



**International Convention for
the Protection of All Persons
from Enforced Disappearance**

Distr.: General
8 November 2018
English
Original: French
English, French and Spanish only

Committee on Enforced Disappearances

**Concluding observations on the report submitted by Gabon
under article 29, paragraph 1, of the Convention**

Addendum

**Information received from Gabon on follow-up to the
concluding observations***

[Date received: 26 September 2018]

* The present document is being issued without formal editing.



Recommendation 26: The State party should adopt measures to ensure that a thorough and impartial investigation into the events of 31 August 2016 is conducted immediately, even in the absence of a formal complaint, and that the findings are made public.

1. In response to allegations of enforced disappearance and other punishable offences in the aftermath of the events of 31 August 2016, an investigation was begun in early September 2016 by the various criminal investigation units of the police force.
2. These investigations are ongoing, and reports may therefore be filed, in accordance with the provisions of article 18 of the Code of Criminal Procedure, by anyone who alleges that any person has been a victim of enforced disappearance. To date, no reports of enforced disappearance have been received by the investigative police.
3. However, since the statute of limitations is 20 years for serious criminal offences and 10 years for minor criminal offences, the investigation is continuing.

Recommendation 33: The Committee recommends that the State party take all necessary steps to establish a national preventive mechanism and provide it with sufficient financial, human and technical resources to effectively carry out its mandate.

4. The measures adopted by the State party to establish an effective national mechanism for the prevention of torture are currently limited to a bill for the establishment of a national authority for the prevention of torture in Gabon.
5. The aforementioned legislation, which is the result of inclusive work conducted from 2013 to 2018 with the continuing support of the Subcommittee on Prevention of Torture, the Association for the Prevention of Torture and the United Nations Subregional Centre for Human Rights and Democracy in Central Africa, is currently with the Government secretariat and will be sent to the Council of Ministers for adoption.
6. The National Authority for the Prevention of Torture serves as the national preventive mechanism under the terms of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Its mandate covers all forms of torture and other cruel, inhuman or degrading treatment or punishment and applies to all places of deprivation of liberty in accordance with article 4 of the Optional Protocol, i.e., “to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence”.
7. The scope of the investigative powers of the National Authority is therefore quite broad and covers all places of detention. It is therefore able to access unofficial places of detention as well, including any location in which a person may be detained by a public authority, even if the detention has not been officially ordered by a representative of that authority.
8. In accordance with article 19 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the core functions of the National Authority, as set forth in chapter 2, are: to regularly examine the situation of persons deprived of their liberty with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment; to make recommendations with the aim of improving their treatment and situation and preventing torture and other cruel, inhuman or degrading treatment or punishment; to engage in a dialogue with the relevant authorities concerning the measures that could be taken; to submit proposals and observations on existing laws or draft legislation concerning such matters; and to publicize the annual reports and visit reports.
9. The National Authority is also guaranteed access to all places of detention and the freedom to choose the places that it will visit, when it will conduct its visits — which may be unannounced if it so wishes — and the persons with whom it will meet. The Authority is also guaranteed the opportunity to conduct a confidential discussion with anyone of its choosing and to collect relevant information about any allegations that may be made to any person, including public officials. Furthermore, it has access to all the requisite information,

including the number of persons deprived of liberty, the number of places of detention and their locations, personal information, and information about the treatment of detainees and about their conditions of detention.

10. In sum, the Authority is a national institution for the promotion and protection of human rights that is endowed with legal personality and is administratively and financially autonomous.

11. Independence is a key criterion for the efficient functioning of the mechanism, as recognized in article 4, paragraph 18, of the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The institutional, financial and functional independence of the Authority, as set out in chapters 3 and 4 of the bill, is established with a view to protecting the mechanism from any external pressure. This is accomplished by means of a transparent procedure for the appointment of experts and the establishment by law of criteria on which their appointment must be based, the length of their term of office, and their privileges and immunities. Specific mention is also made of their required professional skills and knowledge. The necessary resources have been made available so that the mechanism may work independently and process any allegations of treatment that contravenes the Convention in a timely manner.

Recommendation 35: The State party should take all necessary steps to guarantee that no one is held in secret detention, including by ensuring that all persons deprived of their liberty are afforded, de jure and de facto, from the outset of the deprivation of liberty, all the fundamental legal safeguards set out in article 17 of the Convention and other human rights instruments to which Gabon is a party.

12. Although incommunicado detention is not defined as such in Gabonese law, it is prohibited by implication by the law that clearly sets out the circumstances under which a person may be deprived of his or her liberty by an authorized agent. However, the concept of enforced disappearance and the fact that it is a criminal offence have been incorporated into the legislative review of the nation's criminal laws that has been initiated by Gabon with a view to ensuring their conformity with its international commitments and with the recommendations of the various international and regional human rights mechanisms.

13. In accordance with article 50 of the Code of Criminal Procedure, a person may be held in police custody by order of an investigative police officer or the public prosecutor. Persons are held in police custody only in the facilities of the gendarmerie, police or another security force that has been granted investigative police powers, whereas prisoners, whether they are pretrial detainees or convicts, are housed in prisons.

Recommendation 35 (a): all persons deprived of their liberty have reasonable access to a lawyer from the outset of their deprivation of liberty and can communicate without delay with their relatives or any other person of their choosing and, in the case of foreign nationals, with their consular authorities.

14. As provided for in articles 51, 52, 53, 54 and 55 of the Code of Criminal Procedure, any person deprived of liberty enjoys, de jure and de facto, all the fundamental legal safeguards set forth in article 17 of the Convention from the very outset of their deprivation of liberty.

15. In accordance with article 51 of the Code of Criminal Procedure, investigative police officers must inform persons being held in custody of their rights, which include:

- The right to communicate with counsel (art. 54); if the person does not have one, he or she may request to be assigned one by the legal office.
- The right to inform a member of his or her family or any other person of his or her choosing. Persons deprived of their liberty may receive visits from their families or other persons of their choosing whenever they so request. This right may be exercised regardless of the type of deprivation of liberty.

Recommendation 35 (b): all persons with a legitimate interest have prompt and easy access to, at a minimum, the information listed in article 18 (1) of the Convention, including while in police custody.

16. The information referred to in article 18 (1) of the Convention is included in the records appended to the investigation file. Counsel has access to that file and may receive a copy thereof. This information may be provided to any “person belonging to the family of the detainee, persons close to him or her, and his or her employer”.

Recommendation 35 (c): all deprivations of liberty, without exception, are entered in the register and/or standard files containing at the very least the information required under article 17 (3) of the Convention.

17. In accordance with the requirements set out in article 17 (3) of the Convention, a registry is kept in which all the information about persons deprived of their liberty is recorded.

18. Such records are made available, upon request, to any judicial or other institution authorized by the law.

Recommendation 35 (d): registers and/or the files of persons deprived of their liberty are maintained and updated promptly with precise data, are subject to regular checks and, in the event of irregularities, the officials responsible are duly punished.

19. The law requires investigative police officers to keep a custody record indicating the start and end of the period of police custody, hours of rest, the nature of the offence and the reason for the person’s detention. The custody report is also prepared by the investigative police officer who placed the person in custody. The identity of the officer, his or her functional title and the place of custody are all clearly stated in the report.

20. To ensure compliance with all applicable legal standards, the public prosecutor, in accordance with his mandate, visits the investigative police units regularly.

21. In addition, twice a year, the Justice and Human Rights Administration holds capacity-building sessions for staff working in places of deprivation of liberty on compliance with international human rights standards (including those relating to torture). In 2018, those sessions were held in the provinces of Ogooué-Maritime and Nyanga for staff employed at 16 places of detention, including prisons.

22. As a joint effort, the public prosecutor, National Human Rights Commission, General Directorate for Human Rights and the United Nations Regional Office for Central Africa began to monitor places of deprivation of liberty in Estuaire Province in May 2018 on the basis of a set timetable. The aim of the visits is to observe how these places of detention are run and to make recommendations concerning ways of improving the treatment and conditions of detained persons.

23. So far, four places of deprivation of liberty (one police station, two gendarmerie posts and the investigative police headquarters) have been visited.

24. All of these measures are contributing to a progressive improvement in the protection of the rights of persons deprived of their liberty as set out in article 17 of the Convention.
