



# 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 eighth periodic report of France\*

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

1. In its previous concluding observations (see CAT/C/FRA/CO/7 and CAT/C/FRA/CO/7/Corr.1, para. 40)<sup>1</sup> the Committee requested the State party to provide information in follow-up to the Committee's recommendations that it: (a) enhance efforts to prevent any excessive use of force by the police and the gendarmerie; (b) take steps to improve access to mental health services in prisons and to monitor the use of seclusion arrangements both in prison infirmaries and affiliated hospitals; and (c) ensure that allegations of sexual abuse of children committed by French soldiers in the Central African Republic are investigated promptly and with due diligence and that social and psychological assistance are provided to the victims. These recommendations are set out in paragraphs 17 (c), 24 and 33 of its previous concluding observations. In the light of the information received from France on 12 May 2017, concerning follow-up to the concluding observations (CAT/C/FRA/CO/7/Add.1), and the letter dated 20 August 2018 from the Committee Rapporteur for follow-up to concluding observations to the State party, the Committee considers that the recommendations included in paragraph 40 have been partially implemented (see paragraphs 10 (f) and (h), 14 (d), 17 and 20 of the present document).

#### Articles 1 and 4

2. In the light of the previous concluding observations (para. 9), please indicate whether there are any plans to amend the provisions of article 222-1 of the Criminal Code to incorporate into the State party's legislation a definition of torture in line with article 1 of the Convention and whether the State party intends to make torture an imprescriptible offence.

\* Adopted by the Committee at its sixty-fifth session (12 November–7 December 2018).

<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>**

3. In the light of the Committee's previous concluding observations regarding basic legal safeguards (para. 11), please indicate:

(a) Whether the State party plans to amend the Code of Criminal Procedure to ensure that (i) all detainees, regardless of the offence in question, may exercise, from the outset of the deprivation of their liberty, their right to receive legal counsel and to notify a person of their choice of their detention; and (ii) the maximum duration of police custody does not exceed 48 hours, regardless of the charges, with the possibility of one extension in exceptional circumstances;

(b) What administrative and other measures have been taken to ensure that all individuals deprived of their liberty are afforded, in practice, all basic legal safeguards, from the outset of the deprivation of their liberty, including the right to (i) contact the person of their choice to inform them of their place of detention; (ii) request and receive a free confidential medical examination by an independent doctor as soon as possible after admission to a prison facility; and (iii) be assisted by a trusted adult, in the case of minors;

(c) What measures have been taken to ensure that (i) a report is prepared for each traumatic injury identified (upon admission or following a violent incident) in any prison facility; (ii) whenever a doctor finds injuries consistent with allegations of ill-treatment, that information is automatically brought to the attention of the competent prosecution bodies;

(d) The measures taken to monitor compliance by law enforcement officials with the fundamental legal safeguards. In this connection, please provide information on any disciplinary or non-disciplinary measures taken since 2016 against police officers who did not immediately allow persons deprived of their liberty to benefit from these safeguards or did not adequately maintain the detention register.

**Article 3**

4. In the light of the Committee's previous concluding observations (para. 20) and the amendments introduced by Act No. 2018-778 of 10 September 2018 for controlled immigration, an effective right to asylum and successful integration, please specify:

(a) Whether the State party intends to take steps to ensure that asylum applications are thoroughly reviewed,<sup>3</sup> taking due account of the personal circumstances of asylum seekers, including within the context of the fast-track procedure, and also that the criteria used for deciding whether a request will be considered by the fast-track procedure, in particular provenance from a "safe" country of origin, do not entail automatic assignment to the fast-track procedure or a risk of being deported from France before an appeal is decided;

(b) Whether the State party plans to review the deadlines for a person to file an asylum application once he or she has entered the State party's territory, and for asylum seekers in holding areas or in administrative detention centres to file an appeal with the National Court of Asylum, so that applicants have sufficient time to substantiate fully their application or appeal;

(c) Whether the State party has taken measures to ensure that in all cases asylum seekers are given information on their rights and free access to the services of qualified,

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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> A/HRC/WG.6/29/FRA/3, para. 69.

independent counsel and an interpreter throughout the asylum process, particularly in holding areas;<sup>4</sup>

(d) The measures taken to eliminate barriers to access to the asylum procedure in the department of Alpes-Maritimes for foreigners coming from Italy;

(e) The measures that the State party has taken to ensure that, even under the Dublin system, a destination country's asylum policy offers sufficient guarantees that the person concerned will not be removed to his or her country of origin without a prior assessment of the risks involved.<sup>5</sup>

5. In the light of the Committee's previous concluding observations (para. 39), please indicate whether there are mechanisms in place to identify and immediately assist vulnerable asylum seekers, including victims of torture and trafficking, and whether they are given priority access to the procedure for determining refugee status, particularly children.<sup>6</sup> Please clarify whether the asylum applications of unaccompanied children are reviewed by the State party regardless of whether the child has already filed an application in another member State of the European Union.<sup>7</sup> Please indicate whether qualified guardians are appointed for unaccompanied asylum-seeking children.

6. Please provide annual statistical data for the period since 2016, disaggregated by sex, country of origin and age of persons seeking asylum, on:

(a) The number of asylum applications registered;

(b) The number of successful applications for asylum or other forms of protection, specifying, where appropriate, the number of asylum seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin;

(c) The measures taken in support of persons identified as victims of torture;

(d) The number of persons extradited, expelled or returned and the countries to which they were removed;

(e) The number of appeals filed against expulsion or extradition decisions on the grounds that applicants would be in danger of being subjected to torture in their countries of destination and the result of those appeals.

#### Articles 5–9

7. Please indicate whether, since the consideration of the previous report (CAT/C/FRA/7), the State party has rejected, for any reason, a request from another State for the extradition of an individual suspected of having committed acts of torture and has instead prosecuted the individual itself. If so, please provide information on the status and outcome of such proceedings.

#### Article 10

8. In the light of the Committee's previous concluding observations (para. 37), please provide detailed information on training programmes for all public servants who are involved in the custody, interrogation or treatment of persons deprived of their liberty, including medical staff, judges and prosecutors, as well as contractual law enforcement agents, constables, non-commissioned officers and volunteer deputy gendarmes and the staff of private security companies, on:

(a) The provisions of the Convention;

<sup>4</sup> A/HCR/WG.6/29/FRA/2, para. 67, and A/HRC/WG.6/29/FRA/3, para. 34.

<sup>5</sup> See European Court of Human Rights, *Sharifi and Others v. Italy and Greece*, No. 16643/09, 21 October 2014.

<sup>6</sup> A/HRC/WG.6/29/FRA/3, para. 10.

<sup>7</sup> See case *C-648/11, MA, BT, DA v. Secretary of State for the Home Department*, Judgment of the Court of Justice of the European Union, 6 June 2013.

(b) Guidelines for the detection of signs of torture and ill-treatment, reflecting the standards set out in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

9. Please indicate whether the State party has developed a method for assessing the effectiveness and impact of training and educational programmes for the reduction of cases of torture, violence and ill-treatment.

#### Article 11

10. In the light of the Committee's previous concluding observations (paras. 22, 24 and 26) on the conditions of detention and the information received from the State party in follow-up thereto,<sup>8</sup> please provide:

(a) Annual statistical data for the period since 2016, disaggregated by place of detention, sex, age group and nationality of the detainee, on the total capacity and level of occupancy of all detention facilities, specifying the number of remand and convicted prisoners;

(b) Information on the measures taken or envisaged to reduce overcrowding in prisons,<sup>9</sup> especially in the overseas departments and territories;

(c) Information on the measures taken or envisaged to improve the material conditions, including hygiene and sanitation, in detention facilities,<sup>10</sup> particularly in police stations and in the remand prisons of Fresnes and Nimes;

(d) Information on the measures taken to ensure that every detainee has a minimum of 4 m<sup>2</sup> of living space per cell<sup>11</sup> and that the cells have sufficient access to natural light and ventilation;

(e) Information on the measures taken to end the practice of handcuffing persons deprived of their liberty to stationary objects, such as benches with fixed rings or bars, in police stations;

(f) Information on the measures taken to improve psychiatric care in prisons,<sup>12</sup> particularly in the Condé-sur-Sarthe centre and the remand prisons of Nimes and Villepinte, to provide appropriate living conditions for prisoners with psychosocial disabilities,<sup>13</sup> and to strengthen the policy on preventing and combating drug abuse and suicides in prison;<sup>14</sup>

(g) Information on the assessment of the national action plan to prevent suicide in prisons;

(h) Information on the measures necessary to ensure an adequate number of trained personnel in prisons, including general practitioners and psychiatrists;

(i) Information on contact with the outside world and activities planned for detainees subject to special detention regimes.

11. In the light of the Committee's previous concluding observations (para. 22) regarding violence in prisons, please provide:

(a) Annual statistical data for the period since 2016, disaggregated by the place of deprivation of liberty and the ethnicity or nationality of the victim, on (i) the number of deaths in custody, with an indication of the cause of death; (ii) the number of persons who have been injured or who died as a result of violence committed inside places of detention

<sup>8</sup> CAT/C/FRA/CO/7/Add.1, paras. 70–78.

<sup>9</sup> A/HRC/WG.6/29/FRA/3, para. 5.

<sup>10</sup> Ibid., para. 31.

<sup>11</sup> Ibid., para. 32.

<sup>12</sup> Ibid., para. 32.

<sup>13</sup> Ibid., para. 33. See also European Court of Human Rights, *Helhal v. France*, No. 10401/12, 19 February 2015.

<sup>14</sup> CAT/C/FRA/CO/7, para. 26. See also European Court of Human Rights, *Isenc v. France*, No. 58828/13, 4 February 2016.

or owing to negligence causing death or injury, specifying in each case whether the perpetrator was a prison employee or another detainee. Please also provide detailed information on the outcome of investigations into such deaths or violence, including the penalties imposed on perpetrators of torture, ill-treatment or negligence causing death or injury. Please specify the reparation provided to the victims of such acts and their families;

(b) Information on the measures taken to stop the excessive use of force in prisons, particularly in the Fresnes remand prison, as well as inter-prisoner violence, and to improve the monitoring and identification of at-risk detainees and ensure that detainees can lodge complaints, including with the Inspector General of places of deprivation of liberty, without fear of reprisals.

12. Please indicate the steps taken to change the law applicable to disciplinary seclusion, in order to reduce the maximum length of such a measure, which is 30 days, and to ensure that minors and persons with psychosocial disabilities cannot be placed in seclusion.

13. In the light of the Committee's previous concluding observations (para. 28), please provide information on the steps taken by the State party to ensure that full-body searches and night surveillance measures in prisons are always conducted with full respect for the privacy of the individual and in compliance with the principles of proportionality and necessity. Please provide information on the State party's progress in training staff, informing detainees of the rules relating to searches and standardizing systems in all institutions in order to avoid the risk of arbitrariness.

14. In the light of the Committee's previous concluding observations (paras. 30 and 31) regarding psychiatric facilities, please provide:

(a) Information on the steps taken to improve the detention conditions of persons committed to psychiatric hospitals, in particular to solve the problem of hospital bed shortages;

(b) Information on the measures taken to stop the use of excessive force against patients, including the investigation of any ill-treatment, and the penalties imposed on those found guilty;

(c) Information on the enhancement of training for the staff of psychiatric facilities;

(d) Information on the measures taken to ensure that the use of seclusion is prohibited and to ensure that means of restraint are used only as a last resort and under continuous monitoring, never as a punishment or to compensate for a lack of staff, and for a period which is always as short as possible. In this connection, please provide annual statistical data for the period since 2016, disaggregated by psychiatric institution, on the number of prisoners placed under physical or chemical restraint, and indicate the maximum and average duration of restraint;

(e) Information on the urgent implementation of the recommendations of the Inspector General of places of deprivation of liberty for the Ain psychotherapeutic centre.

15. Please indicate the measures taken to ensure that foreign persons not admitted after being questioned by the police service at the Franco-Italian border are not detained in temporary or informal detention facilities in unsanitary conditions. Please also indicate the criteria and procedure used to determine the necessity and proportionality of detaining migrants in an irregular situation, and the alternatives to detention. In the light of the decisions of the European Court of Human Rights in cases No. 33201/11, *R.M. and Others v. France*, and No. 24587/12, *A.M. and Others v. France*, please indicate the measures envisaged to ensure that families of irregular migrants with children, and unaccompanied migrant children, are not detained or, if they are, that detention is used only as a last resort, for the shortest time possible, when placement in normal housing proves impossible.<sup>15</sup>

16. Please provide annual data for the period since 2016 on:

<sup>15</sup> A/HRC/WG.6/29/FRA/3, paras. 11 and 70.

(a) The percentage of asylum seekers and persons requesting international protection who have been detained per year, the legal basis for their detention, the average duration of their detention and the percentage of cases in which alternatives to detention were applied;

(b) The percentages of unaccompanied children and of families with children who have been detained, their conditions of detention, the type of establishment and the regime applied, the percentage of cases in which alternatives to detention have been applied and the average duration of their detention;

(c) The average duration of the detention of irregular migrants and the percentage of cases each year in which alternatives to administrative detention were applied in practice as compared with the percentage of cases in which detention was imposed.

### Articles 12–13

17. In the light of the Committee’s previous concluding observations (paras. 17 and 18) and allegations of excessive use of force by police officers at the moment of arrest, please provide information on the steps taken or envisaged by the State party to strengthen measures to prevent any excessive use of force by the police and gendarmerie, including excessively tight handcuffing, in particular:

(a) Information on measures to ensure that victims of police brutality are able to file complaints, that complaints are registered and, where appropriate, that complainants are protected against retaliation;<sup>16</sup>

(b) Annual statistical data for the period since 2016, disaggregated by sex, age group and ethnicity or nationality of victims on (a) the number of complaints and reports of acts of violence, excessive use of force and torture and ill-treatment; (b) administrative or criminal investigations initiated in respect of the police and of the gendarmerie;<sup>17</sup> (c) prosecutions carried out; and (d) convictions and sanctions imposed;

(c) Information on the follow-up to complaints lodged with the Defender of Rights and alleged violence by police forces on asylum seekers and migrants, in particular the latter’s situation in Calais.<sup>18</sup> Please indicate the measures taken to improve the living conditions of migrants in Calais and along the entire coast and to further protect them against violent xenophobic attacks.<sup>19</sup>

18. In the light of the Committee’s previous concluding observations (para. 13), please provide information on the measures taken or envisaged by the State party to ensure that counter-terrorism measures, and in particular search operations, do not infringe on the exercise of rights protected under the Convention.<sup>20</sup> Please also indicate the measures taken by the State party to ensure that victims of excessive use of force during such operations may file a complaint, that investigations are promptly initiated and proceedings instituted if necessary, and that perpetrators are penalized.

### Article 14

19. In the light of the Committee’s previous concluding observations (para. 39) and the Committee’s general comment No. 3 (2012) on the implementation of article 14 by States parties, please provide:

(a) Information on the measures taken to implement a policy for the rehabilitation of victims of torture and to facilitate access to existing rehabilitation facilities;

(b) Information on measures taken or envisaged to increase the availability of care tailored to victims of torture and to allocate the necessary resources and adequate training for professionals working in associations and other entities;

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<sup>16</sup> Ibid., para. 7.

<sup>17</sup> A/HRC/WG.6/29/FRA/1, para. 79.

<sup>18</sup> A/HRC/WG.6/29/FRA/3, para. 74.

<sup>19</sup> Ibid., para. 73.

<sup>20</sup> Ibid., paras. 6 and 26.

(c) Annual statistical data for the period since 2016 on redress and compensation measures, including means of rehabilitation, ordered by the courts and actually provided to victims of torture or ill-treatment or their families during the period under consideration. This information should include the number of (a) applications lodged for State compensation for torture and ill-treatment; (b) applications time-barred owing to the courts' inaction; and (c) applications granted and the amounts awarded in successful cases;

(d) Information on the measures taken to implement the decisions of the European Court of Human Rights concerning victims of torture, including in cases No. 9373/15, *M.A. v. France*, No. 30059/15, *Boukrourou and Others v. France*, No. 33201/11, *R.M. and Others v. France*, No. 24587/12, *A.M. and Others v. France*, No. 11593/12, *A.B. and Others v. France*, No. 76491/14, *R.C. and V.C. v. France*, No. 78514/14, *R.V. v. France* and No. 34648/14, *R.D. v. France*.

## Article 16

20. In the light of the Committee's previous concluding observations regarding allegations of sexual abuse in the Central African Republic (para. 33) and the dismissal in January 2018 of the case of the alleged sexual abuse committed by French soldiers participating in Operation Sangaris between 2013 and 2014 against children in the Central African Republic, please indicate:

(a) Whether the investigation was conducted in an impartial and independent manner, given that it was carried out by the military, whether it ensured access to legal assistance or any other appropriate assistance for the child victims and whether the 14 soldiers accused by the alleged victims have been prosecuted;

(b) The results of the investigation launched in April 2016 regarding allegations of sexual abuse committed against children in the Dekoa region by French soldiers;

(c) The measures taken to provide psychological and social assistance and reparations to the victims;

(d) The measures taken to prevent violence against children, including sexual violence.

21. In the light of the Committee's previous concluding observations (para. 35) regarding intersex persons, please indicate:

(a) The measures taken by the State party to ensure that no one is subjected during childhood to non-urgent medical or surgical treatment in order to establish a gender for that person;

(b) The measures taken to ensure that the persons concerned and their parents receive impartial counselling services and psychological and social support free of charge;

(c) The measures taken to ensure that no medical treatment is carried out without a person's full, free and informed consent, and that the person or the parents concerned are informed of the available options, including the possibility of deferring any decision on unnecessary treatment until the person can decide for himself or herself;

(d) The investigations conducted by the State party into cases of surgical or other medical treatment carried out on intersex persons without their free and informed consent; and, where applicable, the steps taken by the State party to provide redress, including adequate compensation, to victims.

22. In the light of the Committee's previous concluding observations (para. 15), please provide information on the measures taken to prevent and to combat criminal acts motivated by hatred or intolerance targeting specific populations, including members of the Jewish and Muslim communities, as well as acts of violence against the Roma, migrants and lesbian, gay, bisexual, transgender and intersex persons.<sup>21</sup> Please also provide data on cases of hate crimes identified since 2016, disaggregated by type of crime, and specify

<sup>21</sup> *Ibid.*, paras. 18, 20 and 22.

whether the perpetrator is an agent of the State. Please also provide data on prosecutions for hate crimes and the outcomes.

23. Please provide information on the measures taken to prohibit the use of tear gas inside police establishments and to ensure that the use of electroshock weapons is strictly governed by the principles of necessity and proportionality. Please indicate whether there have been any complaints by detainees with regard to the use of tear gas or electroshock weapons and, if so, please provide details of such complaints, the investigations conducted and their results. Please inform the Committee of any injuries, including deaths, caused by the use of electroshock weapons.

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

24. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report (CAT/C/FRA/7) to implement the provisions of the Convention or the Committee's recommendations. Such measures may include institutional developments, plans or programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party considers relevant.

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