



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

Distr.: General
26 December 2019
English
Original: Spanish
English, French and Spanish only

Committee against Torture

List of issues prior to submission of the eighth periodic report of Ecuador*

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 (CAT/C/ECU/CO/7, para. 57),¹ the Committee requested the State party to provide it with information on the follow-up given to the recommendations relating to allegations of torture and ill-treatment in prisons (para. 32), victim and witness protection (para. 38) and abuse and sexual violence against minors in schools (para. 48). Bearing in mind that, on 5 January 2018, a response was received in relation to the information requested (CAT/C/ECU/CO/7/Add.1) and to the letter of 20 August from the Special Rapporteur for follow-up to concluding observations, the Committee considers that the recommendations contained in paragraphs 32, 38 and 48 of the previous concluding observations have been partially implemented.

Articles 1 and 4

2. With reference to the Committee's previous concluding observations (paras. 11 and 12), please indicate the measures taken to bring the content of article 151 of the Comprehensive Organic Criminal Code into line with article 1 of the Convention by including specifications relating to the perpetrators of this offence and the motivating factors or reasons for the use of torture.

Article 2²

3. With reference to the previous concluding observations (paras. 13 and 14), please provide detailed information on measures taken to ensure that persons deprived of their liberty are afforded, in practice, all basic legal safeguards from the moment of arrest, including their rights to receive legal assistance without delay and to inform a person of

* Adopted by the Committee at its sixty-eighth session (11 November–6 December 2019).

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

² The issues raised under article 2 may also relate to 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.



their choice of their detention. Please also provide information on measures taken to increase the resources of the Public Defender Service.

4. Pursuant to the previous concluding observations (paras. 15 and 16), please provide information on the concrete measures taken to ensure that the national mechanism for the prevention of torture has a solid legal basis and adequate resources to discharge its mandate effectively and independently, as set forth in the provisions of the Optional Protocol to the Convention.³ Please provide information on whether the bill on the Ombudsman's Office, including a specific section on the national mechanism for the prevention of torture, has been adopted.⁴

5. With reference to the previous concluding observations (paras. 17 and 18), please provide detailed information on measures taken during the period under review to guarantee the independence of the judiciary. Please indicate what is being done to ensure that the judicial disciplinary regime and the system for appointment, promotion and dismissal of judges are applied in accordance with international standards.⁵

6. With regard to the previous concluding observations (paras. 19 and 20), please describe the mechanisms and procedures in place to ensure coordination and cooperation between the indigenous and ordinary justice systems in order to guarantee human rights and fundamental freedoms, including the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.⁶

7. Please provide information on measures taken to combat all forms of violence against women, in particular with regard to cases where there have been acts or omissions by State authorities or other entities that give rise to the State party's responsibility under the Convention.⁷ Please also provide updated information on the protection and support services available to victims of all forms of violence against women related to acts or omissions by State authorities.⁸ Please include statistical data, disaggregated by age and ethnic origin or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences in cases of gender-based violence since the consideration of the previous periodic report of Ecuador.⁹

8. With reference to the previous concluding observations (paras. 47 and 48) and the State party's follow-up replies,¹⁰ please elaborate on the measures taken by the State party to prevent and eliminate abuse and sexual violence against minors in schools.¹¹ Please also provide comprehensive statistical data on the numbers of complaints investigated, prosecutions brought and sentences imposed during the reporting period.

9. Please provide updated data, disaggregated by age, sex and ethnic origin or nationality of the victims, on the numbers of complaints, investigations, prosecutions and sentences handed down in cases of trafficking in persons since the consideration of the State party's previous periodic report. Please also provide information on:

(a) Any new legislation or measures that have been adopted to prevent or combat trafficking in persons;¹²

(b) Measures adopted to ensure that victims of trafficking have access to effective remedies and reparation;

(c) Measures taken to ensure that non-custodial accommodation is provided, with full access to appropriate medical and psychological support, for potential victims of trafficking while identification processes are carried out;

³ A/HRC/36/4, para. 118.19.

⁴ CED/C/ECU/CO/1, paras. 17 and 18.

⁵ A/HRC/36/4, paras. 118.36–118.45, 118.47 and 120.5–120.10.

⁶ CERD/C/ECU/CO/23-24, paras. 12 and 13.

⁷ A/HRC/36/4, paras. 118.21 and 118.22 and 118.24–118.130.

⁸ Ibid., para. 118.131.

⁹ Ibid., paras. 118.32, 118.33 and 118.135.

¹⁰ CAT/C/ECU/CO/7/Add.1, paras. 15–44.

¹¹ CRC/C/ECU/CO/5-6, paras. 26 and 27.

¹² CERD/C/ECU/CO/23-24, paras. 34 and 35; CMW/C/ECU/CO/3, paras. 46 and 47; CRC/C/ECU/CO/5-6, paras. 45 and 46; A/HRC/36/4, paras. 118.68–118.73.

(d) Agreements signed with countries concerned to prevent and combat trafficking in persons.

Article 3

10. In the light of the previous concluding observations (paras. 21 and 22), please elaborate on measures taken during the period under review to ensure that no person is returned to a country where he or she would be at risk of torture.¹³ In this connection, please provide details of the changes introduced by the Organic Act on Human Mobility promulgated in February 2017. Please clarify whether article 34 of the Regulations on Recognition of the Right to Asylum in Ecuador (Decree No. 1182) has been amended or repealed, and whether the same applies to any other legal provisions that might permit exceptions to the principle of non-refoulement (para. 22 (b)).

11. Please indicate how effective access to the refugee status determination procedure is guaranteed for persons in the territory of the State party or under its jurisdiction, in particular those of Venezuelan nationality who are, or who risk finding themselves, in an irregular administrative situation. Please also indicate whether persons whose expulsion, return or extradition has been ordered are informed of the right to seek asylum and to appeal an expulsion decision, and whether such appeals have suspensive effect. Please provide information on how the State party guarantees that asylum seekers have access to legal assistance and interpretation services during the asylum procedure.

12. Please provide information on the number of asylum applications received during the period under review, the number of applications accepted and how many of those were accepted on the grounds that the applicant had been tortured or might be tortured if returned to his or her 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 elaborate on the reasons why the persons were subjected to these measures, and include a list of the countries to which they were returned. Please indicate whether the State party has put in place mechanisms to monitor the situation of vulnerable individuals and groups in receiving countries after their return.

13. Please indicate the number of returns, extraditions and expulsions carried out by the State party during the period under review on the basis of the acceptance of diplomatic assurances or equivalent guarantees, and any instances in which the State party has offered such diplomatic assurances or guarantees. Please also indicate what measures have been taken in such cases with regard to subsequent follow-up.

Articles 5–9

14. Please provide information on any legislative or other measures taken during the period under review to implement article 5 of the Convention. Please indicate whether, under domestic law, acts of torture are considered to be crimes of a universal character, regardless of where they are committed and of the nationalities of the perpetrator and the victim.

15. Please provide information on extradition treaties concluded with other States parties, and indicate whether the offences referred to in article 4 of the Convention are included in those treaties as extraditable offences.

16. Please clarify what treaties or mutual legal assistance agreements the State party has signed with other entities, be they countries, courts or international institutions, and whether these treaties or agreements have resulted, in practice, in any transmission of evidence in relation to proceedings initiated for torture or ill-treatment. Please provide examples.

Article 10

17. With reference to the previous concluding observations (paras. 53 and 54), please provide updated information on the training programmes on human rights and the prohibition of torture developed by the State party to ensure that all public servants, particularly members of the National Police and prison security officers, fully understand

¹³ CRC/C/ECU/CO/5-6, para. 39 (b).

the provisions of the Convention and the absolute prohibition of torture, and are fully aware that offences will not be tolerated but rather will be investigated and that the perpetrators of those offences will be prosecuted. Please indicate the number, institution and percentage of public servants who have benefited from such training programmes. Furthermore, please clarify whether the State party has developed a methodology to assess the effectiveness and impact of its training programmes in reducing cases of torture and ill-treatment, and, if so, provide information on that methodology. Please provide details of the programmes used in the training of police officers and other law enforcement officials in non-coercive investigating techniques.¹⁴

18. In the light of the previous concluding observations (paras. 51 and 52), please provide updated information on training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with persons deprived of their liberty to enable them to detect and document the physical and psychological sequelae of torture. Please indicate whether 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

19. Please describe the procedures in place to ensure compliance with article 11 of the Convention, and provide information on interrogation rules, instructions, methods and practices, and detention arrangements, in particular those adopted or revised since the consideration of the previous periodic report of Ecuador, and indicate the frequency with which they are reviewed.

20. With reference to the previous concluding observations (paras. 25 and 26), please describe measures taken to alleviate overcrowding in prisons, especially those aimed at promoting the use of alternatives to deprivation of liberty, both before and after trial. Please provide statistical data, disaggregated by sex, age and ethnic origin or nationality, on the numbers of pretrial detainees and convicted prisoners, and on the occupancy rate of all places of detention. Please include information on measures taken during the period under review to improve facilities and ensure security in prisons, in particular those taken pursuant to Executive Decrees Nos. 741 and 754, and additional measures relating to the declaration of a state of emergency in the social rehabilitation system. Please provide information on measures taken to ensure that the resources needed to provide prisoners with proper medical and health care are effectively allocated.

21. As recommended by the Committee in its previous concluding observations (paras. 26 (d) and (e)), please provide information on measures taken by the State party to ensure that prisoners are authorized to communicate with family and relatives on a regular basis and, to the extent possible, are placed in prisons close to their home or place of social rehabilitation. Please indicate whether there are protocols in place to ensure that prison search and admittance procedures are not degrading to visitors.

22. Please provide information on measures taken by the State party to address the special needs of minors and women in detention.¹⁵ Please indicate whether protocols are in place to meet the needs of other groups of prisoners with special needs, such as persons with disabilities, older persons and lesbian, gay, bisexual and transgender persons.

23. In the light of the previous concluding observations (paras. 27 and 28), please provide information on measures taken by the State party to ensure that its legislation and practices regarding solitary confinement, especially in the case of minors and prisoners deemed to be highly dangerous, are in line with international standards.

24. Please provide information on acts of inter-prisoner violence, including cases of possible negligence by prison officials, and on the number of complaints filed in that regard and the results of investigations into those complaints. Please indicate what preventive measures have been taken.¹⁶

¹⁴ CAT/C/ECU/CO/7, para. 54 (b).

¹⁵ CRC/C/ECU/CO/5-6, paras. 43 and 44.

¹⁶ CAT/C/ECU/CO/7, paras. 25 and 26 (b).

25. With reference to the previous concluding observations (paras. 29 and 30), please provide statistical data on the number of deaths of persons deprived of their liberty during the period under review, disaggregated by place of detention, sex, age, ethnic origin or nationality of the deceased and cause of death. Please provide information on how these deaths were investigated, the results of the investigations and the measures taken to prevent similar cases in the future. Please indicate whether, in any cases, the relatives of the deceased were compensated.

26. Please comment on reports that the Ecuadorian authorities are not providing basic necessities, such as food and medical and health care, for persons seeking international protection who are held, often for weeks at a time, in transit zones at the State party's airports.

27. Please provide information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with psychosocial disabilities. Please explain the situation with regard to other forms of treatment, such as community-based rehabilitation services and other outpatient treatment programmes.¹⁷

Articles 12 and 13

28. With reference to the previous concluding observations (paras. 33 and 34), please provide information on the internal mechanisms for submitting complaints in the country's detention centres. Please indicate what measures have been taken to ensure that all places of detention are regularly visited by the national mechanism for the prevention of torture and other bodies responsible for their monitoring and inspection. Please provide information on the visits to places of detention carried out by the mechanism during the period under review and on the measures taken by the State party in response to the recommendations made by the mechanism.

29. Taking into account the previous concluding observations (paras. 31, 32, 34, 35, 39 and 40) and the State party's follow-up replies,¹⁸ please provide updated statistical data, disaggregated by sex, age, ethnic origin or nationality and place of detention, on allegations of torture, ill-treatment and excessive use of force during the reporting period. Please provide information on investigations, disciplinary and criminal proceedings, convictions and any criminal or disciplinary sanctions imposed.¹⁹ Please provide examples of relevant cases or court decisions. In particular, please comment on reports of the leaking of a video in 2016 showing prison officers beating inmates, some of them naked, and administering electric shocks.

30. With reference to the previous concluding observations (paras. 23 and 24), please indicate any progress made in the investigation and prosecution of serious human rights violations that occurred in Ecuador between 1984 and 2008, including cases of torture, enforced disappearance and extrajudicial execution.²⁰

31. With reference to the previous concluding observations (paras. 37 and 38) and the State party's follow-up replies,²¹ please provide updated information on measures taken in response to the concerns expressed by the Committee regarding the shortcomings of the National Victim and Witness Protection Programme. In this regard, please provide information on the results of the investigation into the murder of the forensic doctor Germán Antonio Ramírez Herrera and the related criminal proceedings, if any.

Article 14

32. In the light of the previous concluding observations (paras. 41 and 42), please provide information on redress and compensation measures, including means for rehabilitation, ordered by the courts and effectively provided to victims of torture or their families since the consideration of the previous report. Such information should include the number of requests for compensation submitted, the number of requests accepted and the amounts awarded and actually disbursed in each case. Please indicate what progress has

¹⁷ A/HRC/36/4, para. 118.8.

¹⁸ CAT/C/ECU/CO/7/Add.1, paras. 2–9.

¹⁹ A/HRC/36/4, paras. 118.31 and 118.33.

²⁰ Ibid., paras. 118.32 and 118.49; CED/C/ECU/CO/1, paras. 9 and 10.

²¹ CAT/C/ECU/CO/7/Add.1, paras. 10–14.

been made in the area of redress and compensation for victims of human rights violations documented by the Truth Commission.²²

33. Please also provide information on ongoing reparation programmes, including those providing for the treatment of trauma and other forms of reparation provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated to these programmes to ensure their effective functioning.

Article 15

34. With reference to the previous concluding observations (paras. 51 and 52), please provide examples of cases that have been dismissed by the courts because of the submission of evidence or testimony obtained by means of torture or ill-treatment.

Article 16

35. In the light of the previous concluding observations (paras. 43 and 44), please provide detailed information on measures taken to protect journalists, human rights defenders and other representatives of civil society at risk, investigate crimes committed against them and punish perpetrators of acts of intimidation and violence against them.²³ Please indicate whether the effectiveness of the Special Agreement on the Enforcement of Temporary Precautionary Measures and Urgent Action has been evaluated.

36. With reference to the previous concluding observations (paras. 49 and 50), please provide information on measures taken to ensure that all crimes and acts of violence committed against persons on the basis of their sexual orientation or gender identity are properly and promptly investigated and prosecuted.²⁴ Please also clarify whether so-called “conversion therapies” and other forced, involuntary and coercive or abusive treatment have been prohibited.²⁵

37. With reference to the previous concluding observations (paras. 45 and 46), please indicate whether the State party has revised its legislation in order to allow voluntary termination of pregnancy in all cases of rape or incest and in cases of fetal malformation incompatible with life.²⁶ Please comment on reports that women who receive medical care in State party hospitals as a result of conditions arising from clandestine abortions continue to be criminalized.

38. With reference to the previous concluding observations (paras. 55 and 56), please provide detailed information on measures taken to prevent and end abuses against police officer trainees.

39. Please indicate whether corporal punishment has been prohibited in all settings, and describe the measures taken by the State party to prevent it.²⁷

Other issues

40. Please provide updated information on measures taken by the State party to respond to threats of terrorism, and describe if and how these measures have affected human rights safeguards in law and in practice. Please also explain how the State party has ensured that the measures comply with its obligations under international law, especially the Convention. Please provide information on the relevant training given to law enforcement officers; the number of persons convicted pursuant to the counter-terrorism legislation adopted; the legal safeguards and remedies available to persons subjected to counter-terrorism measures in practice; whether there have been any complaints of terrorism; and, if so, the outcome of these complaints.

²² CAT/C/ECU/CO/7, paras. 41 and 42 (a).

²³ CERD/C/ECU/CO/23-24, paras. 20 and 21; A/HRC/36/4, paras. 118.45, 118.55, 118.58, 118.64–118.66, 120.12 and 120.13.

²⁴ A/HRC/36/4, paras. 118.20 and 118.21.

²⁵ Ibid., paras. 118.34 and 118.35.

²⁶ Ibid., paras. 118.98 and 120.17.

²⁷ CRC/C/ECU/CO/5-6, paras. 23–25; A/HRC/36/4, paras. 118.137–118.141.

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

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