



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 third periodic report of the Democratic Republic of the Congo*

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

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations,¹ the Committee requested the State party to provide information on follow-up to the recommendations concerning: (a) fundamental legal safeguards (para. 13 (c)); (b) the establishment of an independent and effective national mechanism for the prevention of torture (para. 25); (c) investigations and prosecutions in cases of sexual violence and the provision of redress to victims (para. 33 (a) and (b)); and (d) investigations and prosecutions in cases of violence against children, the provision of redress to victims, the separation of children from adults in prisons and conditions of detention for children appropriate to their status as minors (para. 35 (a) and (c)). Noting that information was received from the State party on 18 September 2020,² and with reference to the letter, dated 4 November 2020, from the Rapporteur for follow-up to concluding observations, the Committee considers that the recommendations contained in paragraphs 25 and 35 (a) and (c) of its previous concluding observations have not been implemented. In addition, the information provided with regard to the recommendations contained in paragraphs 13 (c) and 33 (a) and (b) of the previous concluding observations is considered insufficient to assess implementation.

Articles 1 and 4

2. With reference to the Committee’s previous concluding observations,³ please indicate whether the State party plans to amend the definition of torture introduced under Act No. 11/008 of 9 July 2011 criminalizing torture or adopt other legislative measures to bring the Act into line with article 1 of the Convention and ensure that it provides for superior officers to be held criminally responsible and makes explicit that no exceptional circumstances may be invoked as a justification for torture. If it does, please state whether a timetable has been set for this amendment.

* Adopted by the Committee at its seventy-third session (19 April–13 May 2022).

¹ CAT/C/COD/CO/2, para. 42.

² CAT/C/COD/FCO/2.

³ CAT/C/COD/CO/2, para. 9.



Article 2⁴

3. In the light of the Committee's previous concluding observations⁵ and the information provided by the State party in its follow-up report,⁶ please provide information on the measures taken by the State party and the procedures put in place to ensure that:

(a) All detainees enjoy in law and in practice all legal safeguards from the outset of their deprivation of liberty, in particular the rights to have access to a lawyer, to be informed of their rights and of the charges against them, to notify a relative or any other person of their choice about their arrest, to request and receive an examination by an independent physician of their choice and to be brought promptly before a judge, regardless of the reason for their arrest;

(b) Registers are kept scrupulously up to date;

(c) The duration of police custody never exceeds 48 hours, the maximum allowed by law, regardless of the reason and in all jurisdictions;

(d) Detained persons have the right to challenge their detention before a judge or avail themselves of another habeas corpus procedure;

(e) Detained persons deprived of fundamental legal safeguards can avail themselves of a complaints procedure, and there are commensurate penalties for public officials who fail to respect the fundamental legal safeguards to which persons deprived of their liberty are entitled. Please also provide statistical data in this connection.

4. Following the state of siege declared by the President of the Republic on 30 April 2021 in North Kivu and Ituri Provinces and the impact that it has had on the administration of justice since 6 May 2021, please provide information on the criminal cases handled within the military justice system, which has assumed the functions of the civil courts in dealing with criminal cases. Please specify whether these cases concern civilians or crimes committed by military personnel against civilians. Please outline the fundamental safeguards afforded to prosecuted persons and the rights guaranteed to victims in the context of criminal proceedings.⁷

5. In the light of the Committee's previous concluding observations⁸ and the information provided by the State party in its follow-up report,⁹ please provide details of the steps that have been taken or are planned to establish the national mechanism for the prevention of torture within the existing National Human Rights Commission, clarify its legislative basis and the human and financial resources allocated to it, including whether it has its own budget sufficient for the effective fulfilment of its mandate, and describe how its institutional independence is guaranteed in accordance with the guidelines of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁰ Please indicate whether a timetable has been set in this regard. Please specify whether the national mechanism for the prevention of torture plans to conduct unannounced visits to all places of deprivation of liberty, including the cells used by the police, the gendarmerie and

⁴ 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, 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 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.

⁵ CAT/C/COD/CO/2, paras. 12 and 13.

⁶ CAT/C/COD/FCO/2. See also the letter, dated 4 November 2020, from the Rapporteur for follow-up to concluding observations to the State party.

⁷ A/HRC/48/47, paras. 4 and 21.

⁸ CAT/C/COD/CO/2, paras. 24 and 25.

⁹ CAT/C/COD/FCO/2. See also the letter, dated 4 November 2020, from the Rapporteur for follow-up to concluding observations to the State party.

¹⁰ A/HRC/42/5, paras. 119.47–119.53 and 119.55.

the army, and whether civil society organizations will be allowed to carry out regular unannounced visits to all places of deprivation of liberty.¹¹

6. Please provide updated information on the legislative or other measures taken during the period under review to combat all forms of violence against women, especially those cases involving actions and omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention. Please also provide updated information on the protection and support services available to victims of gender-based violence in the State party. Please provide statistical data, disaggregated by the age and ethnicity or nationality of the victim, on the number of complaints, investigations, prosecutions, convictions and sentences recorded in cases of gender-based violence since the consideration of the State party's second periodic report.¹² Please provide information on measures taken by the State party to bolster the prevention of harmful traditional practices, in particular female genital mutilation, early and forced marriage and accusations of witchcraft, and on the measures taken to crack down on these practices. In particular, please provide information on the legislative measures adopted to criminalize the practice of genital mutilation throughout the country, following the recommendation made by the Committee in its previous concluding observations.¹³

Article 3

7. Please describe the measures taken to ensure that no person is returned to a country in which he or she would be at risk of torture. Please indicate the procedure followed when a person invokes the rights guaranteed under article 3 of the Convention. Please describe the measures taken to guarantee effective access to the procedure for determining refugee status. Please outline the measures taken to ensure that procedural safeguards against refoulement are in place and that effective remedies, in particular review by an independent judicial body, are available during removal proceedings, especially at the appeal stage. Please indicate whether individuals facing expulsion, return or extradition are informed that they have the right to seek asylum and to appeal a deportation decision and, if they do, whether such an appeal has suspensive effect.

8. Please provide updated information on the number of asylum applications received during the period under review, the number of successful applications and the number of persons whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please indicate the measures taken by the State party to reduce any backlog that may exist with regard to asylum applications. Please also provide information, disaggregated by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled during the period under review, updated information on the type of appeal mechanisms that exist and a list of the countries to which such persons were returned. Please also indicate the number of returns, extraditions and expulsions carried out by the State party during the period under review on the basis of diplomatic assurances or the equivalent thereof. Please indicate the minimum content of any such assurances or guarantees and what measures have been taken in such cases with regard to subsequent monitoring.

Articles 5–9

9. Please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention. Please inform the Committee of any extradition agreements concluded with other States since the consideration of the State party's second periodic report and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such agreements. Please indicate what measures have been adopted by the State party to comply with its obligation to extradite or prosecute (*aut dedere aut judicare*). Please clarify what treaties or agreements on mutual judicial assistance the State party has entered into, and whether such treaties or agreements have led in practice

¹¹ [A/HRC/45/49](#), para. 65; and [A/HRC/48/47](#), para. 60.

¹² [CAT/C/COD/2](#).

¹³ [CAT/C/COD/CO/2](#), para. 35 (b).

to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

Article 10

10. With reference to the Committee's previous concluding observations,¹⁴ please provide information on the training programmes implemented since 2019 and indicate whether they are mandatory or optional. In particular, please provide detailed information on programmes implemented to ensure that:

(a) All public officials, in particular members of the armed forces and police and prison personnel, are familiar with the provisions of the Convention and Act No. 11/008, including the absolute prohibition of torture, and with non-coercive interviewing methods and that they treat members of vulnerable groups appropriately, specifically in the investigation and prosecution of crimes of sexual violence and crimes involving minors¹⁵ or persons with intellectual or psychosocial disabilities; please explain whether the State party has developed a method for assessing the results and effectiveness of those training programmes in reducing the number of cases of torture and ill-treatment and, if it has, provide information on the method's content and application;

(b) Law enforcement officials, in particular those involved in demonstration control, are familiar with and abide by the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

(c) Judges, prosecutors, forensic doctors and medical personnel dealing with persons deprived of their liberty are equipped to detect and document the physical and psychological sequelae of torture and verify the admissibility of confessions; please indicate whether these programmes include specific training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

Article 11

11. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and practices as well as arrangements for custody that have been introduced since the consideration of the State party's second periodic report, indicating the frequency with which they are reviewed. In the light of the Committee's previous concluding observations,¹⁶ please provide information on the steps taken to revise the legislative framework and put it into practice to ensure that all arrests and detentions, including those for which officers of the National Intelligence Agency are responsible, are subject to oversight by the judicial authorities. In particular, please indicate what measures have been taken to ensure that the use of detention in the case of the murder of Simba Ngezayo is subject to judicial oversight. Please provide information on the specific steps taken by the State party to end the practice of arbitrary arrest and detention by members of the Armed Forces of the Democratic Republic of the Congo and officers of the Congolese National Police. Please provide an exhaustive list of all places of detention, including closed places of detention and accessible places of detention overseen by a judicial authority.

12. Please describe the measures taken to reduce, in practice, the use of pretrial detention and its duration. Please provide information on the human and financial resources allocated to strengthen the functioning and effectiveness of the judicial system so that it can process detainees awaiting trial.¹⁷ In addition, please indicate what control measures, including disciplinary action, have been taken to ensure that the duration of pretrial detention does not exceed the maximum sentence that can be imposed.

¹⁴ Ibid., paras. 38 and 39.

¹⁵ A/HRC/48/82, para. 78 (e).

¹⁶ CAT/C/COD/CO/2, para. 15.

¹⁷ A/HRC/48/47, para. 49.

13. Please provide information on the progress of the ongoing reform of the prison system¹⁸ and on the steps taken or planned to avoid prison overcrowding and to reduce it throughout the State party.¹⁹ In addition, please explain what measures have been taken to ensure the separation of pretrial detainees from convicted prisoners, of men from women and of minors from adults in prisons and at police stations and specify at which facilities prisoners are not yet separated in this way. Please provide statistics for each year since 2019 on the numbers of pretrial detainees and convicted prisoners and the occupancy rate of every place of detention, including alleged secret places of detention, such as the secret cell on the grounds of a military camp of the Armed Forces of the Democratic Republic of the Congo,²⁰ disaggregated by the sex, age group (minor/adult) and nationality of the detained person (Congolese/foreign national). Please provide information on the steps taken to increase the use of alternatives to pretrial detention and imprisonment and to meet the specific needs of children in conflict with the criminal law, especially as regards rehabilitation and education services. Please explain what steps have been taken to provide medical care and adequate food in prisons. Please also detail the measures that have been taken to prevent deaths in prisons and investigate them, where they occur, including deaths caused by starvation and inadequate hygiene, especially during the period of the coronavirus disease (COVID-19) pandemic.²¹

14. Please provide statistical data on deaths in custody, including in police custody and in prisons, during the period under review, disaggregated by place of detention, sex, age group (adult/minor), ethnic origin or nationality, and cause of death (violence between or against persons deprived of their liberty, assaults committed or tolerated by public officials, excessive use of force, suicide, natural causes, illness or lack of timely medical care). Please include detailed information on the number of investigations carried out in these cases and the outcome of those investigations. Please also give details of the steps taken to investigate allegations of the rape and sexual assault of women, including a teenage girl, during a riot at Kasapa prison in Lubumbashi between 25 and 28 September 2020, the outcome of this investigation and any assistance provided to those women, including medical and psychological support.²²

15. Please provide information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with intellectual or psychosocial disabilities. Please indicate what is being done to move away from the institutionalization of persons with disabilities and whether other forms of care, such as community-based rehabilitation services and outpatient treatment programmes, are used.

Articles 12 and 13

16. In the light of the Committee's previous concluding observations,²³ please provide statistical data on complaints of acts of torture and ill-treatment for the period since 2019, indicating the services to which the persons accused of committing these acts belong. Please indicate how many ex officio investigations have been opened into the above-mentioned offences. Please provide information on all judicial and disciplinary proceedings initiated, convictions handed down, decisions to stay proceedings made, cases shelved, and criminal penalties and disciplinary measures imposed. Please specify the measures that have been adopted to establish an independent, effective, confidential and accessible complaints mechanism at all police custody facilities and prisons.

17. Please provide information on:

(a) Measures to protect civilians in areas of armed conflict and internally displaced persons and control measures to prevent the recurrence of such acts of violence;

¹⁸ A/HRC/45/49, para. 57.

¹⁹ Ibid., para. 53; and A/HRC/48/47, para. 49.

²⁰ A/HRC/48/47, para. 10.

²¹ A/HRC/45/49, para. 53; and A/HRC/48/47, para. 49.

²² A/HRC/48/47, para. 38.

²³ CAT/C/COD/CO/2, paras. 22 and 23.

(b) Measures to protect civilians affected by upsurges in inter-ethnic and inter-community violence, particularly in Tanganyika,²⁴ South Kivu,²⁵ North Kivu, Ituri²⁶ and Kasai²⁷ Provinces;

(c) Measures to ensure that all perpetrators – whether State, including members of the security services, or non-State²⁸ actors – accused of war crimes, crimes against humanity and other crimes, including extrajudicial, summary or arbitrary executions and cruel, inhuman or degrading treatment, or of complicity in such crimes, are prosecuted and that the victims obtain justice; please specify whether any investigations have been opened and prosecutions have been brought and, if they have, what the outcome of those investigations was.

18. In the light of the Committee's previous concluding observations,²⁹ the lack of relevant information provided by the State party in its follow-up report³⁰ and the information contained in the reports of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo in 2020 and 2021,³¹ please provide statistical data for the period since 2019, disaggregated by the nature of the offence and the age group (minor/adult) and sex of the victims, on offences committed by State forces (the Armed Forces of the Democratic Republic of the Congo and the National Police) and by non-State armed groups involving gender-based violence, including sexual violence, in conflict areas, indicating the numbers of cases recorded, complaints submitted, investigations opened, prosecutions brought, sentences handed down and penalties imposed. Please give details of the means of redress, including appropriate specialized rehabilitation services, provided to victims throughout the country. Please provide information on specific measures to give effect to the three-year plan (2020–2023) for the implementation of the Joint Communiqué between the Government of the Democratic Republic of the Congo and the United Nations on the Fight against Sexual Violence in Conflict and the addendum thereto, particularly in the area of comprehensive care for victims.³² Please also indicate the measures taken to combat child abuse, including the forced recruitment of children into armed groups and sexual exploitation in conflict areas. Please specify whether any investigations have been opened and prosecutions have been brought and, if they have, what the outcome of those investigations was and what redress was provided to victims.

19. In view of the conclusions and recommendations of the team of international experts on the situation in Kasai, please provide information on:

(a) The efforts that have been made to free the women still enslaved by Bana Mura militiamen,³³ detailing the measures that have been taken to speed up the investigation by the military justice system of the complaints of those who have managed to escape or have been freed, so as to ensure that the perpetrators of these crimes and their accomplices are brought to justice quickly, and to ensure that they have access to remedies, compensation and medical and psychological rehabilitation services;

(b) The measures that have been taken with regard to the prosecution of the alleged perpetrators of the human rights violations committed during the crisis linked to the Kamuina Nsapu militia.³⁴

20. With reference to the Committee's previous concluding observations³⁵ and in the light of reports highlighting the excessive use of force, extrajudicial executions, torture and the

²⁴ [A/HRC/48/47](#), para. 25.

²⁵ [Ibid.](#), para. 24.

²⁶ [A/HRC/WG.6/33/COD/2](#), para. 16.

²⁷ [Ibid.](#), para. 17; and [A/HRC/48/82](#), para. 18.

²⁸ [A/HRC/48/47](#), paras. 18–20.

²⁹ [CAT/C/COD/CO/2](#), paras. 32 and 33.

³⁰ [CAT/C/COD/FCO/2](#), paras. 13 and 14.

³¹ [A/HRC/45/49](#), paras. 33–44; and [A/HRC/48/47](#), paras. 34–42.

³² [A/HRC/45/49](#), para. 39; and [A/HRC/48/47](#), para. 40.

³³ [A/HRC/48/82](#), paras. 32 and 81.

³⁴ [Ibid.](#), paras. 13, 25, 26, 40, 42, 44, 76 and 85. See also [A/HRC/45/50](#).

³⁵ [CAT/C/COD/CO/2](#), paras. 28 and 29.

use of live ammunition to suppress political rallies and demonstrations,³⁶ please specify the control measures that have been put in place to ensure that the defence and security forces use non-violent measures before using force when conducting demonstration control operations. Please also provide data for the period since 2019, disaggregated by the nature of the offence and the sex, age group and ethnic origin of the victim, on allegations of the excessive use of force by public officials. Please provide information on the outcome of the investigations and prosecutions conducted in each case and the sentences and penalties imposed. Please provide information on the implementation of the recommendations of the joint commission of inquiry and the judicial investigations into the demonstrations that took place in December 2017 and January 2018, following the recommendation made by the Committee in its previous concluding observations.³⁷ In addition, please indicate whether any investigations have been opened into the use of force by the security forces, including against persons who did not comply with the protective measures imposed during the public health emergency declared by order of 24 March 2020 in response to the COVID-19 pandemic.

Article 14

21. In view of the Committee's previous concluding observations,³⁸ please indicate whether the State party has taken or is considering measures to ensure that victims of acts of torture and ill-treatment have access to effective remedies and can obtain redress,³⁹ including in cases in which the perpetrator has not been identified. Please provide information on redress and compensation measures, including means of rehabilitation, ordered by the courts and actually provided to victims of torture or their families since the consideration of the State party's second periodic report. That should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case.

22. Please also specify whether the State party has assessed the needs of victims of torture and ill-treatment with a view to putting in place specialized State rehabilitation services or funding other services run by non-governmental organizations. Please specify the resources allocated. In addition, please indicate whether the State party is considering establishing a national reparation fund, including for victims of sexual and gender-based violence, and give details of legislative and policy action in this regard.⁴⁰

Article 15

23. In the light of the Committee's previous concluding observations,⁴¹ please indicate whether the State party has taken legislative measures to ensure that the inadmissibility of confessions or statements extracted under torture is explicitly mentioned in its legislation. Please provide updated statistical data for the period since 2019 on the number of cases in which detainees have alleged that their confessions were extracted under torture, the number of cases in which confessions have been declared inadmissible, the number of cases that have been investigated and the outcome of those investigations.

Article 16

24. With reference to the Committee's previous concluding observations,⁴² please indicate whether the State party plans to abolish the death penalty in law and, as an interim measure, to declare an official moratorium on executions, commute all existing death sentences to prison sentences and become a party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Please provide information on measures to ensure that Act No. 09/001 of 10 January 2009 on child protection is applied such that no minor aged under 18 years is sentenced to

³⁶ [A/HRC/48/47](#), para. 9; and [A/HRC/45/49](#), para. 10.

³⁷ [CAT/C/COD/CO/2](#), para. 29 (c).

³⁸ *Ibid.*, paras. 40 and 41.

³⁹ [A/HRC/42/5](#), paras. 119.113, 119.141 and 119.192.

⁴⁰ [A/HRC/48/82](#), para. 45; and [A/HRC/45/50](#), para. 51.

⁴¹ [CAT/C/COD/CO/2](#), paras. 10 and 11.

⁴² *Ibid.*, paras. 36 and 37.

death. Please also provide statistical data on the number of individuals on death row and the number of executions per year since 2019,⁴³ including details of the crimes and the number of commuted sentences, and indicate whether minors or persons with intellectual or psychosocial disabilities have been sentenced to death and/or executed since 2019.

25. Please provide information on the measures, including legislative measures, taken since 2019 to protect human rights defenders, journalists, whistle-blowers and members of political parties,⁴⁴ and to punish the perpetrators of acts of violence against them, including arbitrary arrests and detentions, acts of torture, ill-treatment and intimidation, death threats and kidnappings.⁴⁵ Furthermore, please indicate the steps that have been taken to bring the bill on the protection of human rights defenders into line with international standards, including the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. Please indicate the timetable for the adoption of this bill.

26. Please indicate the measures taken to prevent, investigate, prosecute and secure convictions for violence based on the actual or perceived sexual orientation or gender identity of the victim,⁴⁶ provide protection and encourage victims to report such cases. Please provide statistical data on cases of hate crime identified since 2019 disaggregated by ground of discrimination, including the victim's sexual orientation or gender identity, age group, sex and ethnic origin or nationality, and state whether the perpetrator was a public official. Please also provide information on the outcome of the investigations and prosecutions conducted in each case and the sentences and penalties imposed.

27. Please describe the measures taken to prevent violence against persons with albinism and to combat such violence.⁴⁷

Other issues

28. Please provide updated information on the measures taken by the State party to respond to threats of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please describe how the State party has ensured that counter-terrorism measures are compatible with all its obligations under international law, especially the Convention. Furthermore, please indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subjected to counter-terrorism measures; and whether there have been complaints of non-observance of international standards in applying measures to combat terrorism, and if so, what the outcome was.

29. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the COVID-19 pandemic to ensure that its policies and actions comply with its obligations under the Convention. In addition, please specify the measures taken in relation to persons deprived of their liberty, including in places such as homes for older persons, hospitals or institutions for persons with intellectual or psychosocial disabilities.

⁴³ [A/HRC/48/47](#), paras. 47 and 51.

⁴⁴ See, inter alia, [A/HRC/42/5](#), paras. 119.90, 119.91, 119.96, 119.97, 119.100, 119.126 and 119.138.

⁴⁵ [A/HRC/48/28](#), para. 61, and annex I, paras. 31 and 32; and [A/HRC/45/36](#), para. 64, and annex I, paras. 36–38.

⁴⁶ [A/HRC/WG.6/33/COD/2](#), para. 12.

⁴⁷ *Ibid.*, paras. 11 and 12.

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

30. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the ratification of the Convention to implement its provisions, including institutional developments, plans or programmes. Please indicate the resources allocated and provide statistical data. Please also provide any other information that the State party considers relevant.
