



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

Distr.: General
19 January 2010
English
Original: French

Committee against Torture

Forty-third session

2–20 November 2009

List of issues to be taken up prior to consideration of the periodic reports of the States parties¹

Sixth and seventh periodic reports of Luxembourg (CAT/C/LUX/6-7)

Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations²

Article 2

1. Please provide detailed information concerning the competence of the Ombudsman with respect to the Convention, the number of complaints of violations of the provisions of the Convention received, the measures taken and the effects thereof.

Article 3

2. With reference to the Committee's previous concluding observations, please provide information on the legislative measures taken to amend article 6, paragraph 12, of the Act of 5 May 2006 on asylum by including a provision stipulating that no person may be returned, expelled or extradited to a State where there are substantial grounds for believing that the person would be in danger of being subjected to torture (para. 6).

3. Please indicate the number of extradition requests received and give details of all cases of extradition, return or expulsion which have occurred since the previous report (CAT/C/81/Add.5).

¹ The present list of issues was adopted by the Committee at its forty-third session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

² The paragraph numbers given in brackets in this document refer to the last concluding observations of the Committee published under reference CAT/C/LUX/CO/5.

4. Please describe the measures taken in response to the concern about the practice of organizing meetings between foreign nationals in administrative detention and their consular representatives, against their will, for identification purposes, even though they might have reason to fear reprisals for themselves or for their families back in their home countries, if it is known that they have applied for asylum in Luxembourg or simply left their country illegally.

5. Please provide statistical data, disaggregated by age, sex and ethnic origin, on the number of asylum applications registered, the number of successful applications, the number of asylum-seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin, as well as the number of refoulements or expulsions.

Articles 5 and 7

6. Please indicate whether the State party has, for any reason, rejected any request by a third State for extradition of an individual suspected of having committed an act of torture and, if so, whether it has launched its own prosecution. Please give details of the status and outcome of any such prosecution(s).

Article 10

7. Please provide information on the measures taken to ensure that adequate training is given to law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. Please also indicate under what conditions staff are allowed to attend ongoing training. Please provide detailed information on the outcome of such measures.

8. Does the training provided include developing the skills required to detect signs of torture and ill-treatment? Please indicate whether the Istanbul Protocol of 1999 has been incorporated into the training given to doctors. How many doctors have received such training?

Article 11

9. With reference to the Committee's concluding observations, please provide information on the measures taken to clarify the situation of asylum-seekers for whom no deportation order has yet been issued, in order to ensure that, in the absence of behaviour that might compromise security or public order, they are not detained and are properly treated (para. 5). In particular, please indicate the measures taken by the State party to ensure that such asylum-seekers are brought before a judge so that he or she may rule on the legality of their detention and that they are informed of their rights in a language they understand. Please also state what measures have been taken to ensure that they have a right to effective remedies.

10. Please provide information on the measures taken to ensure that aliens at the disposal of the authorities are placed in a facility that is separate from a penal correction facility. In this respect, please give updated details on the progress of the project to build a centre for aliens in administrative detention on a site separate from the prison.

11. Please indicate the measures taken to ensure that solitary confinement is expressly and strictly regulated by law and to strengthen judicial supervision. Please provide

information on what steps will be taken to put an end to this disciplinary practice and change the relevant regulations accordingly, as the Committee recommended in its concluding observations (para. 9).

Articles 12 and 13

12. Please provide detailed statistical data, disaggregated by offence, age, ethnic origin and sex, on complaints of acts of torture and other cruel, inhuman or degrading treatment or punishment allegedly committed by law enforcement officials, as well as on any related investigations, prosecutions and criminal and disciplinary sanctions, where relevant.

13. In its concluding observations, the Committee expressed its concern about the system which gives the public prosecutor discretion to decide not to prosecute perpetrators of acts of torture and ill-treatment involving law enforcement officers or even order an investigation (para. 11). Please provide details on the steps taken by the State party to follow up on the Committee's recommendations.

14. In light of the Committee's concluding observations, please:

(a) Provide information on the steps taken to order an investigation when there are grounds for believing that a person may have been subjected to torture or cruel, inhuman or degrading treatment, in particular during deportation operations (para. 7);

(b) In this connection, please provide information on the status of the draft regulations setting up an official code of conduct for officials responsible for enforcing removal orders. In addition, please indicate whether the State party has taken steps to authorize the presence of human rights observers or independent physicians during all forced removals, and systematically to allow a medical examination to be conducted prior to this form of removal and whenever an attempted removal has been unsuccessful. Please provide information on the steps taken in response to the concern that there is no absolute prohibition of certain practices which might constitute torture and inhuman and degrading treatment. Please provide details of the investigation into the unsuccessful operation to deport Mr. Mamadou Aliou Diallo;

(c) Please provide information on the impact and effectiveness of the steps taken to prevent cases of torture or cruel, inhuman and degrading treatment, in particular in respect of deportation operations.

Article 16

15. Please describe the steps taken in response to the concern about overcrowding at the Luxembourg Prison Centre (CPL) and the problems exacerbated by such overcrowding, including promiscuity and high rates of violence. Please provide up-to-date statistics on this prison's capacity and population.

16. In its concluding observations, the Committee stated that it was concerned about reports that foreign detainees are subjected to arbitrary behaviour and racist or xenophobic insults on the part of law enforcement and prison personnel (para. 8). In that respect:

(a) Please provide details of the steps taken by the State party in response to the Committee's recommendation. Do the steps taken include providing law enforcement and prison personnel with more training in respect for the physical and psychological integrity of detainees? Do they make such racist or xenophobic behaviour a criminal offence, order systematic investigations and, in all confirmed cases, bring the accused before the

competent courts? In addition, please provide information on the steps taken to recruit suitable staff to ensure greater cultural and linguistic diversity.

(b) Please provide detailed information on the impact and effect of these measures in reducing the number of cases of arbitrary behaviour and racist or xenophobic insults on the part of law enforcement and prison personnel.

17. In its concluding observations, the Committee strongly reiterated its previous recommendation that minors should not be placed in adult prisons for disciplinary purposes (para. 10). Please provide detailed information on the steps taken by the State party to comply with that recommendation. In that respect, please provide information on the progress of the project to build the Dreibern closed security unit for minors and on the interim measures taken to ensure that minors are kept strictly separate from adult detainees. Please indicate whether the security unit project will also concern the female juvenile population. In addition, please describe the steps taken to separate minors in conflict with the law from those with social or behavioural problems, to ensure that minors are not tried as adults and to set up an independent monitoring body to inspect juvenile facilities regularly.

18. Further to the concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/LUX/CO/5, paras. 19–20):

(a) Please provide up-to-date information on the measures taken by the State party to prevent and address all forms of violence against women. On this subject, please provide detailed information on the content and implementation of the second national plan on equality for the period 2009–2013, on its impact on the number of cases of violence against women, and on the progress of the bill prohibiting all physical and sexual violence within the family, including genital mutilation;

(b) In addition, please provide detailed information on the steps taken to ensure the systematic collection and publication of data, disaggregated by type of violence and by the relationship of the perpetrator to the victim. Please indicate how the State party has used such data as the basis for monitoring the implementation of current and future general policy and support measures;

(c) Please provide statistical data on the number of complaints of violence against women and any investigations, charges brought and convictions, as well as on any decisions concerning redress and compensation for victims.

19. With respect to human trafficking:

(a) Please provide detailed information on the prevalence of trafficking into and out of Luxembourg as well as information on the impact of measures taken and results achieved. In addition, please describe the steps taken to strengthen existing measures to combat human trafficking in such a way as to make it possible, on the one hand, to conduct more effective checks when artistes' visas are issued and to ensure that they are not used for unlawful purposes and, on the other, to protect the witnesses and victims of such acts;

(b) Please indicate whether the State party has taken new steps to combat human trafficking, in particular to adopt the anti-trafficking bill, to take all appropriate measures to ensure better identification and investigation of trafficking cases (including providing training courses to teach police officers to identify potential victims of trafficking), to prosecute persons committing and instigating them, and to further strengthen bilateral, regional and international cooperation with the countries of origin, transit and destination of trafficking victims.

Other issues

20. Please describe what measures have been taken, if any, to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since the adoption of the Committee's previous concluding observations.

21. The Committee notes that it has not received a response from the State party to the request it made in paragraph 17 of its previous concluding observations. A reminder was sent by the Rapporteur for follow-up to concluding observations in a letter dated 17 November 2008. Please provide the information requested.

22. Please provide information on the legislative, administrative and other measures taken by the State party in response to the threat of acts of terrorism and indicate whether these measures have affected human rights safeguards, in law and in practice, and, if so, in what way; and how the State party has ensured that the measures taken to combat terrorism were in keeping with all its obligations under international law. Please describe the training provided in this respect to law enforcement officers, indicate the number and types of convictions handed down under such legislation, the legal remedies available to persons affected by anti-terrorist measures, and state whether complaints have been lodged for non-observance of international standards, and the outcome of such complaints.

General information on the national human rights situation, in particular new measures and recent developments concerning implementation of the Convention

23. Please provide details on relevant recent developments which have occurred since the previous periodic report concerning the legal and institutional framework within which human rights are promoted and protected at the national level, including court judgements, if any.

24. Please provide detailed information on the new political, administrative and other measures taken in order to promote and protect human rights at the national level since the consideration of the previous periodic report, including human rights plans and programmes and the resources allocated to them, their means, objectives and results.

25. Please provide information on the new measures and initiatives taken to ensure implementation of the Convention and follow-up of the Committee's recommendations since consideration of the previous report in 2007, including relevant statistics, as well as information on any new developments in the State party related in any way to the Convention.
