



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

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## Committee against Torture

### List of issues prior to the submission of the sixth periodic report of Colombia due in 2019\*

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

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

1. In its previous concluding observations (CAT/C/COL/CO/5),<sup>1</sup> the Committee requested that the State party provide it with information regarding follow-up to the recommendations relating to: (a) the excessive use of force by law enforcement officers or military personnel (para. 16); (b) the conditions of detention in the country's prisons (para. 17); and (c) the redress provided to victims of torture or ill-treatment (para. 22). The Committee takes note of the follow-up report submitted by the State party on 22 September 2016 (CAT/C/COL/CO/5/Add.1) and wishes to express its appreciation for the information provided therein. However, the Committee is of the view that the recommendations contained in paragraphs 16, 17 and 22 of its preceding concluding observations have still not been implemented (see paragraphs 24, 17 and 26 below, respectively).

##### Articles 1 and 4

2. With reference to the Committee's preceding concluding observations (para. 7), please provide updated information on the measures taken by the State party to bring articles 137 and 178 of the Criminal Code into line with article 1 of the Convention so that the definition of the crime of torture includes acts of torture committed to intimidate or coerce a third person.

##### Article 2<sup>2</sup>

3. In respect of the Committee's preceding concluding observations (para. 8), please provide detailed information on the measures adopted to ensure that persons who are

\* Adopted by the Committee at its sixtieth session (18 April-12 May 2017).

<sup>1</sup> Unless otherwise indicated, paragraph numbers in parentheses refer to the Committee's preceding concluding observations.

<sup>2</sup> The issues raised under article 2 may also relate to other articles of the Convention, including article 16. As stated in paragraph 3 of general comment No. 2 (2008) on the implementation of article 2 by States parties, the obligation to prevent torture set out in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment established under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment 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.



deprived of their liberty enjoy in practice, and from the outset of their detention, all fundamental legal safeguards. These safeguards include the maintenance of an official register of detainees, the right to receive legal counsel without delay, the right to have a person of their choosing informed of their detention and the right to request a medical examination by a physician of their choosing, regardless of whether or not a medical examination is conducted at the request of the authorities.<sup>3</sup>

4. In the light of the preceding concluding observations (para. 25), please provide detailed information regarding the measures taken to protect judges and prosecutors from threats and attacks. Please include information on the number of complaints, investigations, prosecutions, convictions and sentences handed down in such cases.

5. Please provide detailed information regarding the reform of the military justice system (para. 11). Please indicate what concrete measures have been adopted to ensure that grave human rights violations and other abuses committed against civilians by military personnel do not fall within the jurisdiction of military courts.

6. With reference to the preceding concluding observations (para. 13), please provide statistical data, disaggregated by age and ethnic origin or nationality of the victims, regarding the number of complaints, investigations, prosecutions, convictions and sentences handed down in cases of gender-based violence, including domestic violence, since the consideration of the country's fifth periodic report in April and May 2015.<sup>4</sup> Please provide information on the means of redress provided to victims and the support services available to them. Please indicate what measures have been taken by the State party to ensure redress for victims of sexual violence perpetrated by armed groups and by members of security forces in the context of the armed conflict (para. 14).<sup>5</sup> Please also provide information on the implementation of Act No. 1761 of 2015, which defines the offence of feminicide.

7. Please provide updated information, disaggregated by age, sex and ethnic origin or nationality of the victims, regarding the number of complaints, investigations, prosecutions, convictions and sentences handed down in cases of trafficking in persons since the examination of the preceding periodic report. Please also provide additional information on: (a) the applicable legislation and any other measures taken to prevent, combat and punish trafficking in persons; (b) the steps taken to ensure that trafficking victims have access to basic support services and assistance (accommodation, medical and psychological treatment and so forth) and to effective judicial remedies and measures of redress; and (c) any bilateral or subregional agreements in place with other countries aimed at preventing and combating trafficking in persons.<sup>6</sup>

### Article 3

8. Please provide detailed information on any important new normative and institutional developments in the areas of asylum and protection of refugees. With reference to the preceding concluding observations (para. 15), please indicate what measures have been adopted to ensure that no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would run a personal, foreseeable risk of being subjected to torture. Please indicate what procedure is followed when a person invokes this right and what concrete measures have been taken to rescind or amend legal provisions barring persons in transit at border checkpoints from submitting asylum applications to migration authorities. Please advise the Committee whether persons awaiting expulsion, return or extradition are informed of their right to seek asylum and to lodge an appeal and, if so, whether or not such appeals have suspensive effect.

9. Please provide detailed statistical information on the number of requests for asylum received during the period under consideration, the number of requests accepted and the number of applicants whose requests were accepted because they had been tortured or were

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<sup>3</sup> CED/C/COL/CO/1, paras. 29-32.

<sup>4</sup> CCPR/C/COL/CO/7, paras. 18-19; A/HRC/31/3/Add.2, para. 92.

<sup>5</sup> CCPR/C/COL/CO/7, paras. 18-19; CRPD/C/COL/CO/1, paras. 44-45; CRC/C/COL/CO/4-5, paras. 65 (c); A/HRC/31/3/Add.2, para. 92.

<sup>6</sup> CCPR/C/COL/CO/7, paras. 26-27.

at risk of torture if they were returned. Please include information, disaggregated by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of the preceding periodic report. Please provide details of the reasons why they were returned and a list of the countries of destination. Please provide updated information on what types of appeal mechanisms are in place, whether any appeals have been brought and, if so, what their outcomes were.

10. Please indicate how many cases there have been in which persons have been returned, extradited or expelled by the State party based on its acceptance of diplomatic assurances or equivalent guarantees during the reporting period. Please also indicate how many cases there have been in which the State party has itself offered diplomatic assurances or guarantees. Please indicate what the minimum requirements are for any such assurances or guarantees, whether given or received, and what arrangements for subsequent monitoring have been made in such cases.

#### **Articles 5 and 9**

11. Please indicate what legislative or other measures have been taken during the reporting period in order to give effect to article 5 of the Convention. Please indicate whether acts of torture are considered universal crimes under national law, irrespective of where they occur and the nationality of the perpetrator or victim. Please provide relevant examples of proceedings brought in such cases.

12. Please inform the Committee of any extradition treaties that have been concluded with other States parties and indicate whether such treaties include the offences referred to in article 4 of the Convention as extraditable offences. Please indicate whether the State party also considers the Convention as a legal basis for extradition in respect of such offences.

13. Please clarify what mutual legal assistance agreements or treaties Colombia has entered into with other entities, such as countries, international courts or international institutions. Please also indicate whether, in practice, such treaties or agreements have led to the transfer of any evidence relating to prosecutions concerning torture or ill-treatment. Please provide examples.

#### **Article 10**

14. With reference to the preceding concluding observations (para. 24), please provide updated information regarding training programmes in the field of human rights and prohibition of torture conducted by the State party with a view to ensuring that all civil servants, in particular members of the armed forces, police officers, other law enforcement personnel and prison officers, have a full understanding of the provisions of the Convention and are aware that breaches will not be tolerated and will be investigated and that those responsible will be prosecuted. Please also indicate whether the State party has formulated a methodology for assessing the effectiveness and impact of those training programmes in reducing the number of cases of torture, ill-treatment and excessive use of force and, if so, please provide information on the content and application of that methodology.<sup>7</sup>

15. Please provide updated information on training programmes for judges, prosecutors, forensic doctors and other medical staff who deal with detained persons that are designed to ensure that they are able to detect and document the physical and psychological consequences of torture. Please inform the Committee whether these programmes include specific training in respect of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

#### **Article 11**

16. Please describe the procedures established to ensure compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods

<sup>7</sup> CAT/C/COL/CO/5/Add.1, paras. 16-42.

and practices that are in place and on the arrangements made for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under the State party's jurisdiction that have been adopted since the consideration of the preceding periodic report. Please also indicate how frequently these standards and arrangements are reviewed.

17. With reference to the preceding concluding observations (para. 17), please provide updated statistical data, disaggregated by sex, age group and ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and the occupation rate for all places of detention. With reference to the information provided by the State party in its follow-up report,<sup>8</sup> please evaluate the effectiveness of the measures that have been adopted in easing overcrowding and improving the conditions of detention in prisons and in pretrial detention centres.<sup>9</sup> Please also indicate what measures have been adopted with a view to improving the infrastructure of prisons and other places of detention, including the water supply and sewerage systems. Please comment on information received from the Ombudsman's Office indicating that there are serious shortcomings in the provision of health-care services to persons deprived of their liberty. Please indicate what concrete measures have been taken to allocate the resources required for the provision of proper medical and health care, including psychiatric services, in prisons, in particular following the declaration of a state of emergency in the prison system by the Ministry of Justice on 6 May 2016.<sup>10</sup> Lastly, please provide information on the measures taken to ensure that remand prisoners are held separately from convicted prisoners.

18. In line with the Committee's preceding concluding observations (para. 20), please indicate what measures have been adopted to ensure that the recommendations made by the Ombudsman's Office in the context of its prison inspection activities are duly acted upon. Please also provide information on the concrete measures taken by the State party in response to the report on conditions in 29 prisons submitted by the Comptroller General's Office to the Constitutional Court in January 2017 in compliance with Judgment T-388 of 2013 and Judgment T-765 of 2015.

19. With reference to the preceding concluding observations (para. 18), please provide information on the measures taken to ensure that the use of solitary confinement is in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

20. Please provide information on the frequency of violence among prisoners, including information on any cases involving possible negligence on the part of prison personnel, and on the number of complaints made in this regard. Please indicate what preventive measures have been established. Also please comment on reports of cases in which minors being held in detention centres have been forcibly medicated as a means of coercion.

21. With reference to the preceding concluding observations (para. 19), please provide statistical data on the number of persons who have died in custody during the reporting period, disaggregated by place of detention, sex, age, ethnic origin or nationality and cause of death. Please provide detailed information on the results of the investigations into these deaths and on the measures taken to prevent similar cases from occurring in the future. In particular, please provide information on the result of the investigations into the deaths of: (a) Pedro Luis Lozano in a special treatment unit at the Palogordo prison on 21 August 2015; and (b) Adriana Paola Bernal in a special treatment unit at the Jamundí prison in Valle del Cauca. Please indicate whether family members have received compensation in any of these cases.

22. Please provide information regarding the procedural and substantive guarantees that are applicable in situations of involuntary confinement of persons with psychosocial disabilities. Please indicate what the situation is in relation to alternative forms of treatment, such as community-based rehabilitation services and other outpatient treatment

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<sup>8</sup> Ibid., paras. 60-74.

<sup>9</sup> CCPR/C/COL/CO/7, paras. 28-29; A/HRC/31/3/Add.2, paras. 93-94.

<sup>10</sup> CAT/C/COL/CO/5/Add.1, paras. 43-59; A/HRC/31/3/Add.2, para. 93.

programmes and inform the Committee how many persons are currently receiving these alternative forms of treatment.

### Articles 12 and 13

23. In the light of the Committee's preceding concluding observations (para. 21), please provide statistics, broken down by sex, age, ethnic origin or nationality and place of detention, on the number of complaints of acts of torture or ill-treatment registered during the reporting period.<sup>11</sup> Please state how many ex officio investigations have been opened into incidents of torture and ill-treatment and provide information on the judicial and disciplinary proceedings that have been initiated, convictions handed down and criminal penalties and disciplinary measures imposed. In this regard, please provide examples of relevant cases and/or judicial decisions. Also please indicate whether or not existing complaints mechanisms available to persons deprived of their liberty have been evaluated.

24. Taking into account the preceding concluding observations (para. 16) and the information provided by the State party in its follow-up report on allegations regarding the excessive use of force by law enforcement officers,<sup>12</sup> please provide updated statistical data, disaggregated by the age, sex and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences handed down in cases of police brutality and excessive use of force since the consideration of the preceding periodic report. In particular, please provide information on the outcome of the investigations and on disciplinary and/or criminal proceedings concerning the deaths of: (a) Sibertón Paví Ramos on 3 April 2016; (b) Willington Quibarecama Nequirucama on 29 May 2016; (c) Gersain Cerón and Marco Aurelio Díaz on 2 June 2016; and (d) Luis Orlando Saiz on 12 July 2016. Please provide information on the complaints of torture and ill-treatment made by 10 detainees after their arrest by officers of the Mobile Anti-riot Squad during a farmworkers' strike on 29 August 2013. Please also comment on reports that, since the consideration of the preceding periodic report, numerous incidents involving the excessive use of force by officers of the Mobile Anti-riot Squad have occurred.

25. Please describe the mechanisms that have been established as part of the peace process to ensure that cases of torture, enforced disappearance, extrajudicial killings and other grave human rights violations that occurred during the armed conflict (para. 10) are investigated and prosecuted.<sup>13</sup> Please provide information on the legislative measures adopted by the State party to develop a programme for the authorization of amnesties, pardons and special dispensations that complies with international human rights standards.

### Article 14

26. With reference to the information provided by the State party in its follow-up report,<sup>14</sup> please provide updated information on redress and compensation measures, including means of rehabilitation, ordered by the courts and actually provided to victims of torture since the consideration of the preceding periodic report.<sup>15</sup> This information should include the number of claims submitted, the number of claims admitted and the amounts awarded and actually paid in each case.<sup>16</sup> Please also provide information on the steps taken to create an integrated truth, justice, reparation and non-recurrence system pursuant to the Final Agreement for Ending the Conflict and Building a Stable and Long-lasting Peace.<sup>17</sup>

27. Please provide updated information on programmes to provide redress to victims of torture and ill-treatment, including treatment for physical and psychological trauma and other forms of rehabilitation, and on the allocation of adequate resources to ensure the effective implementation of such programmes. Please indicate the degree of cooperation

<sup>11</sup> CCPR/C/COL/CO/7, paras. 28-29; CRC/C/COL/CO/4-5, paras. 27 (a) and 28 (b).

<sup>12</sup> CAT/C/COL/CO/5/Add.1, paras. 16-42.

<sup>13</sup> CCPR/C/COL/CO/7, paras. 8, 9, 14, 15, 24 and 25; CERD/C/COL/CO/14, paras. 14 and 15; CED/C/COL/CO/1, paras. 19-28; A/HRC/31/3/Add.2, paras. 6, 11-13 and 52-62.

<sup>14</sup> CAT/C/COL/CO/5/Add.1, paras. 75-100.

<sup>15</sup> Ibid., para. 90; CED/C/COL/CO/1, paras. 33-36.

<sup>16</sup> A/HRC/31/3/Add.2, paras. 7, 8, 18, 19, 35, 46, 49 and 65-73.

<sup>17</sup> Ibid., para. 7.

maintained with specialized non-governmental organizations in this area and indicate whether the State party provides financial and/or other means of support for their operations.

#### **Article 15**

28. In the light of the preceding concluding observations (para. 23), please provide examples of cases that have been dismissed by the courts due to the introduction of evidence or testimony obtained through torture or ill-treatment.

#### **Article 16**

29. Taking account of the preceding concluding observations (para. 12), please indicate what measures have been adopted by the State party to bring an end to criminal activity on the part of members of the illegal armed groups that formed after paramilitary organizations were disbanded.<sup>18</sup>

30. In the light of the preceding concluding observations (para. 26), please provide updated information on the measures adopted by the State party to ensure the safety and physical integrity of human rights defenders, social leaders, trade unionists and journalists by protecting them against any acts of intimidation or violence that they may face in the course of their activities. Please indicate how many complaints of acts of violence and/or intimidation aimed at members of these groups have been lodged during the period under consideration. Please also provide detailed information on the results of the criminal investigations opened into these offences and on the corresponding prosecutions and convictions.

31. In the light of the preceding concluding observations (para. 27), please indicate what practical measures have been taken by the State party to combat violence against individuals based on their sexual orientation or gender identity, in particular sexual assaults and murders of gay persons and transgender women.<sup>19</sup> In particular, please provide information on the outcome of the investigations and on disciplinary and/or criminal proceedings concerning the death of Carlos Torres at the prison located at 14-20, Highway 32, Puente Aranda on 5 December 2015.

32. Taking into account the preceding concluding observations (para. 9), please comment on the information before the Committee according to which searches and military operations continue to be conducted in which men of military age are taken into custody indiscriminately in order to identify those who have not completed their mandatory military service. Please comment on reports of acts of aggression against persons held in custody during these operations.<sup>20</sup>

#### **Other issues**

33. Please indicate whether the State party has considered ratifying the Optional Protocol to the Convention.<sup>21</sup>

34. Please provide up-to-date information on the measures taken by the State party to respond to the threat of terrorism and describe the impact that any such measures have had on legislative and other human rights safeguards. Please explain how the State party has ensured that counter-terrorism measures are consistent with all its obligations under international law, especially the Convention, in conformity with relevant Security Council resolutions, in particular resolution 1624 (2005). Please describe the training in this area given to law enforcement officials, the number and types of convictions handed down in application of counter-terrorism legislation and the legal remedies available to persons subject to counter-terrorism measures. Please also indicate whether there have been

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<sup>18</sup> CCPR/C/COL/CO/7, paras. 10-14; CERD/C/COL/CO/14, para. 17; A/HRC/31/3/Add.2, paras. 23-30.

<sup>19</sup> CCPR/C/COL/CO/7, paras. 16-17; A/HRC/31/3/Add.2, para. 90.

<sup>20</sup> See Colombian Coalition against Torture, follow-up report, pp. 2-4. See also CCPR/C/COL/CO/7, paras. 34-35 and A/HRC/31/3/Add.2, para. 45.

<sup>21</sup> A/HRC/31/3/Add.2, para. 94.

complaints of failures to comply with rules of international law and, if so, provide information on the outcome of those complaints.

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

35. 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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