



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

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## Committee against Torture

### List of issues prior to submission of the eighth periodic report of Paraguay\*

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

##### Issues identified for follow-up in the preceding concluding observations

1. In its preceding concluding observations (CAT/C/PRY/CO/7, para. 42),<sup>1</sup> the Committee requested the State party to provide it with information on the follow-up given to its recommendations on issues of particular concern, namely, on the resources provided to the national preventive mechanism and the implementation of its recommendations (para. 15); the investigation and punishment of acts of torture and ill-treatment and the suspension of persons investigated in connection with such acts (para. 17 (b), (d) and (g)); and the investigations conducted, punishments handed down and reparations granted in relation to the violations committed by the Joint Task Force, including measures taken to ensure that only civilian police forces are entrusted with matters relating to internal security (para. 19). The Committee regrets that the State party has not provided this information, despite the reminder sent to it on 7 December 2018 by the rapporteur for follow-up to concluding observations. The Committee considers that the recommendations included in paragraphs 15, 17 (b), (d) and (g) and 19 of its preceding concluding observations have not yet been fully implemented (see paras. 5, 21 and 27 below).

##### Articles 1 and 4

2. With reference to the Committee’s preceding concluding observations (paras. 8 and 9), please indicate what measures have been taken to bring the content of article 309 of the Criminal Code into line with article 1 of the Convention so that discrimination is identified as one of the specific purposes for which torture may have been committed.

\* Adopted by the Committee intersessionally on 7 May 2020.

<sup>1</sup> Unless otherwise indicated, paragraph numbers shown in brackets refer to the preceding concluding observations adopted by the Committee.



**Article 2<sup>2</sup>**

3. With reference to the preceding concluding observations (paras. 10 and 11), please provide detailed information on the measures taken to ensure that persons deprived of their liberty enjoy, in practice and from the outset of their deprivation of liberty, all fundamental legal safeguards, in particular the rights to notify a person of their own choosing of their detention and to have access to a lawyer from the very beginning of their detention.<sup>3</sup> Please also provide information on the measures taken to ensure that detainees can request and receive a medical examination by a qualified professional that is conducted in a manner that upholds their right to confidentiality. Please indicate what measures have been taken to monitor the use of arrest logs and appropriately punish officials who fail to fill out the logs or to uphold fundamental safeguards.

4. With reference to the preceding concluding observations (paras. 12 and 13), please provide information on the measures taken to strengthen the operational capacity of the Public Defender Service so that it can provide assistance as a matter of course to all detainees with limited economic resources from the outset of their detention. Please clarify whether the Public Defender Service compiles records on the complaints of torture and ill-treatment made by the persons it assists and, if so, please provide statistics, disaggregated by year and by age group (minor/adult), sex and ethnic origin or nationality of the victim, on the number of complaints of torture and ill-treatment received since 2017 and on the outcomes of those complaints.

5. Pursuant to the preceding concluding observations (paras. 14 and 15), please provide information on the concrete measures taken to ensure that the national preventive mechanism has sufficient resources to carry out its work in accordance with the Optional Protocol to the Convention.<sup>4</sup> Please also provide information on the steps taken by the State party since 2017 to act upon the mechanism's recommendations, as required by law.

6. Bearing in mind that, in March 2019, the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions recommended that the Ombudsman's Office should be accredited with B status,<sup>5</sup> please indicate what legislative or other measures have been taken to bring this institution into full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), as recommended by the Subcommittee.<sup>6</sup> Please provide statistics, disaggregated by year and by age group (minor/adult), sex and ethnic origin or nationality of the victim, on the number of complaints of torture and ill-treatment received by the Ombudsman's Office since 2017, on the investigations conducted by the Office and on the follow-up given to those investigations.<sup>7</sup>

7. With reference to the preceding concluding observations (paras. 40 and 41), please provide information on the steps taken since 2017 to prevent, combat and punish femicide, trafficking and contemporary forms of slavery<sup>8</sup> and all acts of violence against women, girls and adolescents,<sup>9</sup> including women in prostitution,<sup>10</sup> with particular regard to cases that involve acts or omissions on the part of State authorities or other entities that engage the

<sup>2</sup> The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2, the obligation to prevent torture set forth 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.

<sup>3</sup> CCPR/C/PRY/CO/4, paras. 28 and 29 (b).

<sup>4</sup> Ibid., paras. 24 and 25 (e).

<sup>5</sup> "Report and Recommendations of the Session of the Subcommittee on Accreditation", March 2019, pp. 10–14.

<sup>6</sup> Ibid. See also CCPR/C/PRY/CO/4, paras. 10 and 11; A/HRC/39/52/Add.1, para. 64 (vi).

<sup>7</sup> CAT/OP/PRY/1; CAT/OP/PRY/2, paras. 22 and 23.

<sup>8</sup> A/HRC/39/52/Add.1, para. 68 (iii).

<sup>9</sup> CCPR/C/PRY/CO/4, paras. 18 and 19.

<sup>10</sup> CEDAW/C/PRY/CO/7, paras. 24 and 25.

State party's international responsibility in accordance with the Convention. Please include statistics, disaggregated by year, by age group (minor/adult) and ethnic origin or nationality of the victim and by the relationship between the victim and the perpetrator, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of gender-based violence, trafficking and contemporary forms of slavery since 2017.<sup>11</sup> Please also provide information on the measures taken since the consideration of the State party's preceding periodic report to ensure that all victims of violence and trafficking have access to justice, assistance and protection, including legal aid,<sup>12</sup> particularly in rural areas.<sup>13</sup> Please indicate whether there are plans to amend the Criminal Code to guarantee safe, legal and effective access to voluntary terminations of pregnancy when the life of the pregnant woman or girl is in danger and when carrying the pregnancy to term could cause the pregnant woman or girl substantial harm or suffering, especially in cases where the pregnancy is the result of rape or incest or is not viable.<sup>14</sup>

### Article 3

8. In the light of the preceding concluding observations (paras. 34 and 35), please indicate whether procedural protocols have been put into practice at the State party's borders for the identification of asylum seekers who enter Paraguay illegally so that they may be referred to the national asylum system and for the identification of persons in vulnerable situations among potential asylum seekers, including victims of torture, contemporary forms of slavery<sup>15</sup> or gender-based violence,<sup>16</sup> in order to ensure that no person is returned to a country where he or she would be at risk of torture. Please indicate whether individuals facing expulsion, return or extradition are informed that they have the right to seek asylum and/or to appeal a deportation/extradition decision and whether such an appeal has suspensive effect. Please provide information on how the State party ensures that asylum seekers have access to legal assistance and interpretation services.

9. Please provide statistics for the period since 2017, disaggregated by year and by age group (minor/adult), sex and country of origin/nationality of the victim, on: (a) the number of asylum applications registered; (b) the number of applications for asylum or other forms of humanitarian protection that have been approved and the number of asylum seekers whose applications have been granted because they had been tortured or run the risk of being tortured if returned; (c) the number of persons who have been returned, extradited or expelled, indicating the grounds on which they were returned and providing a list of the countries of destination; and (d) the number of appeals filed against expulsion decisions on the grounds that the applicants could be in danger of being subjected to torture and ill-treatment in their countries of origin and the outcomes of those appeals. Please indicate whether the State party has put in place mechanisms to monitor the situation of vulnerable individuals and groups in receiving countries after their deportation.

10. Please indicate the number of refoulements, extraditions and expulsions that the State party has carried out since 2017 after receiving diplomatic assurances or the equivalent thereof and the number of cases in which the State party has provided diplomatic assurances or guarantees of its own. Please indicate what the minimum required content of those assurances or guarantees is, whether given or received, and the arrangements made for subsequent monitoring in such cases.

### Articles 5 to 9

11. Please indicate whether torture and the related offences mentioned in article 4 of the Convention are extraditable offences and whether they are covered in extradition treaties concluded with other States parties. Please provide information on cases in which the State party has agreed to extradite a person for having committed torture or related offences and

<sup>11</sup> CCPR/C/PRY/CO/4, paras. 18 and 19 (a); CEDAW/C/PRY/CO/7, paras. 20 (e) and 21 (e).

<sup>12</sup> CCPR/C/PRY/CO/4, paras. 32 and 33.

<sup>13</sup> Ibid., paras. 18 and 19; CEDAW/C/PRY/CO/7, paras. 20 (b) and 21 (b).

<sup>14</sup> CCPR/C/PRY/CO/4, paras. 20 and 21; CEDAW/C/PRY/CO/7, paras. 36 (d) and 37 (d).

<sup>15</sup> A/HRC/39/52/Add.1, para. 70 (iii).

<sup>16</sup> CEDAW/C/PRY/CO/7, paras. 22 (c) and 23 (c).

on cases in which the State party has refused, for any reason, another State's request for the extradition of an individual suspected of having committed acts of torture and, pursuant to that refusal, has initiated legal proceedings against that individual.

12. Please specify what mutual judicial assistance treaties or agreements the State party has entered into with other entities, whether they be countries, tribunals or international institutions, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with trials concerning acts of torture or ill-treatment. Please provide examples.

#### **Article 10**

13. In the light of the preceding concluding observations (paras. 20 and 21), please provide information on training programmes conducted by the State party to ensure that all public officials, including members of the armed forces, police officers, law enforcement officials, prison officers, and immigration and border control officers: (a) have a full understanding of the provisions of the Convention and are aware that violations will not be tolerated and will be investigated and that those responsible will be prosecuted; (b) treat members of vulnerable groups appropriately, with due regard for their gender, cultural or ethnic affiliation and sexual orientation or gender identity; (c) are aware of the principle of non-refoulement and the provisions guaranteeing the right to asylum and facilitating the identification of applicants who may be victims of torture, gender-based violence or contemporary forms of slavery;<sup>17</sup> (d) are aware of the principles of precaution, proportionality and necessity with regard to the use of force, especially in the context of demonstrations,<sup>18</sup> and of non-coercive techniques for investigating and controlling the prison population. Please indicate whether this training is mandatory or optional, how often it is provided, what proportion of the total number of officers has received the training and whether there are plans to provide this training to the officials who have yet to receive it. Please also clarify whether the State party has developed a methodology for assessing the effectiveness and impact of training programmes in reducing the incidence of torture and ill-treatment and, if so, please provide information on that methodology.

14. In the light of the preceding concluding observations (paras. 10, 11, 16 and 17 (f)), please provide information on training programmes organized since 2017 for judges, prosecutors, forensic doctors and medical personnel who deal with persons deprived of their liberty to enable them to detect and document the physical and psychological after-effects of torture, to improve the quality of investigations, to classify such situations correctly and to avoid gender stereotyping and re-victimization during investigations.<sup>19</sup> Please indicate whether those 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).<sup>20</sup> Please also provide information on the measures taken to ensure the standardization of forensic medical examinations of victims conducted in the course of investigations of cases of torture and ill-treatment.

#### **Article 11**

15. With reference to the preceding concluding observations (paras. 24, 25, 26, 27, 32 and 33), please indicate what practical steps have been taken to reduce the use and duration of pretrial detention, especially in the case of children and adolescents in conflict with the law, and to ensure that persons are placed in pretrial detention only after an examination of their individual cases and when such a course of action is deemed to be reasonable and necessary.<sup>21</sup> Please also provide information on the measures taken to reduce prison overcrowding,<sup>22</sup> including measures aimed at promoting the use of alternatives to

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<sup>17</sup> A/HRC/39/52/Add.1, para. 70 (iii).

<sup>18</sup> CCPR/C/PRY/CO/4, paras. 24 and 25 (b).

<sup>19</sup> *Ibid.*, para. 19 (d); CEDAW/C/PRY/CO/7, paras. 12 and 13.

<sup>20</sup> CCPR/C/PRY/CO/4, paras. 24 and 25 (c).

<sup>21</sup> *Ibid.*, paras. 28 and 29 (a).

<sup>22</sup> *Ibid.*, paras. 26 and 27.

deprivation of liberty, before and after trial.<sup>23</sup> Please clarify whether measures have been taken to establish the maximum capacity for each prison, in accordance with international standards of living conditions and the provisions of the Penal Enforcement Code. Please provide statistics for each year since 2017, disaggregated by sex, age group (minor/adult) and nationality of the detained person, on the number of pretrial detainees and convicted prisoners and on the occupancy rates of all places of detention.

16. With reference to the preceding concluding observations (paras. 26 and 27), please provide information on the steps taken to improve detention conditions at police stations and detention centres<sup>24</sup> and to ensure that detainees awaiting trial in prison are housed separately from convicted prisoners<sup>25</sup> and that men are held separately from women and adolescents are held separately from adults in police detention facilities. Please also specify the places of deprivation of liberty in which these categories of detainees are yet to be separated from one another. Please also provide information on the measures taken to ensure that the rights of persons deprived of their liberty who are particularly vulnerable, such as women and lesbian, gay, bisexual, transgender and intersex persons, are treated with respect in accordance with international standards and without discrimination of any kind.<sup>26</sup> Please also provide information on the steps taken to allocate the necessary resources to ensure that prisoners receive appropriate medical and health care. Please also indicate what measures have been taken to ensure that detained persons receive a comprehensive medical examination upon admission to prison facilities and that their physical and mental health is regularly monitored, as recommended by the national preventive mechanism.

17. As requested by the Committee in its preceding concluding observations (paras. 30–33), please provide information on the steps taken by the State party to ensure that its laws and disciplinary practices, including the use of solitary confinement, are in line with international standards. Please also provide information on the measures taken by the State party to prevent and eliminate the use of corporal and psychological punishment, including isolation, of children and adolescents in educational institutions and to prevent and eliminate the use of abusive police controls in respect of such children and adolescents by ensuring proper oversight, among other means.<sup>27</sup> Please also provide information on the measures taken by the State party to ensure, where possible, that prisoners are held in establishments close to their homes and that determinations of the need for transfers are monitored by the competent authority. Please also indicate what measures have been taken to ensure that registration and admission procedures at prison facilities are not degrading to detainees or visitors.

18. Please provide information on whether a national register has been established to record incidents of violence (fights between prisoners, riots, use of force, use of rubber bullets or other measures of control taken by security guards) at prisons and educational establishments, as recommended by the national preventive mechanism in 2018. Please provide information on the number of such cases recorded per year since 2017, in particular those in which negligence on the part of officials may have been a factor, and the results of any subsequent investigations. Please clarify whether measures have been taken to combat corruption in the prison system and to ensure the equal distribution of space. Please provide information on the number of complaints received since 2017 concerning corruption on the part of prison staff, including the alleged charging of “fees” to prisoners, and the results of investigations into those complaints, whether launched at the discretion of investigators or at the request of one of the parties.

19. With reference to the preceding concluding observations (paras. 28 and 29), please provide statistics on the number of deaths of persons in custody since 2017, including in mental health institutions and police detention centres, disaggregated by year and by place of detention, sex, age group (minor/adult), ethnic origin or nationality of the deceased and

<sup>23</sup> CEDAW/C/PRY/CO/7, paras. 44 and 45 (a).

<sup>24</sup> CCPR/C/PRY/CO/4, paras. 26 and 27.

<sup>25</sup> CEDAW/C/PRY/CO/7, paras. 44 and 45 (b) and (c).

<sup>26</sup> CCPR/C/PRY/CO/4, paras. 26 and 27; CEDAW/C/PRY/CO/7, paras. 44 and 45 (b).

<sup>27</sup> CCPR/C/PRY/CO/4, paras. 26 and 27.

cause of death, together with information on the number of deaths attributed to assaults committed or tolerated by public officials in which excessive force was used or timely medical assistance and treatment was lacking. Please give details on any cases in which administrative inquiries and/or investigations by prosecutors have been launched to determine whether public officials bore any responsibility for those deaths, the results of those investigations and the measures taken to prevent similar cases from occurring in the future. Please indicate whether, in any of the cases, relatives of the deceased were awarded compensation. Please provide specific information on the progress of the investigations into the following cases: the deaths of four teenagers at the Itaguá educational centre in 2014; the deaths of two boys in a fire at a juvenile detention facility in Ciudad del Este in September 2017; and the deaths that occurred during a riot at the San Pedro de Ycuamandiyú regional penitentiary.<sup>28</sup>

20. Please also provide data for each year since 2017 on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with psychosocial disabilities. Please explain what procedural and substantive guarantees are applicable to the involuntary confinement of persons with psychosocial disabilities and the alternatives to confinement that exist for such persons, such as community-based rehabilitation services and other outpatient treatment programmes.<sup>29</sup> Please provide information on the use of physical and chemical means of restraint and other medical non-consensual coercive measures on persons admitted to psychiatric institutions.

### **Articles 12 and 13**

21. With reference to the preceding concluding observations (paras. 16 and 17), please provide information on the steps taken to establish an independent, confidential mechanism to provide persons who are deprived of their liberty with the means to submit complaints to the Office of the Prosecutor.<sup>30</sup> Please also indicate what measures have been taken to enhance the effectiveness and independence of the internal investigation mechanisms of the police, how those mechanisms interact with the Office of the Prosecutor during investigations and what safeguards are in place to ensure that there is no hierarchical or institutional link between the suspected perpetrators and the inspectors. Please also indicate whether the alleged perpetrator is automatically suspended from his or her functions while the investigation is being conducted and/or prohibited from further contact with the alleged victim.

22. In the light of the preceding concluding observations (paras. 16, 17, 20, 21, 22 and 23), please provide statistics for each year since 2017, disaggregated by sex, age group (minor/adult), ethnic origin and nationality of the victim and the service in which the accused person is employed, on complaints of actual or attempted acts of torture and ill-treatment and on any complicity, participation or acquiescence in such acts during the period under review.<sup>31</sup> Please include information on all investigations conducted either at the discretion of investigators or at the request of one of the parties, the disciplinary and criminal proceedings initiated, any cases in which proceedings have been stayed, cases have been set aside, convictions have been handed down and criminal penalties or disciplinary measures have been imposed. In this respect, please provide information on the outcome of the investigations into the alleged torture of inmates Esteban Villasanti, Fidel Villasanti and Alicia Cáceres at Villarrica regional prison in 2017.

23. With reference to the preceding concluding observations (paras. 38 and 39), please describe any progress that has been made in the investigation and prosecution of serious human rights violations that took place during the dictatorship (1954–1989) and the transition period, which lasted until 2003, including cases of torture and enforced disappearance.<sup>32</sup> Please also indicate what measures have been taken to expedite the search for persons who disappeared during this period; to investigate, exhume and identify the

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<sup>28</sup> Ibid., paras. 26 and 27.

<sup>29</sup> Ibid., paras. 30 and 31.

<sup>30</sup> Ibid., paras. 24 and 25 (d).

<sup>31</sup> CEDAW/C/PRY/CO/7, paras. 44 (d) and 45 (d).

<sup>32</sup> CCPR/C/PRY/CO/4, paras. 12 and 13.

human remains found at the clandestine grave site on the property known as Finca 66 in Ciudad del Este; and to ensure the protection of victims, witnesses and relatives.

#### Article 14

24. In the light of the preceding concluding observations (paras. 36 and 37), please provide information on the measures of redress and compensation, including means of rehabilitation, ordered by the courts and actually provided to victims of torture or their families since 2017. This information should include the number of applications for compensation that have been submitted, the number of such applications that have been granted and the amounts awarded and actually paid in each case. Please indicate what progress has been made during the reporting period to provide redress and compensation to victims of human rights violations during the dictatorship (1954–1989), irrespective of when the claim was filed.

25. Please also provide information on any ongoing reparation programmes for victims of torture and ill-treatment, including those providing for the treatment of trauma and other forms of reparation, on the degree of cooperation with specialized non-governmental organizations in that area and on the material, human and budgetary resources allocated to those programmes in order to enable them to operate effectively.

#### Article 15

26. Please provide examples of cases that have been dismissed by the courts during the reporting period owing to the introduction of evidence or testimony obtained by means of torture or ill-treatment.

#### Article 16

27. Please indicate what steps have been taken to address police brutality and the excessive use of force by law enforcement officials, including instances of extrajudicial killings. In this regard, please provide:

(a) Information on the process involved in repealing Act No. 5036/2013 and in strengthening the role of the National Police to enable it to assume the law and order functions exercised by the Joint Task Force;<sup>33</sup>

(b) Statistics, disaggregated by year and by type of offence, sex, age group and ethnic origin or nationality of the victim, on the number of cases of excessive use of force and extrajudicial killings by public officials identified since 2017 and the number of prosecutions sought, convictions secured and penalties imposed in relation to those cases. In particular, please provide information on the outcome of investigations and any reparations granted in relation to: (i) the use of arbitrary detention, excessive force, torture or ill-treatment during the demonstrations that took place in Asunción on 31 March and 1 April 2017;<sup>34</sup> (ii) the human rights violations allegedly committed by agents of the Joint Task Force in the north of the country; (iii) the allegations of disproportionate use of lethal force, torture and ill-treatment by State forces in connection with a raid carried out on 15 June 2012 in San Isidro de Curuguaty and the alleged violations of due process committed during the corresponding judicial proceedings conducted to date;<sup>35</sup> and (iv) the alleged cases of arbitrary evictions and the burning of homes and destruction of the agricultural produce of indigenous peoples, including the eviction of members of an Ava Guaraní community from the town of Ybyrarobaná on 7 December 2018.

28. Please provide detailed information on the legislative process leading up to the adoption of the bill on the protection of journalists and human rights defenders and on any other measures adopted to provide effective assistance and protection to civil society representatives at risk, to investigate the crimes committed against them and to punish the perpetrators of acts of violence and intimidation directed at them.<sup>36</sup> Please indicate how

<sup>33</sup> Ibid., paras. 18 and 19.

<sup>34</sup> Ibid., paras. 24 and 25 (a).

<sup>35</sup> Ibid.

<sup>36</sup> Ibid., paras. 36 and 37; CEDAW/C/PRY/CO/7, paras. 28 and 29.

many complaints of acts of violence and intimidation directed against members of these groups have been registered each year since 2017, specifying those in which the alleged perpetrators are State actors.

29. Please indicate what legislative and other measures have been taken by the State party to combat hate crimes and acts of intolerance directed against specific groups, with particular regard to the protection of lesbian, gay, bisexual, transgender and intersex persons.<sup>37</sup> Please provide data on cases involving hate crimes that have occurred since 2017, disaggregated by type of motive/basis of discrimination, sex, age group and ethnic origin or nationality of the victim and by whether the perpetrator was a public official or not. Please provide information on the outcome of the investigations and prosecutions conducted in each case and the sentences and penalties imposed.

#### **Other issues**

30. Considering that the prohibition of torture is absolute and non-derogable, including in the context of measures such as states of emergency and other exceptional circumstances, please provide information on the measures taken by the State party during the coronavirus disease (COVID-19) pandemic to ensure that its policies and actions are in compliance with its obligations under the Convention. In addition, please indicate what measures have been taken with regard to persons deprived of their liberty, including in places of confinement such as homes for older persons, hospitals and institutions for persons with intellectual and psychosocial disabilities.

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

31. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the preceding report to give effect to the provisions of the Convention or the Committee's recommendations. This may include information on institutional developments, plans or programmes and, in particular, information on resource allocations and statistical or any other data that the State party considers relevant.

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<sup>37</sup> CCPR/C/PRY/CO/4, paras. 14 and 15; CEDAW/C/PRY/CO/7, paras. 20 (d) and 21 (d).