



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

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## Committee against Torture

Forty-fourth session

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### List of issues to be taken up in connection with the consideration of the fourth to sixth periodic reports of France (CAT/C/FRA/4-6)\*

#### Articles 1 and 4

1. While noting the information provided in paragraphs 6 to 10 of the periodic report of the State party, the Committee reiterates the recommendation it gave in paragraph 5 of its previous concluding observations (CAT/C/FRA/CO/3) that the State party should incorporate into its criminal law a definition of torture that is in strict conformity with article 1 of the Convention, so as to draw a distinction between acts of torture committed by or at the instigation of or with the consent or acquiescence of a public official or any other person acting in an official capacity, and acts of violence in the broader sense committed by non-State actors.

2. In the light of the information provided in paragraph 10 of the State party's report and bearing in mind the Committee's previous concluding observations (in particular the recommendation in paragraph 5) and its general comment No. 2 on the implementation of article 2 by States parties, please supply details of the follow-up given to its recommendation that torture be made an imprescriptible offence and any obstacles standing in the way of its implementation.

#### Article 2

3. With regard to the audio-visual recording of adults under police custody (para. 69), please indicate whether cameras have been installed in all police stations where persons are held in custody, or whether the State party intends to do so. If so, please indicate the timetable for such installations. In places where cameras have already been installed, please indicate the measures taken to ensure their proper functioning and the availability of recordings in the event of complaints alleging mistreatment by the police. Please also indicate what exceptions to compulsory audio-visual recording (para. 71) are permitted and

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\* The paragraph numbers given in brackets in this document refer to the report of the State party published under reference CAT/C/FRA/4-6.

the *ratio legis* of such exceptions. If such cases arise, please indicate the measures taken to protect persons in police custody from the risk of torture or degrading treatment.

4. In its last concluding observations (CCPR/C/FRA/CO/4, para. 19), the Human Rights Committee had recommended that the State party should have no tolerance for acts of ill-treatment perpetrated by law enforcement officials against foreign nationals, including asylum-seekers, who are detained in prisons and administrative detention centres; that it should establish adequate systems for monitoring and deterring abuses, and that it should develop further training opportunities for law enforcement officials. Please indicate what action has been taken on this recommendation. Please indicate also whether a medical report is automatically issued for a detainee who has been injured either during or after arrest. Please also provide information on measures taken to ensure that immediate, impartial and effective inquiries are conducted concerning allegations of ill-treatment by officials responsible for implementing the law and that the perpetrators are prosecuted and appropriately punished.

5. Since the adoption of Act No. 2006-64 of 23 January 2006, in terrorism cases police custody may last up to six days (the present 96 hours, plus a possible extension of 24 hours, renewable once) where there is a serious risk of an imminent terrorist act or where the requirements of international cooperation make it mandatory. Please indicate how many times this procedure has been followed. Please also give information on measures taken by the State party to provide suspects with fundamental legal guarantees, including the right to talk to a lawyer.

6. Please indicate measures taken by the State party to respond to concerns about the Secure Detention (*rétention de sûreté*) Act, which provides that persons found guilty of certain offences who have served their sentences in full may be kept in detention for indefinitely renewable periods of one year if they are considered dangerous or present a very high risk of recidivism.

7. Please: (a) provide detailed, up-to-date information on the use of conducted energy devices (tasers) in the State party, including the legislative or regulatory framework for their use; (b) specify which security forces are authorized to use them and in what circumstances; (c) indicate whether training in the use of tasers is provided for security forces authorized to use them and, if so, supply details; (d) indicate whether studies have been carried out in France to determine the consequences of using tasers on individuals and, if so, provide information on the results obtained; (e) indicate whether a similar system to that adopted by the national gendarmerie for collecting information on each case of taser use has been introduced for the national police. In that connection, please provide details of the ruling of 2 September 2009 by the Council of State concerning the repeal of the decree authorizing the use of tasers by municipal police officials and on measures taken to follow up that ruling.

### **Article 3**

8. Please indicate the measures taken by the State party during the period covered by its periodic report to guarantee that no person is expelled who is in danger of being subjected to torture if returned to a third State. In that respect, please indicate whether the State party has incorporated into its national legislation the Framework Decision by the Council of the European Union of 13 June 2002 on the European arrest warrant and the surrender procedures between member States providing for this obligation. If not, please give reasons. Please also indicate the measures taken to ensure that the individuals concerned have a right of appeal against a deportation order with suspensive effect.

9. Please indicate whether effective means of monitoring the fate of deported persons have been adopted. Please provide examples of cases in which the French authorities have refrained from extradition, refoulement or deportation for fear that the persons concerned might be tortured and indicate on the basis of what information such decisions have been taken. Please also indicate which countries have made extradition requests to the State party, if any, in application of article 3. Please indicate further whether the State party has itself made any such requests and to which countries those requests were addressed.

10. Please provide up-to-date information on the measures taken by the State party to ensure: (a) that undocumented foreign nationals and asylum-seekers are properly informed of their rights, including their right to apply for asylum and to receive free legal aid; and (b) that persons subject to deportation orders are allowed sufficient time to prepare an asylum application, access to the services of a translator and a right of appeal with suspensive effect. Has the draft decree incorporating European Union Council Directive 2005/85/EC of 1 December 2005, referred to in paragraph 19 of the report of the State party, been adopted?

11. The memorandum of the Council of Europe Commissioner for Human Rights refers to evidence that detained asylum-seekers were taken to their consulates to obtain a “consular pass” while their asylum applications were still under examination by the French Office for the Protection of Refugees and Stateless Persons (OFPRA). Such a contact would endanger not only the asylum-seekers themselves but also their relatives and friends. Please indicate what measures have been taken by the State party to ensure that such practices do not occur.

12. Please indicate what measures the State party has taken to make sure that no unaccompanied minor held in an airport holding area is expelled to a country of origin or to a transit country where the minor is in danger of being subjected to torture or cruel, inhuman or degrading treatment, including trafficking.

13. Please provide information on allegations received over the period covered by the periodic report of the State party concerning the collective arrest of persons with a view to placing them in administrative holding centres pending their return to a third State (CAT/C/FRA/CO/3, para. 10).

14. Please provide detailed information on the operation to dismantle the camps for undocumented migrants near Calais. In particular, please indicate what measures were taken by the State party to ensure that no person at risk of being subjected to torture if returned to a third State would be deported.

15. With regard to the response to requests for interim measures submitted by the Committee through its Special Rapporteur for new complaints and interim measures (in accordance with article 108, paragraph 1, of its Rules of Procedure), and taking due note of the State party’s comments, referring back to the comments it made in communication No. 300/2006, *Tebourski v. France*, the Committee would like to know how the State party reconciles its position and practice in this respect with its obligations under article 22 of the Convention, aimed ultimately at protecting the rights arising under the Convention of persons under its jurisdiction.

16. Please inform the Committee of the follow-up given to the Committee’s conclusions in communications No. 195/2002, *Brada v. France* (decision of 17 May 2005) and No. 300/2006, *Tebourski v. France* (decision of 1 May 2007), where the Committee had concluded that the expulsion of the complainants to Algeria and Tunisia, respectively, constituted a breach of articles 3 and 22 of the Convention. Please give details of recent measures taken by the State party to confirm the present place of residence of the complainants and to ascertain what has become of them.

## **Articles 5, 6 and 7**

17. Please indicate what measures will be taken by the State party to implement the Committee's recommendation concerning the revision of the current draft bill on adapting French legislation to the Rome Statute of the International Criminal Court by extending the scope of universal jurisdiction (CAT/C/FRA/CO/3, para. 13).

18. Please indicate whether, since its last report, the State party has concluded any new extradition treaties, including for acts of torture. Please also give examples of judgements or extradition cases decided or rejected by the State party, and in relation to which other States. Lastly, please indicate whether the State party has received or has itself filed requests for mutual judicial assistance in any criminal proceedings relating to cases of torture. Please also indicate whether, since its last report, France has had occasion to use the Convention against Torture as a legal basis for the extradition of persons accused of committing acts of torture.

## **Article 10**

19. Please describe measures taken to reform the system for training police officers in order to prevent ill-treatment by such officers. Please indicate whether the ethics manual for the national police (CAT/C/FRA/CO/3, para. 15) has been updated and provide information on measures taken by the State party to extend and improve the training given to police officers and any other person responsible for implementing the law. Please also give details of the training undergone by police officers in the use of immobilization techniques in the so-called "ventral decubitus" position, which has resulted in the death of several individuals.

20. Please state whether the provisions of the Convention form an integral part of training for law enforcement personnel, especially prison wardens in charge of detainees, including minors and psychiatric patients, and deportation officers. Is information on possible sanctions and penalties under French law in cases where the Convention is violated included in such training? Please also specify whether such courses include a component for medical personnel in charge of identifying physical and psychological signs of torture in persons deprived of liberty and conducting their rehabilitation, in accordance with the Istanbul Protocol. If so, please specify by whom such training is given and the methodology used to assess it.

## **Article 11**

21. Please provide information on the content of reports submitted to the Ministry of Justice on visits by district prosecutors to places where persons are held in custody. Does the State party intend to publish these reports? If not, please give reasons.

## **Articles 12 and 13**

22. Please provide examples of the application of article 15-2 of the Code of Criminal Procedure, under which the General Inspectorate of Judicial Services may participate in investigations into unlawful or at least unethical behaviour by civil servants, in particular police officers or gendarmes (para. 123).

23. In the light of the statement in paragraph 188 of the report of the State party that Ministry of Justice statistics are derived from the final judgements entered into the judicial record, please provide any disaggregated data available to the State party concerning the

number of complaints, investigations, prosecutions and convictions for acts of torture or ill-treatment that have occurred in the State party since its last report to the Committee.

24. Please provide detailed information, in addition to that contained in paragraph 136 of the report of the State party, concerning the number of convictions for acts of torture by public officials or other persons acting in an official capacity, or at the instigation of or with the consent or acquiescence of such an official, and indicate the sentences imposed. Please also state whether the suspected perpetrators are automatically suspended or transferred during the investigation and whether they are allowed to retain their positions following disciplinary action.

25. Please indicate the measures taken by the State party to protect persons who report violence by law enforcement officials against acts of intimidation, defamation or possible reprisals.

26. According to information received by the Committee, law enforcement bodies and judicial authorities do not always conduct investigations into allegations of ill-treatment that comply with international standards, which leads to de facto impunity. Please comment on this information in the light of article 12 of the Convention.

27. Please indicate steps taken to ensure that a detailed, independent and impartial investigation is conducted in response to every complaint of torture or ill-treatment and to bring the perpetrators to justice. In particular, please give details of the Lahouari Mahamedи case.

28. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment recommended that the State party should launch a debate regarding accusations of violence brought against law enforcement officials and report back to the Committee on the views expressed. Please state how that recommendation was followed up and give details of the results of the measures taken.

29. Please indicate whether the State party intends to take the necessary measures to enable the National Commission on Security Ethics (CNDS) to accept cases referred to it directly by any person who claims to have been subjected to torture or cruel, inhuman or degrading treatment (CAT/C/FRA/CO/3, para. 22). If not, please give reasons.

## Article 14

30. Please state whether France offers victims of acts of torture or cruel, inhuman or degrading treatment physical, psychological or social rehabilitation services and how often such offers have been taken up. Please also state whether the State party has paid victims of torture compensation, and if so how much, following court rulings in torture cases.

## Article 16

31. Please provide disaggregated statistical data on the prison population. Please also give details of the measures currently taken to address the problem of prison overcrowding, which is reaching “alarming levels” in some establishments (para. 156). Please also indicate whether the State party intends to increase the use of alternative or non-custodial punishments.

32. Please: (a) provide up-to-date information on the results of works undertaken to extend and renovate the prisons of New Caledonia (para. 162); (b) state whether the renovation of the electrical network in remand prisons (para. 164) has been resumed; and (c) provide up-to-date information on the progress of restructuring projects for prisons

planned in Guadeloupe, French Guiana, Martinique and New Caledonia for 2011–2012 (para. 169).

33. Please indicate measures taken by the State party to address the concern expressed by the European Court of Human Rights in the *Khider v. France* case (No. 39364/05, 9 July 2009) that the cumulative and repetitive effects of the conditions under which the complainant Khider was held constituted inhuman and degrading treatment.

34. Please provide detailed, up-to-date information concerning the plan of action to prevent suicides in prison and state how organizations and professionals working in this field have reacted to the plan. Does the State party intend to publish the Albrand report on the prevention of suicide in prison? If not, please give reasons.

35. Please indicate to what extent the Prisons Act introduced by the Minister of Justice, which was adopted by the Senate in March 2009, reflects the proposals put forward by the conference held in January 2006 and the recommendations made by the Council of Europe Commissioner for Human Rights following his visit to France in 2008.

36. The judgement of the Rouen Administrative Court of 27 March 2008, confirmed on appeal on 24 June 2008, found against the French State on the grounds of detention conditions that constituted “a breach of health and hygiene requirements” and were contrary to “respect for human dignity”. Please indicate what steps have been taken to act on this recommendation. Please also indicate what action will be taken on the recent report by the National Commission on Security Ethics concerning the detention conditions and treatment of detainees at the Palais de Justice in Paris, particularly at the *dépôt* and *souricière* holding cells.

37. According to the memorandum by the Council of Europe Commissioner for Human Rights, the reasons for overcrowded prison conditions lie primarily in the harsher sentences handed down by criminal courts and the increasing resort to imprisonment. Moreover, this trend is likely to be exacerbated by the new Act of 10 August 2007, which stipulates minimum sentences (*peines “planchers”*) for repeat offenders. Please comment on this information in the light of articles 11 and 16 of the Convention and indicate whether the State party intends to amend the Act.

38. Please supplement the information contained in paragraphs 111 and 112 of the report by providing the Committee with disaggregated statistical data on segregated prisoners. In the light of paragraph 114 of the State party’s report, please also indicate what methods are used to measure the physical and psychological consequences that prolonged segregation may have on the prisoners concerned. What steps are taken when the findings are negative?

39. In its reply to recommendation No. 11 in the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visit to France from 27 September to 9 October 2006, the State party announced that it would take measures to improve conditions in holding centres, in order to bring them into line with normal standards of comfort and respect for the dignity of detainees, and that it would build a new holding centre in Mayotte, which would meet such requirements. Please provide detailed, up-to-date information on the implementation of these projects.

40. The memorandum by the Council of Europe Commissioner for Human Rights notes the State party’s intention to pursue a “determined policy of sentence adjustment” in order to alleviate the problem of prison overcrowding. Please provide up-to-date information on the implementation of this policy and any results obtained.

41. Please indicate whether the National Committee for the Monitoring of Holding Centres and Facilities and Waiting Areas is now operational and specify what mechanism

has been introduced to implement its recommendations effectively (CAT/C/FRA/CO/3, para. 18).

42. In 2006, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment recommended that the State party prepare and implement a practical strategy to deal with the problem of violence and intimidation among detainees at Moulins-Yzeure central prison and Seysses short-stay prison (and at any other establishment where such problems exist). Please provide details of any measures taken to act on this recommendation.

43. Please provide up-to-date information on measures taken to improve prison psychiatric services in the State party and reduce the incidence of psychiatric conditions among the prison population.

44. Since the Plan on Developing Good Treatment and Combating Maltreatment of 14 March 2007 was adopted, what results and progress has the State party achieved and what obstacles has it encountered with the implementation of the plan and its efforts to curb ill-treatment against elderly persons in general? Please also give details of the resources allocated by the State party to the implementation of the plan.

45. Please supply information on measures taken to protect unaccompanied minors against ill-treatment in airport holding areas. Please provide explanations in particular of the practice of detaining minors together with adults and of allegations received of degrading treatment of such minors by the police during their detention in an airport holding area or their transfer to their country of origin or a transit country.

46. Please indicate whether the State party has taken legislative measures to make domestic violence a specific offence. With reference to the concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/FRA/CO/3, para. 39) and of the Committee on the Elimination of Discrimination against Women (CEDAW/C/FRA/CO/6, para. 29), the Committee would like details of the measures taken to raise public awareness of the offence and of the mechanisms available to victims of domestic violence.

47. Please provide disaggregated statistical data that could serve to determine the extent of trafficking in persons and sexual exploitation occurring in the State party. Please also indicate whether, as recommended by the Committee on the Elimination of Discrimination against Women, a comprehensive study has been undertaken on the impact of the Act of 18 March 2003 on internal security, including the prohibition of passive soliciting.

48. Please indicate what legislative measures have been taken by the State party to prohibit corporal punishment explicitly in all circumstances, including in the family, in schools, in institutions and other childcare establishments. What action has been taken to follow up on the campaign by the Council of Europe to achieve full prohibition of all forms of corporal punishment?

## **Other questions**

49. In the light of the relevant Security Council resolutions, please provide information on legislative, administrative and other measures taken by the State in response to the terrorist threat and describe the impact that such measures may have had in law and in practice on human rights guarantees.

50. In its last concluding observations (CCPR/C/FRA/CO/4), the Human Rights Committee recommended that the State party ensure that terrorism suspects placed in custody should have prompt access to a lawyer, that it limit the duration of pretrial

detention and that it reinforce the role of “liberty and custody judges” (*juges des libertés et de la détention*). Please provide information on action taken on this recommendation.

51. With regard to the link established between the themes of “national identity” and “immigration”, which are juxtaposed in the name of the present Government’s Ministry for Immigration, Integration, National Identity and Development Solidarity, the Committee would like to know how the State party believes it can prevent acts of discrimination that could be an underlying consequence of that link, bearing in mind that such acts of discrimination might themselves be a possible cause of torture or ill-treatment.

52. Please indicate to what extent the recommendations contained in the Léger report, which appears to give the Public Prosecutor’s Office exclusive responsibility for investigations and criminal procedure, may restrict the initiation of impartial investigations in response to torture allegations.

53. Please indicate whether the bill on the ratification of the Optional Protocol to the Convention has been adopted (para. 105) and what timetable has been set for the entry into force of this instrument in France.

54. Please state what measures have been taken by the State party to disseminate widely the reports that it submits to the Committee and the Committee’s conclusions and recommendations through the media, official websites and non-governmental organizations.

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