



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

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Committee against Torture

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List of issues prior to the submission of the fourth, fifth and sixth periodic reports of Paraguay (CAT/C/PRY/4-6)¹

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

Articles 1 and 4

1. Please indicate whether, in accordance with the request of the Committee (A/55/44, para. 151 (b)), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/7/3/Add.3, para. 90 (a)) and the Inter-American Court of Human Rights (Case of *Goiburú et al. v. Paraguay*, paras. 91, 92 and 179), there are plans to amend article 309 of the Criminal Code to include therein a proper definition of the offence of torture, in terms that comply with article 1 of the Convention.

2. In view of the fact that the Military Criminal Code (Act No. 843 of 1980) does not define torture as a criminal offence, please provide information on the specific measures taken to include in the aforementioned code a criminal offence in accordance with article 1 of the Convention against Torture, entailing penalties consistent with the grave nature of this offence. Please also provide information on the definition in criminal law of crimes related to torture, such as the enforced disappearance of persons and extrajudicial execution.

Article 2

3. According to information received by the Committee, the legal safeguards against torture that exist under Paraguayan law are not applied in practice. Please provide

¹ The present list of issues was adopted by the Committee at its forty-third session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

information on the legal safeguards against torture that are applicable from the time of arrest. In particular, describe the guarantees with regard to access to a lawyer, including a court-appointed counsel, access to a doctor, notification of the family or a person close to the detainee and mention of the arrest and detention in National Police registers. Please explain how the State party ensures that such legal safeguards are applied in practice. What role do the Special Human Rights Units of the Public Prosecutor's Office play in ensuring respect for such guarantees, and what role is played by judges? How, in practice, is habeas corpus used to determine the legality of an act of deprivation of liberty? Are there any statistics in that regard?

4. Please indicate how many criminal proceedings have been initiated at the request of the Truth and Justice Commission or as a consequence of its work. Please provide information on the progress of those proceedings.

5. Please provide detailed, up-to-date information on the efforts and measures taken to make effective use of the Istanbul Protocol to investigate and document torture and other ill-treatment in the State party. Please include up-to-date information on the number of cases in which the Istanbul Protocol has been used and information on the persons who have used it.

6. Kindly provide detailed, up-to-date information on the role played by the Office of Ombudsman in Paraguay. Please explain the mechanism by which the Ombudsman is appointed and whether civil society effectively takes part in such a choice. Please provide information on how the functional and financial autonomy of the Office of Ombudsman is ensured. How are citizens kept informed of the activities of the Office of Ombudsman and how are such activities publicized?

Article 3

7. How does the State party ensure compliance with article 3 (1) of the Convention in cases of expulsion, return or extradition? Is there a mechanism for assessing the risk of torture that a person might face in the country of return? Can the person appeal against the decision to a judicial authority and, if so, how? Please provide statistics, if available, on the number of such cases and judicial decisions. Please also indicate whether officials who deal with the return, expulsion or extradition of foreigners receive training with respect to article 3 of the Convention.

8. How does the State party ensure compliance with article 3 (1) of the Convention in cases of expulsion, return or extradition of persons who are not considered to be "refugees" under Act No. 1938 or political asylum-seekers as defined in article 43 (2) of the Constitution of Paraguay?

Article 4

9. In the light of article 5 of the Constitution and article 102 of the Criminal Code relating to the imprescriptibility of the crime of torture, and bearing in mind recent judicial decisions under which the statute of limitations was deemed applicable to proceedings involving torture, please clarify whether, in practice, the crime of torture may be regarded as imprescriptible.

10. Please indicate whether the Convention has been invoked directly before the national courts. If so, please give examples of specific cases.

Articles 5, 6 and 7

11. Kindly provide information on the national legislation that establishes universal jurisdiction with regard to the crime of torture. Please include information on whether such legislation complies fully with the Convention. Please indicate, in particular, whether Paraguayan criminal jurisdiction extends to cases referred to under article 5.1 (c) of the Convention.

Article 10

12. Please provide information on the type of training regarding obligations under the Convention given to law enforcement, armed forces and prison officials and to public prosecutors. Please indicate whether the impact of such training programmes on the prevention of torture has been assessed. Please indicate whether training is given on techniques for carrying out criminal investigations and interrogations. Are protocols for the interrogation of detainees by law enforcement officials in use and are they made public? Kindly provide information on the participation of non-governmental organizations in such courses and on the budget funds earmarked for those programmes.

13. Please provide detailed information on seminars that have been held to disseminate and put into practice the Istanbul Protocol, including any assessment that has been conducted to date of the results of such seminars. Please indicate whether there are other training programmes for medical personnel responsible for detecting, investigating and documenting cases of torture and for assisting in the rehabilitation of victims. If such programmes exist, how many doctors have taken part in them and what is their content?

Article 11

14. Please indicate whether there are official bodies or mechanisms responsible for visiting prisons, police stations and other places where persons deprived of liberty may be held.

15. Please indicate what mechanisms exist for the monitoring and supervision of the conduct of law enforcement officials responsible for interrogating and guarding detainees. How is the access to, possession and use of firearms by law enforcement officials monitored? Is there an official firearms registry? Please indicate whether there are any reports in that regard and, if so, please provide them to the Committee.

16. Please indicate what compulsory records must be kept in police stations in Paraguay or in other places of detention. Please explain what information is included in these registers, what form they take (electronic or notebook) and whether police officers are trained in the use of such registers.

17. Please explain how persons held in police stations are, in practice, guaranteed access to a doctor, as soon as possible following their arrival at the place of detention and as often as necessary.

Articles 12 and 13

18. Please provide information with regard to:

(a) Reports of torture made between 2004 and 2009, specifying which cases refer respectively to the police, the armed forces or the prison system;

(b) The progress and outcome of each investigation into allegations of torture made between 2004 and 2009;

(c) Statistics identifying the institutions responsible, the geographical location and the sex, age and ethnic group of the victim;

(d) How many police, armed forces or prison officials have been relieved of their duties as a preventive measure and subsequently dismissed;

(e) Sentences handed down for torture, cruel, inhuman or degrading treatment or punishment between 2004 and 2009.

19. The report on the visit to Paraguay of the Special Rapporteur on torture states that impunity is the main reason for the persistence of torture and ill-treatment (A/HRC/7/3/Add.3, para. 53). Kindly provide detailed information on the measures taken by the State party to facilitate the lodging of complaints in cases where persons deprived of liberty have been tortured. Please indicate how such persons are guaranteed protection against ill-treatment or intimidation to which they might be subjected as a result of having lodged a complaint. Please include detailed information on the number of complaints received during the period under consideration and the outcome of such complaints. In this regard, please provide detailed information on how many investigations have been initiated, how many persons have been tried for this type of conduct, how many have been found guilty and what penalties have been applied.

20. What procedures are open to members of the armed forces who wish to lodge a complaint concerning acts of torture? How is protection against ill-treatment and intimidation guaranteed in such cases? How many complaints concerning alleged torture or ill-treatment have been lodged ex officio?

Article 14

21. In its previous conclusions and recommendations, the Committee referred to the duty of the State to provide fair and adequate compensation to victims of torture (A/55/44, para. 151 (c)). Please provide information, for the years 2004 to 2009, on the number of victims of torture or cruel, inhuman or degrading treatment or punishment who received compensation, and the amount of such compensation. Please provide a breakdown of those statistics according to sex, age, ethnic group and geographical origin. Please include up-to-date information on any comprehensive victim assistance and support programmes that have been implemented to date. Please also include up-to-date information on the number of torture victims who have been beneficiaries of such programmes.

22. With regard to Act No. 838/96, in particular, under which compensation has been provided to victims of human rights violations during the dictatorship of 1954 to 1989, please indicate how many persons have been compensated pursuant to that law, the amount of the compensation received and the type of offence for which they were compensated. Please provide information on any other rehabilitation measures, such as medical rehabilitation or training, that have been provided for such persons. Please indicate whether, in accordance with article 14 (1) of the Convention, compensation under that law has been paid out to the dependants of persons who have died as a result of an act of torture.

Article 15

23. According to information received by the Committee, torture is used in police stations in Paraguay to obtain confessions. In the light of article 90 of the Code of Criminal Procedure that prohibits police officers from taking investigatory statements from accused

persons, please provide information on how the State party ensures that judicial authorities do not attribute evidential value to confessions obtained by means of physical or mental violence. Please state whether there are rules that explicitly prohibit the use of information obtained through torture in legal proceedings and whether judicial review is permissible where persons allege they were convicted on the basis of confessions extorted by means of torture. Please provide judicial decisions in that regard, if available.

Article 16

24. Please provide detailed, up-to-date information on the number of prisons, prison capacity, number of inmates (information disaggregated by sex, age, ethnic group and legal status – convicted or accused) and education and work arrangements. Please include detailed information on the number of wardens in each prison, their salary and the kind of training they receive, including in the field of human rights. What are the rules regarding the use of isolation cells and solitary confinement to punish detainees and convicted prisoners? Are there military or civilian high-security prisons and, if so, how do they operate? How are persons deprived of liberty transferred between prisons?

25. According to information received by the Committee, conditions in Paraguayan prisons are deplorable. Kindly provide detailed, up-to-date information on any measures that have been taken to improve prison conditions in the State party, the priority given to improving prisoners' access to medical personnel and court-appointed counsels, and the number of doctors available in each prison to treat inmates. Please include detailed information on the budget funds allocated by the State party to the prison system and to the country's detention centres between 2004 and 2009.

26. Please inform the Committee regarding measures taken to protect and guarantee the rights of vulnerable persons deprived of liberty, namely, women, indigenous persons, the mentally ill and children. Please provide, in particular, information on steps taken by the State party to prevent discrimination against indigenous persons deprived of their liberty.

27. With regard to prisoners suffering from mental illness, please inform the Committee as to whether prisons in Paraguay have appropriate facilities to treat such persons, what treatment they are offered and by whom it is provided. Kindly let the Committee have copies of any laws or other provisions relating to the treatment of persons deprived of liberty who suffer from mental illness.

28. Please indicate what measures the State party has taken to include the gender perspective in legislation prohibiting torture. Please indicate also what specific measures have been taken to prevent acts of sexual violence and sexual harassment. Please provide statistics on the number of investigations conducted and on their findings. Please indicate what steps have been taken to prevent, monitor, investigate and punish acts of sexual violence committed, in particular, against women and girls, in places where individuals are deprived of liberty.

29. Please indicate what measures have been taken to prohibit corporal punishment of children, in accordance with the recommendation of the Committee on the Rights of the Child (CRC/C/15/Add.166, para. 32).

30. Please indicate what steps have been taken to comply with the recommendations of the Committee on the Rights of the Child with regard to children who live or work in the street (CRC/C/15/Add.166, paras. 47 and 48).

31. Please comment on the measures taken by the State party to eradicate trafficking in women and children for the purposes of sexual and labour exploitation. Please provide

information on the number of complaints received, investigations, trials and sentences in cases of trafficking.

32. Please describe action taken by the State party to comply with the recommendation of the Committee on the Elimination of Discrimination against Women with regard to domestic violence (A/60/38, paras. 279 and 280). Please provide information on the number of complaints received, investigations, trials and sentences in cases of domestic violence.

Other issues

33. Please describe the measures taken by the State party to comply with the recommendations contained in the report of the Commission on Truth and Justice.

34. Please indicate what steps have been taken by the State party to disseminate widely, including in indigenous languages, through the media, official web pages and non-governmental organizations, the reports submitted by the State party to the Committee, and the latter's conclusions and recommendations.

35. Please provide information on the steps that have been taken to prevent the recruitment of children for military service.

36. Please describe the progress made in designating or establishing a national preventive mechanism pursuant to article 17 of the Optional Protocol to the Convention.

37. Please describe the action taken to comply with the recommendations made by the Special Rapporteur on torture following his visit to Paraguay in 2007.

38. Kindly provide information on any legislative, administrative or other measures adopted to counter terrorism. Please indicate whether such measures have had an impact on any legal or practical human rights guarantees.

39. Please provide information on steps taken by the State party to give effect to the judgments of the Inter-American Court of Human Rights in the cases of the Sawhoyamaya and Yakye Axa indigenous communities.

General information on the national human rights situation and on the exercise of human rights at the national level

40. Please provide detailed information on any legal and institutional changes in the area of the promotion and protection of human rights that have been made in Paraguay since the last periodic report was submitted, including all relevant jurisprudential decisions.

41. Please provide detailed information on any political, administrative or other measures to promote and protect human rights at the national level taken in Paraguay since the last periodic report was submitted, including national human rights programmes or plans, the resources allocated to them and their objectives and results.

42. Please provide any additional information on new measures taken to implement the Convention and the Committee's recommendations since the consideration of the last periodic report in 2000, including the necessary statistical data, as well as any other events that may have occurred in the State party which are relevant under the Convention.
