investigations into those deaths and on the measures taken to prevent the recurrence of similar cases. Please indicate whether, in any of these cases, relatives have received compensation.

22. Please provide information on the procedural and substantive safeguards that are applicable in situations of involuntary commitment of persons with psychosocial disabilities. What is the situation with regard to the use of alternative forms of treatment, such as community-based rehabilitation services and other outpatient treatment programmes? How many people currently receive such alternative forms of treatment?

Articles 12 and 13

23. In the light of the information provided by the State party in its follow-up report on allegations of acts of torture and ill-treatment,⁶ please provide statistics, disaggregated by sex, age, ethnic origin or nationality and place of detention, on the number of complaints of acts of torture or ill-treatment registered during the reporting period. How many ex officio investigations have been opened into alleged incidents of torture and ill-treatment? Please provide information on the judicial and disciplinary proceedings that have been initiated, convictions handed down and criminal penalties and disciplinary measures imposed. In this regard, please provide examples of relevant cases and judicial decisions.

24. With regard to the Committee's previous concluding observations (para. 16), please provide information on the progress made to shed light on cases of torture and other serious human rights violations that were committed in the past (1973-1985). What measures has the State party taken to ensure that crimes against humanity, including acts of torture and enforced disappearance, are not subject to any statute of limitations, amnesty or immunity?⁷

25. In the light of the Committee's most recent concluding observations (para. 19), please indicate the status of the criminal proceedings that were initiated against four marines from the military contingent, sent by Uruguay to serve in the United Nations Stabilization Mission in Haiti (MINUSTAH), for the assault of a young Haitian man who reported that he had been sexually abused in 2011 at a military base in Port Salut, Haiti.

26. With reference to the information provided by the State party in its follow-up report,⁸ please provide information on the investigation of alleged abuses committed against minors being held in centres of the Adolescent Criminal Responsibility System (SIRPA). Such information should include the number, sex and age of the alleged victims, the place of detention, the precautionary measures taken in each case, as well as the outcome of investigations and disciplinary and/or criminal proceedings relating to those allegations. Please provide detailed information on the results of investigations into alleged irregularities in the administration of drugs to minors being held in SIRPA centres. Please also provide information on the redress granted to victims and the support services available to them. What mechanisms are in place to protect victims and witnesses against potential retaliation?

Article 14

27. In the light of paragraphs 45 and 46 of the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties, please provide detailed

⁶ CAT/C/URY/CO/3/Add.1, paras. 1-5; and CAT/C/URY/CO/3, para. 9.

⁷ CCPR/C/URY/CO/5, para. 19.

⁸ CAT/C/URY/CO/3/Add.1, paras. 6-13; and CAT/C/URY/CO/3, para. 13.

information on the measures of redress and compensation, including rehabilitation, ordered by the courts and effectively awarded to victims of torture or their relatives since the consideration of the previous periodic report. Such information should include the number of claims submitted, the number of claims admitted and the amounts awarded and actually paid in each case.

28. With reference to the Committee's previous concluding observations (para. 16), please provide information on the measures taken by the State party to ensure the provision of redress to victims of human rights violations that were committed during the dictatorship, including fair and adequate compensation and the means for as complete a rehabilitation as possible.

29. Please provide information on programmes to provide reparation to victims of torture and ill-treatment, including treatment for physical and psychological trauma and other forms of rehabilitation, and on the allocation of adequate resources to ensure the effective implementation of such programmes. Please indicate the degree of cooperation maintained with specialized non-governmental organizations in this area and indicate whether the State party provides financial and/or other means of support for their proper functioning.

Article 15

30. Please provide examples of any cases that have been dismissed by the courts owing to the use of evidence or testimony obtained through torture or ill-treatment.

Article 16

31. With reference to the Committee's previous concluding observations (para. 21), please indicate the practical measures taken by the State party to combat violence against individuals based on their sexual orientation or gender identity, in particular murders of transgender women. In this regard, please include information on the prosecution of alleged perpetrators.

32. Please provide updated information on measures taken to prevent and combat the corporal punishment of children.⁹

Other issues

33. Please provide up-to-date information on the measures taken by the State party to respond to threats of terrorism and describe whether, and how, those measures have affected safeguards for human rights in law and in practice. Please explain how the State party has ensured that counter-terrorism measures are consistent with all its obligations under international law, especially the Convention, in conformity with relevant Security Council resolutions, in particular resolution 1624 (2005). Please describe the relevant training given to law enforcement officials, the number and types of convictions handed down in application of that legislation, the legal remedies available to persons subject to counter-terrorism measures, whether there have been complaints of failure to comply with rules of international law and the outcome of those complaints.

⁹ CRC/C/URY/CO/3-5, paras. 31 and 32.

General information on other measures and developments relating to the implementation of the Convention in the State party

34. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report to give effect to the provisions of the Convention or the Committee's recommendations. This may include institutional developments, plans or programmes, and in particular, resources allocated, statistical data or any other information that the State party considers relevant.
