



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

Distr.: General
10 February 2020
English
Original: French
English and French only

Committee against Torture

**Information received from Mauritania on follow-up to the
concluding observations on its second periodic report***

[Date received: 2 January 2020]

* The present document is being issued without formal editing.



I. Introduction

1. The Islamic Republic of Mauritania presented its second periodic report on its implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 24 and 25 July 2018 during the 1656th and 1659th meetings of the Committee against Torture.
2. During these meetings, the Committee made recommendations focusing on the achievement of more effective means of combating torture.
3. It also requested Mauritania to place priority on the implementation of the Committee's concluding observations and recommendations prior to the submission of its next periodic report.
4. In addition, the Committee invited Mauritania to provide information in writing on the measures that it has taken to implement the recommendations contained in paragraphs 15, 27 (b) and 31 of the concluding observations.

II. Additional information (CAT/C/MRT/CO/2)

A. Additional information concerning paragraph 15 of the concluding observations

5. Since the adoption of Act No. 2015-033 of 10 September 2015, on combating torture, six investigations have been carried out into allegations of torture.
6. By means of Circulars Nos. 023/2017 of 24 January 2017 and 111/2017 on the application of judicial decisions and the implementation of criminal justice policy, respectively, the Prosecutor-General of the Supreme Court drew attention to the measures to be taken by the public prosecutor's office to give immediate follow-up to allegations of torture, among other offences specified therein.
7. In those circulars, the Prosecutor-General instructed State prosecutors and their deputies to give priority to proceedings relating to torture, among other offences, and to ensure that they are carried out expeditiously.
8. The circulars stress the need for any requests or submissions by the public prosecutor's office to be consistent with the aim of combating and deterring the commission of such offences and the enforcement of sentences involving deprivation of liberty or financial penalties.
9. Disciplinary measures are instituted in respect of the perpetrators of acts of torture as soon as an investigation is launched. The statutes of the National Guard, the National Police, the Road Safety Unit and the civil service, along with the code of ethics for government officials, provide for suspension in the event of serious misconduct, without prejudice to criminal proceedings. It goes without saying that torture and ill-treatment are serious forms of misconduct, that they are prohibited and that they constitute criminal offences.
10. Article 12 of Act No. 93-09 of 18 January 1993, which sets forth the general statutes pertaining to civil servants and contractual employees of the State, provides that any misconduct committed by a civil servant in the exercise or in connection with the exercise of his or her duties shall render him or her liable to disciplinary action, without prejudice, where appropriate, to the penalties provided for under criminal law. The same shall apply to any misconduct not related to those duties that constitutes a breach of probity, honour, good morals, dignity or the obligation of loyalty to the State and its institutions or that is of such a nature as to bring the Administration into disrepute. Where the misconduct in question constitutes a criminal offence, particularly if it involves corruption, embezzlement of public funds, forgery of public records, breach of professional secrecy, etc., the matter must be referred without delay to the public prosecutor's office by the official's superior.
11. In the case involving an officer and guards at Dar Naïm prison and in the case of suspected ill-treatment of children at the Reception and Social Reintegration Centre for Children in Conflict with the Law, the alleged perpetrators were suspended as soon as an

administrative inquiry was launched, although, in the end, the investigations did not find that the alleged acts had actually been committed.

12. Article 36 of Act No. 2018-033 of 8 August 2018, which sets forth the statutes pertaining to the National Police, specifies that: “Police personnel shall refrain from any act likely to infringe individual or collective freedoms except in cases provided for by law, and, more generally, from any cruel, inhuman or degrading treatment constituting a violation of human rights.”

13. Article 1 of Decree No. 2011-283 of 10 November 2011, which sets forth the general disciplinary regulations of the Road Safety Unit, states that the legislative and regulatory provisions relating to disciplinary matters in respect of civil servants and government employees are applicable to the Unit’s staff. In addition, that decree sets out the full procedure to be followed in such cases, along with a series of categories of misconduct and sanctions that may be applied to such staff in the event of serious misconduct, in particular in cases of cruel, inhuman or degrading treatment.

14. Article 46 of Order No. 241 of 24 April 1967, which sets forth regulations applying to the National Guard, stipulates that “any act of the National Guard that interferes with the exercise of personal freedoms by members of the public constitutes an abuse of power” and that “personnel guilty of such acts shall be liable to disciplinary action, without prejudice to any legal proceedings that may be instituted against them”.

15. The Department for Oversight and Public Relations of the General Directorate of National Security is tasked with performing monitoring and investigative functions in respect of the police force in the event of any form of misconduct such as torture, abuse of power, assault or any other breach of a rule of law. Following the outcome of its investigations, disciplinary measures may be taken without prejudice to subsequent criminal proceedings.

16. The National Human Rights Commission and the national preventive mechanism are empowered to receive complaints relating to allegations of torture and ill-treatment. Complaints may be lodged in several ways: (1) by the victims themselves using the letter boxes available in places of deprivation of liberty; (2) by victims’ legal representatives; (3) by civil society organizations; (4) by lawyers; or (5) based on the findings of the visits that the Commission and the mechanism pay to places of deprivation of liberty on a regular basis.

17. The national preventive mechanism has installed accessible letter boxes to facilitate the filing of complaints and allegations by detainees. Access to the confidential contents of these boxes is reserved for the mechanism during its visits, including unannounced visits.

18. Public prosecutors regularly visit places of deprivation of liberty to observe the conditions of detention and check on their legality. On such occasions, they may talk directly and in private with any individual and hear, in private, reports, complaints and allegations relating to conditions of detention. The visits are documented in these detention centres’ records.

19. The independence of the judiciary is guaranteed by the Constitution, article 89 of which provides that: “The judiciary shall be independent of the legislative and executive branches. The President of the Republic is the guarantor of the independence of the judiciary. He is assisted by the Supreme Council of the Judiciary, over which he presides.” Judges owe obedience only to the law. In the performance of their duties, they are protected from any form of pressure that could undermine their independence in exercising their judgment.

20. The regulations governing the judiciary and those governing the composition, functions and powers of the Supreme Council of the Judiciary are set forth in an organic law. Judges and law officers are appointed to the various posts within the judiciary on the basis of their rank and length of service.

21. In discharging their judicial functions, judges are subject only to the authority of the law. They cannot be removed, and they may be reassigned only at their own request or, with the consent of the Supreme Council of the Judiciary, as the result of a disciplinary sanction or an imperative of service.

22. Judges receive salaries and benefits that shield them from corruption. They are among the best-paid civil servants. In addition to the basic pay, their salaries include allowances for domestic service, housing and furnishings, which vary according to their rank and function, and allowances related to their position and a specific justice administration allowance.

23. Judges cannot be removed, and they may be reassigned only at their own request or, with the consent of the Supreme Council of the Judiciary (article 8 of the regulations governing the judiciary), as the result of a disciplinary sanction or an imperative of service. In practice, this stability is facilitated by the schedule for the meetings of the Supreme Council of the Judiciary, since, with few exceptions, the Council meets just once a year, at the end of the year. Its agenda mainly deals with judges' career progression, promotion, secondment, assignment, pension rights, etc.

B. Additional information concerning paragraph 27 (b) of the concluding observations

24. No human rights defenders have been deprived of their liberty.

25. Mohamed Cheikh Ould Mkhaitir was sentenced on 9 November 2017 to 2 years' imprisonment by the Nouadhibou court of appeal pursuant to article 306 of the Criminal Code. His conviction was the culmination of a long, eventful case marked by incidents without precedent in a conservative, although open and tolerant, Muslim society. It deeply disturbed society and the public at large, as people felt their faith and their very existence had come under threat.

26. In such a situation, the State has a duty not only to maintain law and order but also to ensure the safety of all its citizens, including Mohamed Cheikh Ould Mkhaitir, whose illegal and immoral actions violated the natural order.

27. To this end, and in accordance with the laws and regulations in force, once he had served his prison sentence, the State had to make sure that he was released, but it also had to protect him. Consequently, he was placed in an isolation cell as an administrative police measure pursuant to Act No. 62.121 of 18 June 1962 and Decree No. 70-172 of 3 June 1970.

28. This measure, which was taken on the basis of an administrative order of the Minister for the Interior and Decentralization, will end as soon as the conditions for restoring public order and ensuring his physical safety have been assured.

29. In any event, Mr. Mohamed Cheikh Ould Mkhaitir is being protected in freedom in a safe place and receives visits from all authorized persons under conditions that preserve the national public order and ensure Mr. Mohamed Cheikh's physical safety.

C. Additional information concerning paragraph 31 of the concluding observations

30. In accordance with Act No. 034-2015, by which the national preventive mechanism was established, a selection board is responsible for ensuring that a transparent, inclusive and participatory process is used for the designation of the mechanism's members, who are pre-screened by a board whose members are appointed by order of the Prime Minister. This board is composed of representatives of the State, civil society and the professions from which the members of the mechanism are drawn. It receives applications and selects candidates as follows:

- Four members proposed by the National Medical Association who cannot be members of the Medical Council and must be practising doctors with at least 10 years' experience;
- Four members proposed by the National Bar Association who are not members of the Bar Council and must be practising lawyers with at least 10 years' experience;
- Four members who are independent public figures known for their moral integrity and commitment to human rights;

- Ten members from Mauritanian non-governmental organizations working in the field of human rights and possessing at least 5 years' experience;
- Two members who are university faculty members, are engaged in teaching or research and possess at least 10 years' experience.

31. Women account for at least one third of the mechanism's members.

32. The board deliberates and chooses candidates by an absolute majority of the members present on the basis of the conditions laid down in articles 6, 7 and 8 of the law establishing the national preventive mechanism, while taking into account the need for cultural diversity and the gender quota. The mechanism's president and other members are appointed for a four-year term that is renewable once only, either partially or totally. Membership in the mechanism is incompatible with any position of responsibility within a political party or in parliament, with the exercise of an administrative function and/or any other function that may undermine the member's independence and impartiality.

33. The appointment of the mechanism's president and other members is formalized by decree of the President of the Republic. The decree is published in the Official Gazette, thereby ensuring the necessary solemnity and consideration with regard to the mechanism's membership.

34. The mechanism enjoys financial and functional independence. It does not receive instructions from any authority, and it recruits its own staff. The president has authority over the mechanism's staff and manages, leads and coordinates the mechanism's activities. He or she is the authorizing officer for the mechanism's budget and represents the mechanism within the limits of the powers conferred upon him or her and, in this capacity, serves as the mechanism's interlocutor with governments, national institutions and regional and international bodies.

35. The Secretary-General, who is not a member of the mechanism, provides administrative assistance, and his or her appointment by the executive branch in no way impairs the mechanism's independence.

36. The mechanism's members enjoy such immunities and benefits as are necessary for the performance of their duties.

37. The annual budget allocated to the mechanism amounts to 11,260,000 ouguiyas. Members receive an individual monthly allowance of 45,000 ouguiyas, in addition to a quarterly sessional bonus of 40,000 ouguiyas for each member of the standing bureau and 30,000 ouguiyas for the others.

38. In accordance with article 23 of Act No. 034-2015, by which the mechanism was established, the State is required to include a specific budget line in its annual general budget for the necessary allocations for the mechanism's operations.

39. The financial resources necessary for the work of the mechanism and the completion of its missions are specifically provided for in the mechanism's own budget. The mechanism may also benefit from donations and legacies.

40. The mechanism enjoys administrative and financial independence. It prepares its own budget and executes it in accordance with public accounting rules and regulations.

41. The annual amount of 11,260,000 ouguiyas allocated to the mechanism enables it to cover the fixed costs of running its headquarters, the remuneration of the president, other members and the Secretary-General, the salaries of its administrative staff and expenses related to a number of visits to places of deprivation of liberty in the country (vehicle rental, petrol, members' per diems, etc.).

42. In conclusion, the Government of the Islamic Republic of Mauritania hopes that the information provided herein will be taken into account and remains committed to pursuing a constructive dialogue with the Committee so as to afford greater protection for human rights and the proper implementation of the Committee's observations and recommendations.