



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

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**Committee against Torture**

**Information received from Paraguay on follow-up  
to the concluding observations on its seventh  
periodic report\***

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## Follow-up information relating to paragraph 15 of the concluding observations (CAT/C/PRY/CO/7)

1. From its first year of operation until 2016, the resources allocated to the national preventive mechanism fluctuated as a result of funding deficits affecting the overall State budget. Since 2017, the Paraguayan State has done its utmost to ensure that the mechanism has sufficient resources to carry out its functions and has sought to reverse the cuts of the last four years by bringing its budget back up to at least the amount initially allocated to it in its first year of operation (2013) and to remove potential obstacles to the budget's implementation.

2. In 2017, the national preventive mechanism was allocated a budget of 4,437,024,597 guaraníes; 90.8 per cent of the financial plan was implemented, corresponding to 4,007,000,000 guaraníes. This represented an increase in spending of 1.5 per cent over 2016 and of 16.5 per cent over 2014. In 2018, the budget allocated was 4,681,293,401 guaraníes; 96.1 per cent of the financial plan was implemented, corresponding to 4,520,000,000, an increase of 12.8 per cent over the previous year. In 2019, the budget was 4,971,220,011 guaraníes; the amount of the budget implemented by the end of the first half of the year represented an 11.7 per cent increase over the same period in the previous year. The budget for 2020 is 4,972,263,612 guaraníes.

3. In relation to the activities carried out by the Human Rights Network of the Executive Branch and other bodies to follow up on the recommendations of the national preventive mechanism, the Directorate General of Human Rights of the Ministry of Justice has taken steps in this regard, in its double role as the coordinator of the Network, under Decree No. 2290/09, and point of liaison with the national preventive mechanism, under Decision No. 581/16 of the Ministry of Justice, through which it was designated as the body responsible for reporting to and evaluating and monitoring the work of the national preventive mechanism.

4. Senior officials of the Ministry of Justice hold regular meetings with the expert members of the national preventive mechanism to strengthen constructive dialogue on the implementation of the mechanism's recommendations. An internal working mechanism has been established to promote the implementation of these recommendations, through which technical support is provided and workshops are organized with directors general, managers, and legal and technical advisers in departments responsible for persons under State custody in the prison system. In December 2018, the Directorate General of Human Rights of the Ministry of Justice presented a project for the systematic organization of recommendations by area of intervention and in February 2019 a working group was set up to implement the project.

5. One of the strategic objectives of the Directorate General of Human Rights under the Ministry of Justice's Strategic Plan 2017–2021 is to promote, respect and protect human rights, with particular regard to the rights of persons in situations of vulnerability, in cooperation with other State bodies. This involves taking the following steps in the area of torture prevention.

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4.1 Strengthen the protection and monitoring of the enjoyment of human rights in the prison system and in facilities for adolescents in conflict with the criminal law.

A4.1.1 Implement a system of regular monitoring visits to prisons.

A4.1.2 Implement a system of regular monitoring visits to educational facilities for juvenile offenders.

A4.1.3 Develop training workshops on the application of the international human rights instruments and protocols ratified by Paraguay, such as the Nelson Mandela Rules and other international standards, for the directors and officials of educational facilities for juvenile offenders and prisons.

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A4.1.4. Promote the systematization of institutional reports on the prevention of torture and cruel, inhuman or degrading treatment.

A4.1.5. Promote internal regulations on the prevention of torture and the use of force in line with international human rights standards.

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6. The Ministry of Justice established the Prison Security and Intelligence Unit, which provides in-service training for prison officials in security management, in strict compliance with the legal framework and human rights and with the support of the National Police, the National Anti-Drugs Secretariat, the Armed Forces and the Public Prosecution Service.

7. The Directorate for the Protection of Human Rights in the Prison System carries out regular monitoring visits to gather complaints or reports from persons deprived of their liberty and to encourage a coordinated approach to these complaints and reports. Departments for monitoring detention centres and handling complaints have been set up to follow up on such complaints. Important results have been achieved through joint measures carried out with the Internal Affairs and Anti-Corruption Directorate.

8. Pursuant to Decision No. 315/15 of the Ministry of Justice, procedural protocols were developed in the following areas in 2015: reports of human rights violations from persons deprived of liberty; reports of torture; assistance to older persons deprived of liberty; assistance to foreign nationals deprived of liberty; assistance to transgender persons deprived of liberty; assistance to persons with disabilities deprived of liberty; and assistance to indigenous persons deprived of liberty.

9. Activities were carried out to disseminate these protocols under the Directorate General of Human Rights' Annual Operating Plan 2016–2019, specifically three workshops in 2018 in which 60 prison officers participated and six workshops in 2019 in which 109 persons participated, including prison officers, educators and trainees. In addition, a compendium of international instruments on human rights and humanitarian principles and a publication on the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) have been published and are used as educational tools in workshops, and campaigns on human rights standards applicable to prison management with a rights-based approach have been carried out.

10. Based on the protocol for torture complaints, institutional subprocesses have been revised to ensure that complaints are processed in a targeted manner and to streamline responses once complaints have been analysed and channelled. For reference, between January and December 2018, 363 complaints involving 1,210 persons deprived of liberty were received. These complaints were analysed and, on the basis of the content of each complaint, were channelled to the competent directorates and/or institutions.

11. The Prison System Reform Plan was adopted pursuant to Decision No. 660/2014 of the Ministry of Justice and the Prison Commission was established pursuant to Decision No. 270/2016 of the Ministry of Justice to develop guidelines on processes and programmes to be implemented in prisons. The Reform Plan is built on four central pillars. The first pillar addresses the normative framework and the processing of cases and provides for, inter alia, the implementation of a plan to clear the backlog of cases, through, for example, a videoconferencing system, an inter-institutional justice board and the holding of preliminary and review hearings in prisons.

12. Under the second pillar, which focuses on infrastructure and basic needs, improvements have been made to address overcrowding and the lack of accommodation capacity in each prison. Several reforms have also been made in the area of health, both in terms of infrastructure and services. The third pillar, which focuses on the prison service, provided for the establishment of a civil service career path for prison officials and the Centre for Prison Studies to facilitate the professionalization of prison officers, while the fourth pillar, which focuses on social reintegration, promotes education and training programmes aimed at reintegrating persons deprived of liberty.

13. To improve the management of the prison system, a prison information management system was developed, based on the records of each person deprived of liberty. Given the versatility of the technology with which it was designed, it responds to the requirements of the various actors in the justice administration system.

14. By Decision No. 69/19, the Public Defence Service made it compulsory for public defenders throughout the country to use a standard form for the registration of complaints of torture and cruel, inhuman or degrading treatment. Use of the form optimizes the response to acts of torture committed at the time of arrest and in places of deprivation of liberty and facilitates the updating of data.

15. In keeping with the Committee's concluding observations, on 30 May 2018 the Public Defence Service signed a joint action agreement with the national preventive mechanism and the Association for Technology, Development, Research and Communication to develop and maintain a web platform and a mobile telephone application that public defenders throughout Paraguay can use to register cases of torture. The application is in the final stage of development.

16. The national preventive mechanism worked with the International Bar Association's Human Rights Institute to arrange for an international course entitled "Investigating and Documenting Torture: Theoretical Approach to the Istanbul Protocol" to be held with leading national and international panellists. The course took place on 21 and 22 May 2019 with 42 participants, including criminal court public defender coordinators from all over the country, medical professionals and psychologists.

17. The Human Rights Directorate of the Ministry of the Interior has started a review of the National Police's manual on the use of force to bring it into line with human rights standards. This process involves police personnel, specifically instructors who have graduated from training courses in international standards and humanitarian principles applied to policing organized by the International Committee of the Red Cross.

18. A task force comprising representatives of the main institutions involved in the administration of justice was set up to address the prison situation and outline strategies to reduce overcrowding in the system. As a first step, a mechanism to facilitate coordination between the judicial authorities and the Public Defence Service in the processing of criminal cases, set up at the end of May 2019, will allow for the release of some persons deprived of liberty through the arrangements provided for by the law.

### **Follow-up information relating to paragraph 17 (b) of the concluding observations**

19. The Special Unit for Human Rights Offences of the Public Prosecution Service is required to investigate offences involving torture or bodily injury inflicted in the performance of public duties and other punishable acts that fall within its jurisdiction in accordance with article 18 of the Code of Criminal Procedure, which provides that: "The Public Prosecution Service shall be obliged to initiate public criminal proceedings in respect of offences that come to its attention, provided that there is sufficient factual evidence that the offence occurred. Where appropriate, the criteria of prosecutorial discretion set out in this Code shall be applied."

20. Accordingly, article 351 of the Code of Criminal Procedure provides that: "When the Public Prosecution Service becomes aware of an alleged offence, by any reliable means, or through a report, complaint, or preliminary police investigation, it shall prevent any subsequent consequences of the offence and shall initiate and direct an investigation ... it shall investigate in order to try to substantiate a request to initiate judicial proceedings but shall refrain from prosecuting where it finds no grounds for doing so or where the evidence it has collected is not sufficient to secure a conviction."

21. Using the definition of torture established in Act No. 4614/12 as a starting point, the Public Prosecution Service issued the Practical Guide to Investigating Cases of Torture. The Guide is in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), the Convention against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment, the Inter-American Convention to Prevent and Punish Torture and the Rome Statute of the International Criminal Court.

22. The Guide covers the measures to be taken immediately when an act of torture comes to light; objectives of the investigation; treatment of and interviews with the victim; identification of witnesses; physical, psychological and psychiatric signs of torture; preliminary forensic intervention; interrogations; and requests for reports. Instructions Nos. 7, 11 and 12 of 2016 establish an obligation on public prosecutors in such cases to monitor the application of the legal safeguards relating to due process and the prevention of torture.

23. To ensure that investigations are thorough and impartial, the Public Prosecution Service's Directorate for Legal and Forensic Medicine is on hand to verify the physical after-effects of torture and bodily injuries caused by public officials in the performance of their duties and to conduct medical examinations as necessary for the proper diagnosis and investigation of such acts.

24. The Internal Affairs and Anti-Corruption Directorate of the Ministry of Justice is responsible for investigating, either of its own motion or on the basis of a report, acts of torture, ill-treatment or inhuman or degrading treatment committed against persons deprived of liberty. The Directorate General of Human Rights of the Ministry of Justice has worked to have the normative framework brought into line with international human rights standards applicable to the prison system, through such documents as the Guide on the Use of Force in Correctional Facilities and Educational Centres, the Protocol for Processing Complaints of Human Rights Violations from Persons Deprived of Liberty, the Protocol for Reporting Acts of Torture, and the Protocol for Urgent Procedures for Responding to Complaints of Human Rights Violations and Acts of Torture from Persons Deprived of Liberty, adopted through Decision No. 446/2016 of the Ministry of Justice.

25. In accordance with the above-mentioned instruments, and in view of the obligation to report established in article 286 of the Code of Criminal Procedure, the Ministry of Justice has, in response to acts of torture, physical and psychological abuse and offences related to abuse of authority in places of deprivation of liberty, including those reported by the national preventive mechanism, initiated administrative proceedings, pushed for the dismissal of the alleged perpetrators and filed criminal complaints against prison and education centre staff in Concepción, Villarrica and Ciudad del Este.

26. The Internal Affairs Directorate was established to investigate complaints against police officers in accordance with the requirements of due process. The results of its investigations are submitted to the Directorate of Police Justice, which undertakes preliminary proceedings, establishes administrative responsibilities, and submits its findings to the Public Prosecution Service, where appropriate. By Decision No. 88/2011, the National Police established, within the Directorate of Police Justice, specialized tribunals and prosecutors' offices for offences against human rights to support the work of the internal investigation and sanctioning bodies.

### **Follow-up information relating to paragraph 17 (d) of the concluding observations**

27. The Constitution and the Code of Criminal Procedure enshrine the principle of the presumption of innocence and provide that it must be observed in all criminal proceedings and in any other proceedings that may lead to the application of a penalty or punishment. This principle remains intact until a final and enforceable sentence finding the defendant guilty is passed.

28. The instruments and procedures referred to in paragraphs 24 to 30 of this report have been developed and are applied in strict compliance with the safeguards of due process established in the Constitution and the domestic legal framework. This ensures objective and impartial investigations and safeguards the rights of both the victim and the person under investigation.

29. Moreover, under Decision No. 446/2016 approving emergency measures for responding to reports of human rights violations and torture of persons deprived of liberty, which applies to prisons and educational centres for juvenile offenders, administrators can

order the immediate transfer and/or change of duties, for the duration of the investigation, of correctional officers who have allegedly committed acts of torture.

### **Follow-up information relating to paragraph 17 (g) of the concluding observations**

30. When it comes to offences committed in the performance of public duties, Paraguayan criminal legislation defines various offences that, objectively speaking, appear to have similar characteristics. This makes it difficult for prosecutors to match a particular conduct to a specific provision of criminal law. A thorough legislative review is therefore needed, taking into account the map of human rights risks prepared by the Human Rights Directorate of the Public Prosecution Service. The National Commission on Reform of the Penal and Prison Systems is currently undertaking such a review.

31. Nonetheless, the specific offence entered into the Prosecution Management System during the investigation stage is preliminary in nature and may be modified during the course of the investigation. The specific offence established in the oral public trial is definitive because the factual hypothesis of the Public Prosecution Service may be reclassified by the courts responsible for confirming or refuting the hypothesis, in accordance with the principle of consistency established in article 400 of the Code of Criminal Procedure.

### **Follow-up information relating to paragraph 19 (a) of the concluding observations**

32. In accordance with article 56<sup>1</sup> of Act No. 1337/99 on National Defence and Internal Security, as amended by Act No. 5036/13, the Government issued Decree No. 103/13 to provide for the use of combat troops of the armed forces for domestic defence operations in the departments of Concepción, San Pedro and Amambay, in accordance with which the Army, the Air Force and the Navy have been working in unison with the National Police, the National Anti-Drugs Secretariat and the Public Prosecution Service to strengthen internal security and deal with criminal groups that undermine State institutions, endangering the lives, physical integrity and fundamental freedoms of the people who live in the geographical areas referred to above.

33. In the Chamber of Senators, a bill to repeal Act No. 5036/2013 (File No. S-156809) is currently under consideration. The bill was submitted for consideration to the Standing Advisory Commissions on Constitutional Issues, National Defence and the Public Security Forces; Legislation, Codification, Justice and Labour; and Preventing and Combating Drug Trafficking and Related Crimes. So far, only the Commission on Constitutional Issues, National Defence and the Public Security Forces has submitted its views.

34. On 18 October 2016 the bill was considered in a public hearing attended by representatives of the Ministry of Defence, political, campesino and civil society organizations, and municipal authorities from the departments of Concepción and San Pedro.

35. The activities of the Joint Task Force comply with the provisions of domestic positive law (the Constitution, the Criminal Code, the Code of Criminal Procedure and other concordant norms) and are carried out in strict observance of international human rights law. The personnel of the Joint Task Force follow operational orders issued by its commander; legal opinions are issued together with these orders confirming the legality of the activities provided for therein. The orders include rules of conduct to be observed by the personnel based on the Criminal Code and the Code of Criminal Procedure and in line with the requirements of international human rights law.

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<sup>1</sup> Art. 56. "In response to situations of extreme seriousness in which the system of internal security established in the present Act is manifestly insufficient, the President of the Republic may decide to use, on a temporary basis, combat troops of the National Armed Forces, exclusively within the territorial scope defined by decree and for the time strictly necessary for the National Police or, where appropriate, the General Naval Prefecture, to return to a position in which they are able to take charge of the situation without external assistance."

36. Before each operation, the personnel are briefed on the rules of conduct; at the end of each operation, an action report is drawn up that identifies useful lessons for improving performance. For each operation, the Public Prosecution Service, specifically its specialized antiterrorism, anti-kidnapping and anti-drug trafficking units, is informed and an operational record is made.

37. The Human Rights Department of the Legal Office of the Internal Defence Operations Centre provides continuous training and feedback to all personnel on international human rights law, criminal law and rules of conduct. These training courses are documented, and the resulting documents are sent to the Personnel Department, which places them on file.

38. The Human Rights Directorate of the Ministry of the Interior has started a review of the National Police's manual on the use of force to bring it into line with human rights standards. To date, approximately 5,000 police officers, including members of the Joint Task Force, have received training on human rights.

39. This process involves police personnel, specifically instructors who have graduated from training courses in international standards and humanitarian principles applied to policing organized by experts from the International Committee of the Red Cross.

### **Follow-up information relating to paragraph 19 (b) and (c) of the concluding observations**

40. The Special Unit on Human Rights Offences of the Public Prosecution Service is responsible for investigating reports alleging that personnel of the Joint Task Force have committed offences involving bodily injury in the performance of public duties, torture or intentional homicide. A list of relevant cases is provided below:

- Case No. 544/2014, “Unnamed defendant, intentional homicide, inter alia, in Kurusu de Hierro”, processed by Unit 3, regarding the death of Hermenegildo Ovelar, an alleged member of the criminal group known as the Ejército del Pueblo Paraguayo (Paraguayan People's Army). This case is in the preliminary stage; an indictment has been made and a request for an oral public trial has been submitted.
- Case No. 82/15, “Aldo Mercado, bodily injury in the performance of public duties”, processed by Unit 3; an indictment has been made and a request for an oral public trial has been submitted.
- Case No. 77/2016, “Unnamed defendant, torture in Colonia Aguerito”, under investigation by Unit 2.
- Case No. 191/16, “Graciela Sanabria and others, torture”, under investigation by Special Unit 2. The alleged victim, Lucía Ovelar, is being prosecuted for the offences of involvement in a terrorist organization, unlawful possession, and creating a risk to public safety, inter alia, and is due to appear for an oral public trial.
- Case No. 38/18, “Unnamed defendant, torture in Azote'y”, under investigation by Unit 2. The case file contains the record of an administrative inquiry labelled “Lieutenant Luis Vera, 1st Infantry, and others, offence against military discipline”, because no record was made of the identification procedure of the alleged victim, Rodney Acevedo, in the ordinary justice system.
- Case No. 53/18 “Unnamed defendant, bodily injury in the performance of public duties”; currently in the investigative stage.
- Case No. 74/18, “Unnamed defendant, torture”, under investigation by Unit 2.
- Case No. 152/18 “Unnamed defendant, bodily injury in the performance of public duties in Kurusu de Hierro”, under investigation by Unit 2. The alleged victim, María Gloria González, is being prosecuted for the offences of involvement in a terrorist organization, unlawful possession, and creating a risk to public safety, inter alia, and is due to appear for an oral public trial

41. Lastly, the Joint Task Force Command Centre has a permanent office for processing complaints that may involve rights violations, which ensures the proper treatment and referral of complaints to the competent authorities, keeps statistics on recurrent situations, seeks appropriate solutions and works to prevent such violations in the future.

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