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Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee (110th session, 10 March–28 March 2014)

Report of the Special Rapporteur for follow-up to concluding observations

1. The present report is submitted in accordance with rule 101, paragraph 3, of the Committee's rules of procedure, which reads: "The Special Rapporteur shall regularly report to the Committee on follow-up activities."

2. The report sets out the information received by the Special Rapporteur for follow-up on concluding observations between the 109th and 110th sessions, and the analyses and decisions adopted by the Committee during its 110th session. All the available information concerning the follow-up procedure used by the Committee since its eighty-seventh session, held in July 2006, is outlined in the table below.

Assessment of replies	
Reply/action satisfactory	
A	Response largely satisfactory
Reply/action partially satisfactory	
B1	Substantive action taken, but additional information required
B2	Initial action taken, but additional information and measures required
Reply/action not satisfactory	
C1	Response received but actions taken do not implement the recommendation
C2	Response received but not relevant to the recommendations
No cooperation with the Committee	
D1	No response received within the deadline, or no reply to a specific question in the report
D2	No response received after reminder(s)

Assessment of replies
The measures taken are contrary to the Committee's recommendations
E The response indicates that the measures taken are contrary to the Committee's recommendations

Ninety-sixth session (July 2009)

The Netherlands

Concluding observations:	CCPR/C/NLD/CO/4, 28 July 2009
Follow-up paragraphs:	7, 9 and 23
First reply:	Due 28 July 2010; received 16 September 2011
Committee's evaluation:	Additional information required on paragraphs 7 **[C1]**, 9 **[B2]** and 23 **[B2]**
Second reply:	Reply to the Committee's letter of 24 May 2013; received 31 July 2013

Paragraph 7: The Committee reiterates its previous recommendations in this regard [on euthanasia and assisted suicide, CCPR/CO/72/NET, para. 5] and urges that this legislation be reviewed in light of the Covenant's recognition of the right to life.

Follow-up question:

The Committee considered that the recommendation in paragraph 7 has not been implemented.

Summary of State party's reply:

No information was provided on the implementation of paragraph 7.

Committee's evaluation:

[D1] There is no evidence of any review of the legislation subsequent to the Committee's recommendations. Therefore, the Committee reiterates its recommendation.

Paragraph 9: The State party should ensure that the procedure for processing asylum applications enables a thorough and adequate assessment by allowing a period of time adequate for the presentation of evidence. The State party must, in all cases, ensure respect for the principle of non-refoulement.

Follow-up question:

Additional information was requested on the following issues:

(a) The measures taken to ensure that asylum seekers are given the opportunity to adequately substantiate their claims through the presentation of evidence;

(b) The number of asylum applications made and the number rejected on the basis of the application of the principle of "non-refoulement" in the last five years.

Summary of State party's reply:

A new eight-day procedure replaced the previous 48-hour procedure on 1 July 2010. Regarding the measures taken to ensure that asylum seekers are given the opportunity to adequately substantiate their claims, the introduction of a period of rest and preparation

preceding the general asylum procedure allows asylum seekers more time than they previously had to gather and submit relevant information to substantiate their asylum applications. During this period, asylum seekers consult with their legal adviser and with the Dutch Refugee Council. Asylum seekers have access to email, phone, fax and other means to gather information to help them substantiate their claims. During the second interview in the procedure, the asylum seekers have ample opportunity to put forward their claims and any relevant evidence. Even evidence that the asylum seekers gather after a denial of his/her application will be taken into account during an appeal against the denial.

The number of asylum applications made in the last five years are (rounded up/down): 2007: 9,730; 2008: 15,280; 2009: 16,170; 2010: 15,150; 2011: over 14,500. The numbers of asylum applications that have been granted in first instance in the last five years are: 2007: 52 per cent; 2008: 48 per cent; 2009: 44 per cent; 2010: 44 per cent; 2011: 44 per cent.

Committee's evaluation:

[B1]: The State party has made substantial progress in implementing the recommendation contained in paragraph 9, but additional information is required on the duration of the period of rest and preparation.

Paragraph 23: The State party should ensure as a matter of urgency that conditions in places of detention are improved to meet the standard set out in article 10, paragraph 1.

Follow-up question:

Additional information was requested on the following issues:

(a) The implementation status and schedule for the follow-up project to the "Schoonmaken Terreinen"; the overhaul of the sanitary system, and the provision of a daily programme of activities in the Bon Futuro Prison; and the provision of education for adults and young offenders in the Bonaire Remand Prison;

(b) Updated information on the progress made for the implementation of the described measures in the Bon Futuro Prison and the Bonaire Remand Prison, and the evaluation of these measures.

Summary of State party's reply:

In the Bonaire Remand Prison, daily activities are provided and the first steps have been taken towards providing education for adults and young offenders, initially through a two-year pilot.

In the Sentro di Detenshon i Korekshon Korsou (SDKK, previously Bon Futuro Prison), the "Schoonmaken Terreinen" project has been completed.

After 13 September 2011, the prison limited all inmate activities as a result of security measures taken following an incident in which two inmates were shot by a third inmate. As a result, there were fewer activities for inmates outside their own cellblock. The new security measures have recently been evaluated, and it has been decided to gradually reintroduce activities, albeit in a different form and setting. The main difference between the new activities and the old activities will be that inmates from different cellblocks will not be allowed to interact with each other. The express purpose is to prevent incidents involving inmates.

Concerning the progress made for the implementation of the described measures in the SDKK, the changes which have been and continue to be implemented are aimed at improving the inmates' safety, hygiene and detention conditions. A framework of conditions needs to be in place to accomplish these goals, improve inmates' actual

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detention conditions and comply with international standards. The SDKK is ensuring that this framework is put in place. These include renovating sanitation facilities (toilets and showers) in the cellblocks, doing everything possible to ensure that food is properly prepared and goes out on time, improving the solitary confinement wing, and providing a new building where the inmates can work. Only the Waterprojects have not been finalized. The SDKK aims at finalizing all these projects by December 2014, and is working closely with a team of Dutch specialists in order to achieve this goal. The Ministries of Justice in the Netherlands and Curaçao share responsibility for implementing and monitoring the plan. The approach, planning and work in progress are subject to regular evaluation by both Ministries and the SDKK.

Committee's evaluation:

[B2] Additional information should be requested on:

(a) The progress realized by the State party to provide education for adults and young offenders in the Bonaire Remand Prison;

(b) The progress on the overhaul of the sanitary system in the Sentro di Detenshon i Korekshon Korsou, which is scheduled to be completed in 2014.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be provided by the State party in its next periodic report.

Next periodic report: 31 July 2014

Ninety-eighth session (March 2010)

Argentina

Concluding observations:	CCPR/C/ARG/CO/4, 23 March 2010
Follow-up paragraphs:	17, 18 and 25
First reply:	Due 4 November 2010; received on 24 May 2011
Committee's evaluation:	Additional information required on paragraphs 17 **[B2]**, 18 **[B2]** and 25 **[B2]**
Second reply	Reply to the letter from the Committee dated 24 May 2013; received on 7 August 2013, 15 August 2013 and 16 October 2013

Paragraph 17: The State party should adopt effective measures to put an end to prison overcrowding and ensuring compliance with the requirements set out in article 10. In particular, the State party should take measures to comply with the Standard Minimum Rules for the Treatment of Prisoners. The practice of keeping accused persons at police stations should be halted. The functions of the Procurator of Prisons should cover the entire country. The State party should also take measures to guarantee that all occurrences of injury and death in prisons and detention centres are duly investigated and to ensure compliance with court orders mandating the closure of some of these centre

Argentina

Follow-up question:

The Committee requested the State party to provide the following information:

(a) Up-to-date information on any developments relating to prison overcrowding and to steps to ensure compliance with article 10 of the Covenant and with the Standard Minimum Rules for the Treatment of Prisoners. In particular, the State party should be invited to apprise the Committee of the number of cells in each federal and provincial prison, their size and the exact number of persons held in each cell;

(b) Enforcement of court orders mandating the closure of some prisons and detention centres;

(c) Legal obligations concerning prisoners' access to the services of lawyers and doctors;

(d) Mandatory audio-visual recording of the period during which a person is held in police custody; and

(e) The enforcement of these requirements.

Summary of State party's reply:

On the prison overcrowding issue, the number of persons deprived of liberty in the Province of Buenos Aires has decreased in recent years. For instance, in 2010 a total of 30,400 persons were deprived of liberty in the State party; this number has decreased to 28,895 persons in 2012. In addition, since 2010, a total of 2,448 new places were created in the detention system.

To reduce the number of persons in pretrial detention, the State party referred to Resolution 1587 (17 June 2008) of the Ministry of Justice, which regulates home detention and electronic monitoring, in accordance with article 10 of the Penal Code and Law 24,660. In addition, Law 14,296 of 25 August 2011, which amended the Law on Penal Execution, had the impact of reducing the number of persons deprived of liberty in the State party.

Concerning prisoners' access to medical services, the Training Department of the Directorate of Health Care of the Prison Service launched guidelines on cases of traumas, reflecting the recommendations of the Istanbul Protocol. The guidelines were distributed to all Medical Units. The Directorate also organized a number of trainings for doctors, in which members of the judiciary also participated.

No information was provided on the additional questions.

Committee's evaluation:

[B2]: On the prison overcrowding issue, updated information should be provided on the impact of measures taken to reduce prison overcrowding: in particular, the State party should provide updated data on the number of cells in each federal and provincial prison, their size and exact number of persons held in each cell.

[D1]: No information has been provided on:

(a) The enforcement of court orders mandating the closure of some prisons and detention centres;

(b) Legal obligations concerning prisoners' access to the services of lawyers;

(c) Mandatory audiovisual recording of the period during which a person is held in police custody;

(d) The enforcement of these requirements.

The recommendation has therefore not been implemented and information remains necessary.

Argentina

Paragraph 18: The State party should take immediate and effective measures against such practices. It should monitor, investigate and, where appropriate, prosecute and punish law enforcement officers responsible for acts of torture and should compensate the victims. The legal characterization of the facts must take into account their seriousness and relevant international standards.

Follow-up question:

The Committee requested the State party to provide the following information:

(a) The State party should be requested to provide a copy of decree 168 together with information on the "political authority" referred to therein, which, according to the information sent in the follow-up report, centralizes the powers of investigation and disciplinary action with respect to cases of violent death, torture, cruel or inhuman treatment, or any other form of abuse. What are the powers of this authority? In how many cases has it taken action? What were the results of its intervention?

(b) The Committee should request the State party to provide a summary of the information held in the databases of the Supreme Court of the Province of Buenos Aires, the Public Prosecutor's Office and the Defensoría Pública (Public Defender's Office) on cases of torture and other cruel, inhuman or degrading treatment or punishment;

(c) The Committee should request information on progress made with respect to the adoption of draft legislation for the establishment of an independent national mechanism for the prevention of torture, as provided for in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee should also request the State party to provide information on progress made on the corresponding regional bills.

Summary of State party's reply:

The State party informed the Committee that, according to Resolution 1481/13 of 14 May 2013, solitary confinement is now employed as an exceptional measure, with time limits and guarantees. In addition, decisions to transfer detainees are now regulated and have to be immediately communicated to the judge and to the detainee (according to Resolution 1938 of 16 October 2010, Law 14,296 of 25 August 2011 and Resolution 1268 of 26 April 2013).

Resolution 114/13 established a new curriculum for the training of prison officials.

(a) The State party has provided a copy of Decree 168/11. Article 1 of the mentioned Decree states that the Directorate of Inspection and Control of the Undersecretary of Criminal Policy and Judicial Investigations of the Ministry of Justice and Security of the Province of Buenos Aires is in charge of preparing, processing and deciding all administrative proceedings on potential cases of corruption, torture, harassment, coercion and others, which constitute gross misconduct by the Penitentiary Service.

Recently, a Decree issued on 5 March 2013, enlarged the powers of the Directorate of Inspection and Control and adopted new procedural principles. The right to be heard, to produce evidence and to have an impartial decision in administrative proceedings is central to the new Decree. Since the Decree has entered into force, important decisions have been issued on torture, ill treatment and others. The State party referred to three cases.

In addition, on 16 October 2012, an Inter-Ministerial Commission to Prevent Torture and other Inhuman Treatment was established within the Human Rights Secretary of the Province of Buenos Aires. The Commission aims to design, coordinate and promote action and policies to prevent and prohibit torture and other cruel, inhuman or degrading treatment or punishment.

(b) No information was provided on this issue.

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(c) In November 2012, the Chamber of Deputies approved a bill to establish an independent national mechanism for the prevention of torture.

Committee's evaluation:

[B2]: While the report indicates measures to implement the Committee's recommendation, additional information should be provided on:

(a) The number of cases the Directorate of Inspection and Control (Dirección de Inspección y Control dependiente de la Subsecretaría de la Política Criminal) has taken action? What were the results of its intervention?

(b) The number of reported cases of torture and ill-treatment, the investigations and prosecutions initiated, the number of criminal convictions, sentences imposed and remedies granted to victims.

Paragraph 25: The State party should adopt such measures as are necessary to put an end to evictions and safeguard the communal property of indigenous peoples as appropriate. In this connection, the State party should redouble its efforts to implement the programme providing for a legal cadastral survey of indigenous community property. The State party should also investigate and punish those responsible for the above-mentioned acts of violence

Follow-up question:

Additional information was requested on the following issues:

(a) Existing plans concerning the eviction of indigenous communities at the end of the scheduled four-year suspension of such measures under Act No. 26/160;

(b) Measures taken against government officials who have acted in violation of Act No. 26/160 during the past five years.

No information has been received about efforts to implement the programme under which a legal cadastral survey of indigenous communities' lands is to be conducted or about the investigation of acts of violence or the punishment of those responsible for them. The relevant recommendation has therefore not been implemented (para. 25).

Summary of State party's reply:

In November 2009, Act No. 26,160, on possession and ownership of lands traditionally occupied, was extended by Act. No. 26,554, until 23 November 2013. The executive power is currently evaluating a bill aiming to extend the said laws and to carry out a technical, legal and cadastral survey.

The State party clarified that some evictions are due to the fact that communities were unable to fulfil the requirements established in Act No. 26,160.

The National Institute of Indigenous Affairs, through relevant programmes, guarantees indigenous communities access to justice providing them with the necessary resources and legal aid, which can also be used to file lawsuits against officials who violate the application of the existing legal framework.

Committee's evaluation:

[B2] Additional information remains necessary on:

(a) Measures taken against government officials who have acted in violation of Act No. 26,160 during the past five years;

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(b) Actions taken to ensure the prompt and impartial investigation of acts of violence and intimidation against indigenous peoples that occurred during forced evictions;

(c) Progress to adopt the bill aiming to extend Act No. 26,160 and Act. No. 26,554 and information on the technical, legal and cadastral survey.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested will be included in the list of issues prior to reporting.

Next periodic report: 30 March 2014

Ninety-ninth session (July 2010)

Estonia

Concluding observations:	CCPR/C/EST/CO/3, 27 July 2010
Follow-up paragraphs:	5 and 6
First reply:	Due 27 July 2011; received 10 August 2011
Committee's evaluation:	Additional information required on paragraphs 5 **[B2]** and 6 **[B2]**
Second reply:	Reply to the Committee's letter of 29 November 2011; received 20 January 2012
Committee's evaluation:	Additional information required on paragraphs 5 **[B2]** and 6 **[B2]**
Third reply:	Reply to the Committee's letter of 24 May 2013; received 30 July 2013

Paragraph 5: The State party should either provide the Chancellor of Justice with a broader mandate to more fully promote and protect all human rights or achieve that aim by some other means, in full compliance with the Paris Principles, and take into account in this regard the requirements for the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Follow-up question:

Updated information is necessary on the decisions taken, when made, to establish a national human rights institution.

Summary of State party's reply:

The State party has not provided information on the implementation of paragraph 5.

Committee's evaluation:

[D1] No information was provided on the implementation of paragraph 5. The Committee reiterates its recommendation.

Estonia

Paragraph 6: The State party should take appropriate measures to:

(a) Ensure the effective application of the Gender Equality Act and the Equal Treatment Act, especially with regard to the principle of equal pay for equal work between men and women;

(b) Carry out awareness-raising campaigns to eliminate gender stereotypes in the labour market and among the population;

(c) Ensure the effectiveness of the system of complaints filed before the Chancellor of Justice and the Gender Equality and Equal Treatment Commissioner by clarifying their respective roles;

(d) Reinforce the effectiveness of the Office of the Gender Equality and Equal Treatment Commissioner by providing it with sufficient human and financial resources; and

(e) Set up the Gender Equality Council, as foreseen by the Gender Equality Act.

Follow-up question:

Updated information is necessary on the status of the application for the programme to be financed by the Norwegian Financial Mechanism, and on the outcome of the negotiations by the Ministry of Social Affairs on the creation of the Gender Equality Council, once finalized

Summary of State party's reply:

On 30 October 2012, Norway approved the programme in the framework of gender equality and reconciliation of work and family life financed by the Norwegian Financial Mechanism 2009–2014. The amount of 700,000 Euros will be directed to a project implemented by the Gender Equality and Equal Treatment Commissioner.

In order to implement the activities planned by the Commissioner, additional staff members, including a specialist on gender equality, a senior lawyer, a project coordinator, a lawyer, a media advisor and a secretary were hired. The project started on 25 March 2013 and will last until the end of 2015.

The Ministry of Social Affairs is planning to finalize the negotiations on the creation of the Gender Equality Council in 2013.

Committee's evaluation:

[B2] Additional information remains necessary on the project financed by Norway and its impact. The State party should also provide information on the outcome of the negotiations on the creation of the Gender Equality Council.

Recommended action: Given the submission of the State party's third reply, a letter should be sent informing the State party of the discontinuation of the follow-up procedure (as per CCPR/C/108/2, para. 26). The information requested should be provided by the State party in its next periodic report.

Next periodic report: 30 July 2015

103rd session (October–November 2011)

Norway

Concluding observations:	CCPR/C/NOR/CO/6, 2 November 2011
Follow-up paragraphs:	5, 10, and 12
First reply:	Due 2 November 2012; received 19 November 2012
Committee's evaluation:	Additional information required on paragraphs 5 **[B2]**, 10 **[B2]** and 12 **[B2]**
Second reply	Reply to the Committee's letter of 3 April 2013; received 27 June 2013

Paragraph 5: The State party should ensure that the current restructuring of the national human rights institution effectively transform it, with the view to conferring on it a broad mandate in human rights matters. In this regard, the State party should ensure that the new institution will be fully compliant with the Paris Principles.

Follow-up question:

Additional information remains necessary on:

(a) The decision made by the interministerial group on the shape of the new national human rights institution;

(b) The precise mandate, objectives, activities and monitoring mechanisms of the new institution.

Summary of State party's reply:

No decision on the format of the new national human rights institution, its precise mandate, objectives, activities and monitoring mechanisms has yet been taken. The Ministry of Foreign Affairs has, with the assistance of an interministerial working group, reviewed possible changes to the national human rights institution and produced a consultation document that outlines several options in this regard. The document has been circulated for general review to relevant organizations and NGOs with a deadline for responses of 17 September 2013. The decision on the shape and mandate of the new national institution will be based on this process.

Committee's evaluation:

[B2]: The Committee welcomes the consultation process with organisations and NGOs for the establishment of the new national human rights institution, but requires additional information on:

(a) The results of the consultation process carried out by the Ministry of Foreign Affairs with organizations and NGOs;

(b) The decision made by the Ministry of Foreign Affairs on what shape the new national human rights institution will take; and

(c) The precise mandate, objectives, activities, and monitoring mechanisms of the new institution.

Norway

Paragraph 10: The State party should take concrete steps to put an end to the unjustified use of coercive force and restraint of psychiatric patients. In this regard, the State party should ensure that any decision to use coercive force and restraint should be made after a thorough and professional medical assessment that determines the amount of coercive force or restraint to be applied to a patient. Furthermore, the State party should strengthen its monitoring and reporting system of mental health-care institutions so as to prevent abuses.

Follow-up question:

Additional action is required:

(a) To reduce the use of force against mental health patients;

(b) To strengthen the monitoring and reporting system in mental health-care institutions.

Data is required on the use of coercive force, including electroconvulsive treatment, in the mental healthcare system.

Summary of State party's reply:

The State party refers to the national strategy for increased voluntariness in the mental health services (2012–2015), which is the Government's answer to the main challenges in this area: to reduce coercion (both forced admissions, means of coercion and forced treatment/medication), to reduce the geographical differences in the use of coercion and to make sure that every coercive decision is reported properly in the national database.

An important dimension of the strategy is that it introduces a broad set of measures placing all levels of the sector under obligation. It is also part of these efforts that the Ministry of Health and Care Services has set a goal for hospitals to reduce the amount of forced admissions and treatment by 5 per cent in 2013.

The Ministry of Health and Care Services considers these ongoing measures to be an adequate current response to the challenges pointed out by the Committee while bearing in mind that it remains to be seen what the effects of the strategy on the use of force in Norwegian mental health institutions will be.

Concerning the data on the use of coercive force in the mental health care, in 2011 approximately 5,600 persons were admitted to mental health hospitals by force, out of a total of 8,300. The amount of forced admissions varies significantly between hospitals and regions. There is no certain knowledge about what causes the variations, but a reasonable explanation could be a possible varying distribution of illnesses in the population across the country and different ways of organizing and practicing mental health treatment.

Norwegian law does not allow electroconvulsive treatment (ECT) without the patient's consent. The only, narrow exception is when ECT is regarded necessary for a lifesaving purpose. National professional guidelines for the use of ECT are expected to be issued in 2014. As of today there are no national statistics on the use of ECT. It is planned that a register for such use will be implemented in 2014.

Committee's evaluation:

[B1] While the Committee welcomes the measures taken in the framework of the national strategy for increased voluntariness in the mental health services (2012–2015), it requires additional information on:

(a) The impact of the national strategy to end the unjustified use of coercive force and restraint of psychiatric patients;

(b) The measures foreseen in the national strategy to strengthen the monitoring and reporting system in mental health-care institutions and its impact;

Norway

(c) The procedure preceding the use of coercive force and restraint and on steps taken to ensure that such decisions are based on a thorough and professional medical assessment;

(d) The progress on the implementation of the national professional guidelines for the use of the electroconvulsive treatment and the establishment of a register for such use.

Paragraph 12: The State party should strictly limit the pretrial detention of juveniles and, to the extent possible, adopt alternative measures to pretrial detention

Follow-up question:

Additional information is required on:

(a) The precise criteria for "unconditional necessity" of pretrial detention of children;

(b) The measures taken to ensure that children are systematically held separately from adults.

Summary of State party's reply:

The introduction of the criteria "unconditional necessity" is meant to clearly limit the use of both police custody and pretrial detention of children. The preparatory work of the Criminal Procedure Act states that in certain circumstances police custody and pretrial detention of children are considered justified; however the threshold for its use is very high. This will depend on the needs of the criminal investigation, both to prevent the suspect from tampering with evidence or evading prosecution, to prevent suspects harming themselves or committing other criminal acts. It is specified explicitly that it is an absolute requirement that no other practical or alternative exists.

Section 185 of the Criminal Procedure Code states that if the court decides to remand the person charged in custody, it shall at the same time fix a specific time-limit for such custody if the main hearing of the case has not already begun. If the person charged is a child, the time-limit shall be as short as possible and not exceed two weeks, which can be extended by the court's order by up to two weeks at a time.

On measures taken to ensure that children are systematically held separately from adults, the State party referred to its reservation to article 10, paragraphs 2 (b) and 3 of the Covenant.

Committee's evaluation:

[A]: The Committee considers the State party's response largely satisfactory.

Recommended action: A letter should be sent reflecting the analysis of the Committee.

Next periodic report: 2 November 2016

105th session (July 2012)

Armenia

Concluding observations:	CCPR/C/ARM/CO/2, 25 July 2012
Follow-up paragraphs:	12, 14 and 21
First reply:	Due 24 July 2013; received 8 August 2013

NGO information: Helsinki Citizens' Assembly - Vanadzor

Armenia

Paragraph 12: The State party should establish effective investigative procedures to ensure that law enforcement officers found responsible for excessive use of force during the 1 March 2008 events, including those with command responsibility, are held accountable and appropriately sanctioned. The State party should also guarantee that victims of these acts receive adequate compensation, and that they have access to adequate medical and psychological rehabilitation.

Summary of State party's reply:

On 1 and 2 March 2008, a criminal case was instituted to investigate the events that took place between 1 and 2 March 2008 in Yerevan. For the purpose of clarifying the circumstances of death of the 10 people, an extensive investigation was carried out. The investigation findings have always been made available to the public through mass media.

The preliminary investigation conducted with regard to the criminal cases found that both during the events and in the course of prevention of "mass disorders", weapons of various types including "KS-23" type carbines were used both by the participants of the demonstration and the military. Concerning the gas grenade used in the events, an expert examination concluded it was impossible to identify the weapons from which they had been fired.

Four "non-commissioned officers" of the Police Troops were charged with breaching the rules of handling weapons, as a result thereof negligently causing the death of three people and bodily injuries of different severities to another three people.

The President of the Republic of Armenia gave instructions to accelerate the investigations. In this regard, a conference was convened at the Special Investigation Service and new actions were planned. The investigation group was recruited with new investigators. The preliminary investigation is pending.

NGO information:

No progress made by the State party. The Special Investigation Service, which investigated the excessive use of force and the murder of at least 10 people on 1 March 2008, released a report in December 2011. Since then no further action was taken, despite requests made by the civil society organizations.

Committee's evaluation:

[C1]: The State party referred to investigations which had been undertaken long before the adoption of the Committee's concluding observations on Armenia. It did not refer to any measures taken since the adoption of the Concluding observations. In addition, the Committee regrets that no information was provided on measures taken to compensate the victims and to provide them with adequate medical and psychological rehabilitation. Additional information should be requested on:

(a) Measures taken after the adoption of the concluding observations on Armenia, on 25 July 2012;

(b) The sanctions imposed on those responsible for excessive use of force during the 1 March 2008 events;

(c) Measures taken to guarantee that victims of the events of 1 March 2008 receive adequate compensation and that they have access to adequate medical and psychological rehabilitation.

Armenia

Paragraph 14: The State party should establish an independent system for receiving and processing complaints regarding torture or ill-treatment in all places of deprivation of liberty, and should ensure that any act of torture or cruel, inhuman or degrading treatment is prosecuted and punished in a manner commensurate with its gravity.

Summary of State party's reply:

"The Action Plan depriving from the National Strategy for the Protection of Human Rights" was submitted for consideration on 20 June 2013. Paragraph 36 of the Action Plan envisages the establishment of an independent mechanism for receiving and processing complaints regarding torture and ill-treatment in places of imprisonment. As a result, recommendations will be made to the government by the Ministry of Justice by 2014.

NGO information:

No progress made by the State party. The Ombudsman's office which serves as a national preventive mechanism only receives and studies complaints but does not conduct investigations. Furthermore, the Ombudsman's office was obliged to reduce its activities due to lack of funds.

No prosecution in the recent cases of torture or ill-treatment.

Committee's evaluation:

[C1]: The Committee welcomes the actions taken to establish an independent mechanism for receiving and processing complaints regarding torture or ill-treatment in places of deprivation of liberty, but considers that the recommendation has not yet been implemented. The Committee requests additional information on when the State party expects to have the independent mechanism established. The Committee reiterates its recommendation.

Paragraph 21: The State party should amend its domestic legal provisions in order to ensure the independence of the judiciary from the executive and legislative branch and consider establishing, in addition to the collegiate corpus of judges, an independent body responsible for the appointment and promotion of judges, as well as for the application of disciplinary regulations.

Summary of State party's reply:

Annex I of the 2012-2016 Strategic Programme for Legal and Judicial Reforms in the Republic of Armenia provides for the necessity of:

- Improving the procedure for a qualification test for inclusion in the list of candidacies for judges;
- Introducing objective criteria and procedures for the performance evaluation and promotion of judges;
- Introducing a more effective model of self-governance for judges;
- Reforming the procedures and grounds for subjecting a judge to disciplinary liability through guaranteeing objectiveness, fairness, efficiency and publicity of the disciplinary proceedings and so on.

The State party referred to articles 94, 95 and 97 the Constitution and article 11 of the Judicial Code.

Armenia

NGO information:

No progress related to the amendment of the law to ensure the independence of the judiciary despite the adoption of the 2012–2016 Strategic Programme for Legal and Judicial Reforms.

Committee's evaluation:

[C1] While the Committee welcomes the 2012–2016 Strategic Programme for Legal and Judicial Reforms in the Republic of Armenia, it considers that the actions taken do not implement the recommendation to amend its domestic law to ensure the independence of the judiciary. The Committee reiterates its recommendation.

Recommended action:

A letter should be sent reflecting the analysis of the Committee.

Next periodic report: 27 July 2016

105th session (July 2012)

Lithuania

Concluding observations: CCPR/C/LTU/CO/3, 24 July 2012

Follow-up paragraphs: 8, 9 and 12

First reply: Due 24 July 2013; received on 31 July 2013

Paragraph 8: The State party should take all necessary measures to ensure that its legislation is not interpreted and applied in a discriminatory manner against persons on the basis of their sexual orientation or gender identity. The State party should implement broad awareness-raising campaigns, as well as trainings for law enforcement officials, to counter negative sentiments against LGBT individuals. It should consider adopting a targeted national action plan on the issue. The Committee, finally, recalls the obligation of the State party to guarantee all human rights of such individuals, including the right to freedom of expression and the right to freedom of assembly.

Summary of State party's reply:

The State party has been conducting a number of measures for the implementation of a non-discrimination policy, such as the Inter-Institutional Action Plan for the Promotion of Non-discrimination 2012–2014 and projects of the PROGRESS programme, together with non-governmental organizations.

The purpose of the Inter-Institutional Action Plan is to ensure the implementation of educational measures for the promotion of non-discrimination and equal opportunities, increase legal awareness, reciprocal understanding and tolerance, and inform the society about manifestations of discrimination in the State party and its negative impact on the possibilities of certain groups of society to actively participate in the activities of society under equal conditions. Measures carried out in the framework of the Inter-institutional Action Plan include trainings and seminars for prosecutors, public servants, representatives of trade unions and other target groups on matters of equal opportunities and non-discrimination.

Lithuania

Regarding sex change, the right to change one's sex is provided for in the Civil Code. On 20 July 2012, a package of draft laws aimed at simplifying the procedure to change sex was submitted. The current law already provides for the main terms for the implementation of the right to change one's sex.

Committee's evaluation:

[B2]: While the Committee welcomes the adoption of the Inter-Institutional Action Plan for the Promotion of Non-discrimination 2012–2014, it requires further information on:

(a) Specific measures taken to ensure that national legislation is not interpreted and applied in a discriminatory manner against persons on the basis of their sexual orientation or gender identity;

(b) Specific trainings carried out to counter negative sentiments against LGBT individuals and its frequency; and

(c) Awareness-raising campaigns on LGBT issues.

Please also provide further information on measures taken to address the Committee's recommendation in the framework of the PROGRESS programme.

Paragraph 9: The State party should ensure an effective investigation into allegations of its complicity in human rights violations as a result of counter-terrorism measures. The Committee urges the State party to continue the investigations on the matter and to bring perpetrators to justice.

Summary of State party's reply:

The State party repeats its previous reply (CCPR/C/LTU/Q/3/Add.1, para. 39) on the pretrial investigation in criminal case No. 01-2-00016-10 regarding the possible transportation and imprisonment on the territory of persons detained by the Central Intelligence Agency of the United States of America, which was terminated on 14 January 2011, after finding that no criminal offence was committed.

The State party has not received any well-grounded or valuable information or data which could constitute a basis for the renewal of the pretrial investigation.

Committee's evaluation:

[C2]: The State party repeats its previous reply and provided no information on the measures taken to implement the Committee's recommendations. The Committee therefore reiterates them.

Paragraph 12: The Committee reiterates its earlier recommendation (CCPR/CO/80/LTU, para. 13) that the State party eliminate the institution of detention for administrative offences from its system of law enforcement. The State party should also take appropriate measures to implement alternatives to imprisonment as sentence, including probation, mediation, community service and suspended sentences

Summary of State party's reply:

Regarding administrative detention, on 19 September 2011, a draft Code of Administrative Offences was submitted to the Parliament. In the draft Code there is a proposal not to apply any longer, as an administrative penalty, administrative detention and removal from office.

Lithuania

Regarding alternatives to imprisonment, the State party referred to the Law on Probation (effective since 1 July 2012), which provides conditions to promote more frequent application of alternative sanctions. The Parliament also adopted amendments to the Criminal Code, the Criminal Procedure Code and the Penal Code, which provides for more lenient conditions for the suspension of the implementation of a sentence.

The conditions of and the procedure for release on parole from correction institutions have been amended substantially. Convicts who committed minor criminal acts may be released on parole from a correction institution sooner.

Even though a new procedure for release on parole from correction institutions became effective only on 1 July 2012, positive results with regard to the application of release on parole have already been observed: during the second half of 2012, 689 convicts were released on parole, which is 35 per cent more than during the first half of 2012 and 27 per cent more than during the second half of 2011. In total, in 2012, 1,198 convicts were released on parole, i.e. 7 per cent more than in 2011.

Committee's evaluation:

[C1]: Regarding administrative detention**,** the recommendation has not yet been implemented. The Committee reiterates it.

[B2]: With regard to alternative measures to imprisonment, the Committee welcomes the recent increase in the number of persons released on parole, but requires additional information on:

(a) The number of persons convicted for administrative offences released on parole in the last three years;

(b) Measures in place to guarantee the use of alternatives to imprisonment;

(c) The criteria for eligibility for the different forms of alternatives to imprisonment.

Recommended action: A letter should be sent reflecting the analysis of the Committee.

Next periodic report: 27 July 2017

106th session (October and November 2012)

Bosnia and Herzegovina

Concluding observations: CCPR/C/BIH/CO/2, 31 October 2012

Follow-up paragraphs: 6, 7, and 12

First reply: Due 31 October 2013; received 15 November 2013.

NGO information: TRIAL

Paragraph 6: The Committee reiterates its previous concluding observations (CCPR/C/BIH/CO/1, para. 8) that the State party should adopt an electoral system that guarantees equal enjoyment of the rights of all citizens under article 25 of the Covenant, irrespective of ethnicity. In this regard, the Committee recommends that the State party, as a matter of urgency, amend its Constitution and Election Law to remove provisions that discriminate against citizens from certain ethnic groups by preventing them from participating in elections.

Bosnia and Herzegovina

Summary of State party's reply:

With the aim of introducing the relevant constitutional and legislative amendments, the Council of Ministers adopted an Action Plan on 4 March 2010, and appointed a Working Group to draft the amendments. Despite these efforts, no agreement was reached on the proposed constitutional amendments.

Committee's evaluation:

[C2]: The State party repeated the arguments made in its periodic report submitted on 17 November 2010, before the adoption of the Committee's concluding observations of 31 October 2012 (CCPR/C/BIH/CO/2). The Committee therefore reiterates its recommendation.

Paragraph 7: The State party should expedite the prosecution of war crime cases. The State party should also continue to provide adequate psychological support to victims of sexual violence, particularly during the conduct of trials. Furthermore, the State party should ensure that the judiciary in all entities strongly pursues efforts aimed at harmonizing jurisprudence on war crimes and that charges for war crimes are not brought under the archaic Criminal Code of the former Socialist Federal Republic of Yugoslavia, which does not recognize certain offences as crimes against humanity.

Summary of State party's reply:

The High Judicial and Prosecutorial Council, together with the courts and prosecutor's offices, developed a plan for processing of war crime cases and appropriate instructions covering witness support and protection measures. Nevertheless, the funding for the implementation of these measures is yet to be secured.

(a) With respect to the need to expedite the prosecution of war crime cases, the Council of Ministers has approved the increase in the number of prosecutors in the Prosecutor's Office and three positions were advertised.

Brčko District is making significant efforts to expedite the processing of war crime cases, and to that end a Memorandum of Understanding between the United Nations Development Programme and judicial bodies of the Brčko District was prepared. The Memorandum defines the basis for the implementation of the project component entitled "Establishment of a Witness and Victim Support System in Brčko District BiH and Mostar".

(b) Concerning the need to provide adequate psychological support to victims of sexual violence, the Police of Brčko District has employed a psychologist. Since 2010, there were improvements to protect victims of sexual violence in the course of criminal proceedings. Victims have the support of psychologist; and vulnerable witness and witnesses under threat have the support of officers.

(c) With respect to efforts aimed at harmonizing jurisprudence on war crimes, the Supervisory Body has organized several meetings with judicial bodies. In addition an international conference on "Case Law in the Application of Criminal and Substantive Legislation in the War Crime Cases in Bosnia and Herzegovina and the Region" was organized.

The Criminal Code of the former Socialist Federal Republic of Yugoslavia should be viewed in the light of a recent decision rendered by the European Court of Human Rights in Strasbourg in Matouf and Damjanovic case, which states that from the aspect of equality of citizens before the law these cases should have been prosecuted under the Criminal Code of the Socialist Federal Republic of Yugoslavia as a more lenient law providing for lesser sanction in order to avoid the retroactive application of more stringent legislation.

Bosnia and Herzegovina

Brčko District applies the Criminal Code of the former Socialist Federal Republic of Yugoslavia as the law in force at the time of the offence. However, this has no effect on the prosecution of crimes against humanity since this type of crime is not under the jurisdiction of local judiciary.

Pending issues related to regional cooperation between Bosnia and Herzegovina, the Republic of Serbia and the Republic of Croatia have been resolved. The Prosecutor's Office of Bosnia and Herzegovina and the Office of the War Crimes Prosecutor of the Republic of Serbia signed the Protocol on Cooperation in Prosecution of Perpetrators of War Crimes, Crimes against Humanity and Genocide on 31 January 2013. Such an agreement was also signed on 3 June 2013 between the Prosecutor's Office of Bosnia and Herzegovina and the State Attorney's Office of the Republic of Croatia.

NGO information:

(a) With respect to the need to expedite the prosecution of war crime cases, although some progress was made over the past year, prosecutors' offices across country remain unable to effectively deal with all the pending war crime cases. More than 1,000 war crimes related investigations are ongoing in the State party.

The High Judicial and Prosecutorial Council requires additional human resources.

(b) The psychological support provided during trials to witnesses and victims of war crimes remains inadequate. Even where some support is provided, the persons in charge are not adequately trained to do so in a professional manner.

A draft law on Witness Protection Programme remains pending before the House of Representatives.

(c) With respect to efforts aimed at harmonizing jurisprudence on war crimes, the recent judgment of the European Court of Human Rights on the case of Maktouf and Damjanovic can influence war crime cases already decided by the State party's courts since 2003.

Committee's evaluation:

[B2]: With respect to the need to expedite the prosecution of war crime cases, additional information is required on:

(a) The impact of the adoption of the Memorandum of Understanding between Brčko District judicial institutions and the United Nations Development Programme, on the prosecutions of war crime cases;

(b) The impact of the National War Crimes Processing Strategy on the backlog of unresolved war-related cases; and

(c) Concrete measures taken to further increase the number of prosecutors and other staff of courts and prosecutor's offices.

[B2]: With respect to the need to provide adequate psychological support to victims of sexual violence, while the report indicates local measures to implement the Committee's recommendation, additional information should be requested on:

(a) How in practice the State party is guaranteeing that victims of sexual violence have access to adequate psychological support, especially outside of Brčko District; and

(b) Training provided to the personnel in charge of psychological support.

Bosnia and Herzegovina

[B2]: The Committee welcomes the State party efforts in harmonizing jurisprudence on war crimes, but requests additional information on the content and frequency of the meetings that the Supervisory Body has organized with judicial bodies. The Committee notes that charges for war crimes should not be brought under the Criminal Code of the former Socialist Federal Republic of Yugoslavia with regard to offences that were not typified as crimes against humanity, in accordance with international standards.

Paragraph 12: The State party should abolish the obligation in cases of disappearance which makes the right to compensation dependent on the family's willingness to have the family member declared dead. The State party should ensure that any compensation or other form of redress adequately reflects the gravity of the violation and the harm suffered.

Summary of State party's reply:

The Federal Ministry for Veterans and Disabled Veterans of the War of Defence and Liberation will, in the framework of amendments to the Law on the Rights of War Veterans and Members of Their Families, discuss Recommendation No. 12 of the Human Rights Committee with a view to its implementation through amendments to article 21, paragraph 4, of the Law.

NGO information:

The State party authorities have not carried out any particular assessment, nor have they consulted with associations of relatives of missing persons on this subject.

An amendment was drafted by TRIAL's representatives and was given to the Human Rights Commission of the Federal Parliament. For the moment, this amendment to the Federal Law on Social Protection is still being analysed.

Committee's evaluation:

[C1]: The Committee considers that actions taken by the State party do not implement the recommendations. The Committee therefore reiterates them.

Recommended action: Letter reflecting the Committee's analysis.

Next periodic report: 31 October 2016

106th session (October and November 2012)

Germany

Concluding observations: CCPR/C/DEU /CO/6, 31 October 2012

Follow-up paragraphs: 11, 14, and 15

First reply: Due 31 October 2013; received 21 October 2013

Paragraph 11: The State party should revise its Asylum Procedure Act to allow suspensive orders in case of transfers of asylum seekers to any State bound by the Dublin II Regulation. The State party should also inform the Committee whether it will extend the suspension of transfers of asylum seekers to Greece beyond January 2013.

Germany

Summary of State party's reply:

Within the framework of implementing directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011, primarily section 34a of the Asylum Procedure Act has been amended and will now read as follows:

(1) If the foreigner is to be deported to a safe third country (Section 26a) or to a country responsible for processing the asylum application (Section 27a), the Federal Office shall order his deportation to this country as soon as it has been ascertained that the deportation can be carried out. This shall also apply if the foreigner has submitted his asylum application in another state responsible for carrying out the asylum proceedings pursuant to legal provisions of the European Union or pursuant to an international convention, or if he has withdrawn the asylum application prior to the decision by the Federal Office. No prior deportation warning or deadline shall be necessary.

(2) Motions pursuant to Section 80 (5) of the Code of Administrative Court Procedure challenging the order for deportation must be submitted within one week after notification thereof. Where such a motion has been submitted in a timely manner, deportation shall not be permissible before the court decision is handed down.

This legal reform is designed to guarantee that all objections to transfers under the Dublin Regulation can be asserted in a timely manner and that legal review can be sought in a court proceeding before the transfer. The reform entered into force on 6 September 2013.

With regard to the suspension of transfers of asylum seekers to Greece, on 28 November 2012 the Interior Ministry decided to extend the suspension for an additional year until January 2014.

Committee's evaluation:

[A]: Concerning the need to revise the Asylum Procedure Act to allow suspensive orders in case of transfers of asylum seekers to any State bound by the Dublin II Regulation, the Committee welcomes the amendment of the Section 34a, subsection 2, of the Asylum Procedure Act and considers the State party's response largely satisfactory.

[B1]: On the suspension of transfers of asylum seekers to Greece, while the Committee welcomes the decision of the Interior Ministry to extend the suspension of transfer of asylum seekers to Greece until January 2014, additional information should be requested on whether the State party will extend the suspension of transfers of asylum seekers to Greece beyond January 2014; and if not, on what basis the suspension of transfer of asylum seekers to Greece might be lifted.

Paragraph 14: The State party should take necessary measures to use the post-conviction preventive detention as a measure of last resort and create detention conditions for detainees, which are distinct from the treatment of convicted prisoners serving their sentence and only aimed at their rehabilitation and reintegration into society. The State party should include in the Bill under consideration, all legal guarantees to preserve the rights of those detained, including periodic psychological assessment of their situation which can result in their release or the shortening of the period of their detention.

Summary of State party's reply:

The Act to Effect Implementation under Federal Law of the Distance Requirement in the Law Governing Preventive Detention, which entered into force on 1 June 2013, introduces a new freedom-oriented and treatment-based concept of preventive detention which implements the so-called "distance requirement" (difference in treatment between preventive detainees and prisoners serving sentences). The objective is to minimize the threat which those placed in preventive detention pose to the general public to such an

Germany

extent that the deprivation of liberty can be terminated as soon as possible. In addition to the court's examination whether the execution of preventive detention is still necessary for achieving its purpose, the court will now also examine whether placing someone in preventive detention would be disproportionate because the perpetrator was not offered adequate treatment options during his prison sentence. If that is the case, the preventive detention must be suspended on probation, which means that the person concerned must be released.

Moreover, the court also examines whether the preventive detainee has been offered adequate treatment options by conducting regular judicial reviews which determine whether the preventive detention should continue. The reviews are conducted annually and, after 10 years of preventive detention, every nine months.

At local level, the states have revised their laws. In addition, new facilities to house preventive detainees are being constructed and existing buildings are being altered to enlarge living areas and to upgrade living spaces. They will be suited to execute preventive detention in a treatment-based and freedom-oriented manner.

Committee's evaluation:

[A]: The Committee considers the State party's response largely satisfactory.

Paragraph 15: The State party should take effective measures to ensure full implementation of legal provisions related to the use, in compliance with the Covenant, of physical restraint measures in residential homes, including by improving training of staff, regular monitoring, investigations and appropriate sanctions for those responsible.

Summary of State party's reply:

The so-called "Werdenfelser Weg" is a procedural approach aimed at avoiding the use of physical restraints and measures involving deprivation of liberty. The main objective of this method is to ensure that care-based alternatives to physical restraint measures are thoroughly examined and discussed with all persons involved in the framework of judicial proceedings.

The "ReduFix" (2004 to 2006) and "ReduFix Praxis" (2007 to 2009) have shown that it is possible to reduce the use and duration of physical restraints without raising the frequency of injuries due to falls, if the care staff receives special training, alternative options are provided, and decent records are kept. Trainings were organized in this respect.

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth currently supports a project called "Information and Advice on Prevention and Support in Cases of Abuse and Neglect of Vulnerable Elderly or Disabled Persons", which aims to increase public awareness of the issue of abuse and neglect among vulnerable elderly and disabled people.

The Guidelines on the Prevention of Measures to Restrict Liberty in the Field of Professional Care for the Elderly, compiled with the support of the Federal Ministry of Education and Research, are receiving more and more attention and is increasingly being applied by care professionals.

Thanks to the Geriatric Nursing Act, which entered into force on 1 August 2003, the training of care staff for elderly people is, for the first time, uniformly regulated throughout Germany. The issue of physical restraints in care facilities is dealt with in the classroom.

The issue of physical restraints in care facilities is also going to be one of the main topics of the Alliance for People with Dementia, which forms a part of the Federal Government's demographic strategy.

Germany

A brochure entitled “There is another way!” was developed for relatives and guardians in order to inform them about the risks of measures involving deprivation of liberty and to offer alternatives to such measures.

In cooperation with the Institute for Health Research and Technology at the University of Applied Sciences of Saarland and the Saarland Care Association, training will be provided from October 2013 to July 2014 for the staff of residential care facilities, including 18 days’ training at district level and a further 10 days in 2014 at facilities for disabled people. The aim of this training is to provide an understanding of the legal framework conditions, impart knowledge of the risks and consequences of measures involving deprivation of liberty, and explore alternative measures, ways of determining root causes, possible technical support measures, and methods for advising and informing relatives.

Concerning the monitoring activities, the Medical Services of the health insurance funds (MDK) inspect every accredited residential and non-residential care facility in the State party once a year. As part of these quality controls, the MDKs also examine whether measures which restrict liberty are accompanied by the required approval or consent.

In Saxony, the MDK found violations in 14 out of a total of 4,779 examinations conducted last year. The care home inspectorate raised 18 complaints. If there is a suspicion of a criminal act being committed, the care home inspectorates pass on their findings to the criminal prosecution authorities.

Since the entry into force of the Hessian Act on Assistance and Care Services (HGBP) on 21 March 2012, there has been an explicit statutory provision in Hesse on consultation and controls: measures involving deprivation of liberty approved by a court must be limited to what is necessary and must be documented, whereby a record of this approval must be attached and the name of the person responsible for ordering the measure must be stated.

Committee’s evaluation:

[B2]: The Committee takes note of violations found out by the Medical Services of the health insurance funds in Saxony, but requires additional information on investigations and appropriate sanctions for those responsible for violations of legal provisions related to the use of physical restraint measures in residential homes.

Recommended action: A letter should be sent reflecting the analysis of the Committee.

Next periodic report: 31 October 2018