



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

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## Committee against Torture

### List of issues prior to submission of the fourth periodic report of Lithuania\*

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

##### Articles 1 and 4

1. With reference to the Committee's previous concluding observations (see CAT/C/LTU/CO/3, para. 7),<sup>1</sup> please provide information on any amendments to the Criminal Code to include a definition of torture that covers all the elements of the definition of torture contained in article 1 of the Convention.
2. With reference to the Committee's previous concluding observations (para. 8), please provide information on any amendments to the Criminal Code that would include torture as a specific offence, with appropriate penalties for acts of torture that take into account their grave nature, as set out in article 4 (2) of the Convention.
3. With reference to the Committee's previous concluding observations (para. 9), please indicate whether the Criminal Code has been amended to ensure that there is no statute of limitations for acts of torture, including with regard to persons not protected under international humanitarian law, so that acts of torture and attempts to commit torture can be investigated, prosecuted and punished without a time bar.

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

<sup>1</sup> Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.



**Article 2<sup>2</sup>**

4. With reference to the Committee's previous concluding observations (para. 10), and taking into account the follow-up information provided in this connection by the State party,<sup>3</sup> please provide information on any additional measures taken during the period under review to effectively guarantee to all detained persons all fundamental legal safeguards from the very outset of deprivation of liberty, in accordance with international standards. Please indicate whether there are cases where medical screening is performed by custodial staff and whether persons deprived of their liberty have immediate access in particular to ex officio lawyers from the very outset of their detention. Please also indicate whether steps are taken to ensure that detained persons are able to understand their rights and whether they are provided with feedback on whether it has been possible to notify a close relative or other person about their detention.

5. With reference to the Committee's previous concluding observations (para. 11), and taking into account the follow-up information provided in this connection by the State party, please provide information on:

(a) Any measures taken by the State party to reduce further the duration of pretrial detention,<sup>4</sup> including the status of consideration in the Parliamentary Committee for Legal Affairs of the draft amendments to the Code of Criminal Procedure (draft law No. XIIP-109) aimed at reducing the application of pretrial detention;<sup>5</sup>

(b) The status of the draft of the New Code of Administrative Offences, the aim of which is to recast the current Code of Administrative Violations Law with a view to abolishing the administrative arrest sanction,<sup>6</sup> and on whether measures have been taken to implement alternatives to administrative detention. Please also provide information on any training provided to prosecutorial and judicial authorities in relation to pretrial and administrative detention policies;

(c) Whether "relaxation rooms" in "socialization centres" for minors are no longer used, as recommended by the Seimas Ombudsman's Office acting as the National Preventive Mechanism,<sup>7</sup> and if not, please indicate which improvements have been made with regard to "relaxation rooms" in the Kaunas and Sirvena Children Socialization Centres;

(d) The results of the work of the committee that is evaluating the Kaunas Children Socialization Centre and on any implementation of its recommendations;<sup>8</sup>

(e) The current status in Parliament of draft law No. XIIP-3022, approved by the Government on 23 April 2015, which would regulate the detention of persons in police

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<sup>2</sup> The issues raised under article 2 could also touch on issues raised under 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 (1) are indivisible, interdependent and interrelated. The obligation to prevent such 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 chapter V of the same general comment.

<sup>3</sup> See CAT/C/LTU/CO/3/Add.1, para. 3.

<sup>4</sup> Ibid., para. 2.

<sup>5</sup> Ibid., para. 28.

<sup>6</sup> Ibid., para. 32.

<sup>7</sup> Ibid., para. 34.

<sup>8</sup> Ibid., para. 36.

arrest houses before their transfer to remand prisons and its duration<sup>9</sup> and which would also regulate the return of prisoners to police detention facilities under judicial oversight and only by decision of a prosecutor;<sup>10</sup>

(f) The status of draft law No. XIIP-2485 concerning the use of remote interrogation of witnesses and of equipping all remand prisons with videoconference technology, which was supposed to be adopted before 1 July 2015.<sup>11</sup>

6. Please indicate whether truncheons and electrical discharge weapons (tasers) continue to be standard issue for custodial staff who are in direct contact with persons in places of deprivation of liberty.

7. With reference to the Committee's previous concluding observations (para. 12), please provide information on:

(a) Any steps taken to amend legislation, including article 158 of the Criminal Punishment Enforcement Code, with a view to allowing life-sentenced prisoners to apply for release on parole for good reasons;

(b) Whether any measures have been implemented by the State party to integrate life-sentenced prisoners into the general prison population.

8. With reference to the Committee's previous concluding observations (para. 13), please provide information on:

(a) Any amendments to legislation in order to ensure that domestic violence is a separate crime in the Criminal Code and to ensure that marital rape is explicitly criminalized,<sup>12</sup> notwithstanding the adoption in December 2011 of the Law on Protection against Domestic Violence;<sup>13</sup>

(b) Steps taken to implement the National Programme for the Prevention of Domestic Violence and Provision of Assistance to Victims 2014-2020,<sup>14</sup> including to ensure that victims of domestic violence benefit from protection and have access to medical and legal services, including psychosocial counselling, to redress, including rehabilitation, and to safe and adequately funded shelters throughout the country;<sup>15</sup>

(c) The number (disaggregated) of complaints, investigations, prosecutions and sentences handed down for acts of domestic violence during the period under review, the provision of redress to victims and the difficulties experienced in preventing such acts.

9. With reference to the Committee's previous concluding observations (para. 14), please provide information on:

(a) The status regarding the sentencing of the six Lithuanian nationals from an organized crime gang who had been charged with trafficking in women but not yet sentenced in 2010;

(b) Specific measures taken to prevent human trafficking through the enforcement of anti-trafficking legislation and through international cooperation to combat

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<sup>9</sup> Ibid., 12, para. 41.

<sup>10</sup> Ibid., 12, para. 42.

<sup>11</sup> Ibid., 12, para. 43.

<sup>12</sup> CEDAW/C/LTU/CO/5, para. 25 (e).

<sup>13</sup> E/C.12/LTU/CO/2, para. 15.

<sup>14</sup> CEDAW/C/LTU/CO/5, para. 23 (b).

<sup>15</sup> Ibid., para. 23 (e).

trafficking, in particular for the purpose of sexual exploitation, information on any reduction in the number of cases and information on the redress provided to victims;

(c) Any additional specialized training provided to the police, prosecutors, judges, migration officers and border police on the effective prevention, investigation, prosecution and punishment of acts of trafficking, and information on any additional awareness-raising and media campaigns about the criminal nature of such acts.

10. With reference to the Committee's previous concluding observations (para. 15), please provide information on:

(a) Any steps taken to amend legislation in order to expand the mandate of the Seimas Ombudsman to function effectively as a national human rights institution in full compliance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles);

(b) Any allocation of additional financial and staffing resources during the period under review to enable the Seimas Ombudsman to function effectively both as the national human rights institution and as the national preventive mechanism in compliance with the Optional Protocol to the Convention.

11. With reference to the Committee's previous concluding observations (para. 16), please provide updated information on:

(a) The status of the investigation into allegations of the State party's involvement in the United States of America Central Intelligence Agency's rendition and secret detention programmes, in particular with regard to the so-called "Detention Site Violet";

(b) Pursuant to the decision of the Chief Prosecutor of the Organized Crimes and Corruption Investigation Department of the Prosecutor General's Office to quash the 2011 decision to terminate the earlier pretrial investigation, any results of the investigation that was reopened in January 2015. In addition, please provide updated information on the results of the investigation concerning Mr. Mustafa al-Hawsawi and of the two pretrial investigations that were joined into one under the number 01-2-00015-14. Also, please provide information on whether the statute of limitations has been lifted in relation to the crimes under investigation;

(c) Any notification provided by the State party to the public in this regard, in particular pursuant to the remarks made on 10 December 2014 by Mr. Arvydas Anušauskas, Member of the Lithuanian Parliament and former head of the Seimas Committee that had investigated allegations regarding the involvement of Lithuania in the rendition, detention and interrogation programme, and on any follow-up in this regard;

(d) The outcome of the pretrial investigation initiated by the Prosecutor General's Office in relation to article 292, paragraph 3, of the Criminal Code regarding the unlawful transportation of persons across the State border.

### **Article 3**

12. With reference to the Committee's previous concluding observations (para. 17), please provide information on:

(a) Any steps taken by the State party during the period under review to refrain from detaining asylum seekers and illegal immigrants for prolonged periods;

(b) Any revisions of the detention policy with a view to bringing it into line with the Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum

Seekers and Alternatives to Detention published by the Office of the United Nations High Commissioner for Refugees;

(c) Whether a mechanism to identify persons with special needs and possible victims of torture has been established during the period under review;

(d) Whether the Foreigners' Registration Centre, in which vulnerable persons will be provided with separate accommodation, has been reconstructed.

### **Articles 5 and 7-8**

13. Since the State party's previous report was considered by the Committee, please indicate whether the State party has rejected, for any reason, any request of a State for the extradition of an individual suspected of having committed torture and whether it has started prosecution proceedings against such an individual as a result. If so, please provide information on the status and outcome of such proceedings.

### **Article 10**

14. With reference to the Committee's previous concluding observations (para. 18), please provide information on:

(a) Whether the State party has further strengthened and developed training programmes on the provisions of the Convention for all public officials, including law enforcement, prison and immigration officers and judges;

(b) Whether training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has been provided to medical personnel and other officials who deal with detainees and asylum seekers and are involved in the investigation and documentation of cases of torture;

(c) Whether any methodologies to assess the effectiveness and impact of training programmes on the prevention and absolute prohibition of torture and ill-treatment have been developed during the period under review.

### **Article 11**

15. With reference to the Committee's previous concluding observations (para. 19) and taking into account the follow-up information provided in this connection by the State party, please provide updated information on:

(a) Any additional steps taken by the State party to improve conditions in police detention facilities in accordance with the Standard Minimum Rules for the Treatment of Prisoners regarding overcrowding and material conditions, including infrastructure, hygiene, access to natural and artificial light, ventilation, partitioning of sanitary facilities, clean mattresses and bedding and with regard to the regimen of outdoor activities;

(b) Progress made in the renovation of existing specific police detention facilities, in the building of new detention facilities in the Klaipeda and Siauliai County Police Headquarters and with regard to the building of the Vilnius County Police Headquarters;<sup>16</sup> and in ensuring that police arrest houses are properly equipped to hold administrative detainees;

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<sup>16</sup> CAT/C/LTU/CO/3/Add.1, para. 48.

(c) Progress in the implementation and evaluation of the functioning of the Programme for the Optimization of the Activities of Police Detention Centres (2009-2015)<sup>17</sup> and of the general health safety requirements for police detention facilities;

(d) Any specific steps taken during the period under review to increase the living space per prisoner in police detention facilities from 2 square meters<sup>18</sup> to the new standard of 4 square meters per prisoners, to be used in the design of new prisons in the State party.

16. With reference to the Committee's previous concluding observations (para. 20), please provide updated information on:

(a) Any reductions in the number of prisoners, including by resorting to alternatives to incarceration, especially during the pretrial period, with a view to reducing overcrowding, taking into account the provisions of the United Nations Standard Minimum Rules for Non-Custodial Measures;

(b) Any additional steps taken by the State party to improve the material conditions of detention in conformity with the Standard Minimum Rules for the Treatment of Prisoners, including the renovation of existing prison facilities and the closing of those unfit for use, in particular the Lukiskes and Siauliai prisons;

(c) Any steps taken during the period under review to increase the living space per prisoner and provide prisoners, including juveniles and life-sentenced prisoners, with constructive and purposeful activities, in accordance with the Plan of Implementing Measures 2009-2017 relating to the Strategy for the Renovation of Places of Imprisonment;

(d) Steps taken to ensure that all reports of excessive use of force by prison staff are investigated promptly, effectively and impartially by an independent mechanism with no institutional or hierarchical connection between the investigators and the alleged perpetrators;

(e) Measures taken to ensure that persons who are investigated for having committed acts of torture or ill-treatment are suspended from their duties during investigation, prosecuted if found guilty and punished in accordance with the gravity of their acts, in particular with regard to the situation and staffing levels in the Alytus Correction Facility and Siauliai Prison;

(f) Steps taken to establish an independent mechanism to deal with the complaints of inmates about their conditions of detention, including making prisoners clearly aware of their right to lodge complaints, and on steps taken to ensure that the Seimas Ombudsman and other independent mechanisms regularly monitor and visit all places of detention;

(g) Any training provided to prison staff and medical personnel on communication with and management of inmates, including of inter-prisoner violence, and on detecting signs of vulnerability, and information on any measures to increase the number of prison staff.

### **Articles 12 and 13**

17. Please provide information on complaints, investigations, prosecutions, conviction and punishment of torture and ill-treatment, including excessive use of force, committed by law enforcement and prison officials, including recent examples of such complaints and on

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<sup>17</sup> Ibid., para. 47.

<sup>18</sup> Ibid., para. 50.

specific measures taken by the State party to ensure prompt, impartial and effective investigations into allegations of torture and ill-treatment.

#### **Article 14**

18. With reference to the Committee's previous concluding observations (para. 21), please provide information on any amendments to legislation during the period under review that would include explicit provisions on the right of victims of torture and ill-treatment to redress, including fair and adequate compensation and rehabilitation, in accordance with article 14 of the Convention.

19. In the light of paragraph 46 of the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties, please provide information on redress and compensation measures ordered by the courts since the consideration of the State party's previous report. That should include the number of request for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also indicate what kind of rehabilitation programmes are provided to victims and whether they include medical and psychological assistance.

#### **Article 15**

20. With reference to the Committee's previous concluding observations (para. 22), please provide information on:

(a) Steps taken by the State party during the period under review to ensure in practice that confessions obtained as a result of torture and ill-treatment, in all cases, in line with domestic legislation and with the provisions of article 15 of the Convention, are not admissible in court;

(b) The implementation of the provisions prohibiting the admissibility of evidence obtained under duress and on whether any officials have been prosecuted and punished for extracting such confessions;

(c) Whether steps have been taken to improve the methods of criminal investigation in order to end practices whereby confession is relied on as the primary and central element of proof in criminal prosecution, in some cases in the absence of other evidence.

#### **Article 16**

21. With reference to the Committee's previous concluding observations (para. 23), please provide updated information on:

(a) The status of amendments to the Law on Mental Health Care;

(b) Whether the Law on Mental Health Care, if it has been amended, provides guarantees for effective legal safeguards for all persons with mental and psychosocial disabilities concerning civil involuntary hospitalization and safeguards regarding involuntary psychiatric and medical treatment in psychiatric institutions;

(c) Whether the State party has reviewed the legal status of patients, including at the Vilnius Republican Psychiatric Hospital, in order to ensure that patients' consent is sought both with regard to hospitalization and in relation to psychiatric and medical treatment in psychiatric institutions; and with regard to the need to distinguish clearly between the procedure for involuntary placement in a psychiatric institution and the procedure for involuntary psychiatric treatment;

(d) Measures taken to ensure the patient's right to be heard in person by the judge ordering the hospitalization, and that the court always seeks the opinion of an

independent psychiatrist who is not attached to the psychiatric institution admitting the patient;

(e) Measures taken to establish an independent complaints mechanism, to publish a brochure with information about its procedures and to ensure that it is distributed to patients and their families;

(f) Measures taken to ensure regular visits of psychiatric institutions by a mandated outside body independent of the health authorities;

(g) Measures to investigate effectively, promptly and impartially all complaints of ill-treatment of persons with mental and psychosocial disabilities hospitalized in psychiatric institutions, and to provide redress to victims and bring those responsible to justice.

22. With reference to the Committee's previous concluding observations (para. 24), please provide information on:

(a) The status of any amendments to national legislation, notably article 49.1 of the Law on the Fundamentals of Protection of the Rights of the Child 1996, to explicitly prohibit and criminalize all forms of corporal punishment of children in all environments and settings,<sup>19</sup> including in the home, in alternative care settings and some forms of day care and in penal institutions, in accordance with international standards;

(b) Any public awareness-raising campaigns conducted during the period under review about the harmful effects of corporal punishment and with a view to promoting positive, non-violent forms of discipline as an alternative to corporal punishment.

23. With reference to the Committee's previous concluding observations (para. 25), please provide information on:

(a) Any additional measures taken to prohibit and eliminate ill-treatment in the armed forces and ensure prompt, impartial and thorough investigation of all allegations of such acts;

(b) Whether, in cases where evidence of hazing was found, the liability was established of the direct perpetrators and those in the chain of command, and whether the persons responsible were prosecuted and punished with penalties that are commensurate to the gravity of the act committed;

(c) The follow-up given to any confirmed cases of hazing in the army and on whether any results of investigations were made public;

(d) Whether victims of hazing were provided with redress and rehabilitation, including through appropriate medical and psychological assistance.

#### **Data collection**

24. Please provide statistical data on complaints, investigations, prosecutions and convictions of persons found guilty of acts of torture or ill-treatment, in particular in police custody, prisons and the armed forces; on trafficking in human beings; and on domestic and sexual violence disaggregated by age, sex, ethnicity and type of crime; and on the avenues for redress, including compensation and rehabilitation, available to victims.

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<sup>19</sup> See E/C.12/LTU/CO/2, para. 14.



**Other issues**

25. Please provide updated information on the measures taken by the State party to respond to threats of terrorism, and describe if and how those anti-terrorism measures have affected human rights safeguards in law and practice. Please explain how the State party has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with the relevant Security Council resolutions, in particular resolution 1624 (2005). Please provide information on the relevant training given to law enforcement officers; the number of persons convicted under such legislation; the legal remedies and safeguards available to persons subjected to anti-terrorism measures in law and in practice; whether there have been any complaints of non-observance of international standards; and the outcome of those complaints.

26. With reference to the Committee's previous concluding observations (para. 26), please provide information on the status regarding the State party's consideration of making the declarations under articles 21 and 22 of the Convention.

27. With reference to the Committee's previous concluding observations (para. 27), please provide updated information on the progress regarding the State party's ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

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

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

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