



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

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Committee against Torture

**Third periodic report submitted by Burkina Faso
under article 19 of the Convention,
due in 2024*^{*}, **^{**}, ***^{***}**

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- * The present document is being issued without formal editing.
 - ** The present document was submitted pursuant to the simplified reporting procedure. It contains the responses of the State Party to the Committee's list of issues prior to reporting ([CAT/C/BFA/Q/2](#)).
 - *** The annexes to the present document may be accessed from the web page of the Committee.



I. Introduction

1. The present report covers the period from 2019 to 2023. It was drawn up in accordance with article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This article states that each State Party must submit to the Committee against Torture reports on the measures it has taken to give effect to its undertakings under the Convention.
2. The report was the outcome of an inclusive and participatory process, with contributions received from government ministries, public institutions and civil society organizations working in the field of human rights. The draft report was approved at a workshop that brought together all these public and private stakeholders. It was then approved by the Interministerial Committee on Human Rights and International Humanitarian Law on 26 July 2024 and adopted by the Council of Ministers on 23 October 2024.
3. The report sets out the measures that have been taken to give effect to the provisions of the Convention and to the recommendations made by the Committee against Torture following its consideration of the second periodic report in November 2019. It was prepared in accordance with the reporting guidelines set out in pages 75 to 86 of document HRI/GEN/2/Rev.6, and it comprises four parts.
4. The first part provides information on developments in the legal and institutional framework. The second part provides information on the implementation of the recommendations made by the Committee following its consideration of the previous report. The third part concerns the progress made in the implementation of articles 1–16 of the Convention. The fourth part deals with the difficulties encountered in implementing the Committee’s recommendations and the provisions of the Convention.

II. Replies to the questions raised in the list of issues (CAT/C/BFA/Q/2)

Developments in the legal and institutional framework since the submission of the second periodic report

A. Developments in the legal framework

5. As a reminder, the principle of the absolute prohibition of torture is enshrined in article 2 of the Constitution of 11 June 1991, which states: “The protection of life, safety, and physical integrity are guaranteed. Slavery, slavery-like practices, cruel, inhuman, degrading and humiliating treatment, physical and mental torture, child abuse and ill-treatment, and all forms of human degradation shall be prohibited and punishable by law.”
6. With a view to ensuring the effective enjoyment of human rights, since the consideration of the previous report the Government has adopted some important legislative and regulatory texts that strengthen the legal framework for the prevention and punishment of torture and related practices and for the provision of reparation to victims. These include:
 - Constitutional Act No. 045–2023 ALT of 30 December 2023, amending the Constitution
 - Act No. 007-2023/ALT of 12 May 2023, extending the duration of the state of emergency declared by Decree No. 2023-0444/PRES-TRANS/PM/MDAC/MATDS/MJDHRI of 14 April 2023
 - Act No. 003-2023/ALT of 25 March 2023, establishing monitoring and development committees
 - Act No. 002-2023/ALT of 16 March 2023 on strengthening political neutrality and meritocracy in public administration

- Act No. 001-2023/ALT of 16 February 2023, amending Act No. 24-94/ADP of 24 May 1994 on the Code of Military Justice
- Act No. 028-2022/ALT of 17 December 2022, establishing the Volunteers for the Defence of the Homeland
- Act No. 005-2022/ALT of 10 June 2022 on the status of national heroes
- Act No. 004-2022/ALT of 10 June 2022 on the status of national martyrs and persons with disabilities acquired in the service of the nation
- Act No. 003-2022/ALT of 10 June 2022 on the status of wards of the State
- Act No. 001-2022/ALT of 6 June 2022, empowering the Government to take measures in the context of constraints related to national defence requirements
- Act No. 043-2021/AN of 20 December 2021, amending Act No. 014-2001/AN of 3 July 2001 on the Electoral Code
- Act No. 002-2021/AN of 30 March 2021, amending Act No. 001-2016/AN of 24 March 2016 establishing a national human rights commission
- Act No. 001-2021/AN of 30 March 2021 on the protection of persons with regard to the processing of personal data
- Act No. 040-2019/AN of 29 May 2019 on the Code of Criminal Procedure
- Act No. 023-2019/AN of 14 May 2019 on states of siege and states of emergency
- Act No. 015-2019/AN of 2 May 2019 on the organization of the judiciary
- Decree No. 2023-0640/PRES-TRANS/PM/MATDS/MEFP of 1 June 2023 on the composition, powers and functioning of the coordinating and operational structures of the monitoring and development committees
- Decree No. 2023-0475/PRES-TRANS/PM/MDAC/MATDS/MJDHRI of 19 April 2023, declaring general mobilization and a state of national emergency
- Decree No. 2023-1162/PRES-TRANS/PM/MDAC/MATDS/MEFP/MJDHRI/MSAHRNGF of 19 September 2023, establishing the procedure for adoption and the arrangements for the protection and support of wards of the State
- Decree No. 2023-1161/PRES-TRANS/PM/MDAC/MATDS/MEFP/MJDHRI/MSAHRNGF of 19 September 2023 on the documents needed for recognition of the status of national martyrs and persons with disabilities acquired in the service of the nation
- Decree No. 2023-0444/PRES-TRANS/PM/MDAC/MATDS/MJDHRI of 14 April 2023, declaring a state of emergency pursuant to Organic Act No. 14/59/AL of 31 August 1959 on states of emergency
- Decree No. 2022-1123/PRES-TRANS/PM/MDAC/MATDS/MJDHRI/MEFP of 29 December 2022 on the status of members of the Volunteers for the Defence of the Homeland
- Decree No. 2022-0975/PRES-TRANS of 14 November 2022 on the division of national territory into military regions
- Decree No. 2019-0140/PRES/PM/MINEFID/MFPTPS/MSECUM/JDHPC/MEEVCC/MDNAC of 15 February 2019 on the compensation of national police officers, prison security guards, customs officers and water and forestry officers who have suffered harm in the performance of or as a result of the performance of their duties during a terrorist attack
- Decree No. 2019-0306/PRES/PM/MINEFID/MFPTPS/MATD/MDNAC of 15 April 2019 on the compensation of public officials who have suffered harm in the performance of or as a result of the performance of their duties during a terrorist attack

7. During the period under review, several bilateral and multilateral agreements were signed or ratified, including:

- Memorandum of understanding between the Government of Burkina Faso and the International Committee of the Red Cross (ICRC) on cooperation and humanitarian activities in support of persons deprived of their liberty, signed on 5 December 2022
- Memorandum of understanding between the Government of Burkina Faso and the United Nations system in Burkina Faso on the transfer and care of children encountered during operations to secure the territory, signed on 12 September 2022
- Agreement between the Government of Burkina Faso and the United Nations concerning the establishment of a country office of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Burkina Faso, signed in October 2021
- Amendments to the Rome Statute of the International Criminal Court on the crime of aggression, ratified on 19 August 2019

B. Developments in the institutional framework

8. During the reporting period, steps were taken to establish or strengthen several public institutions and bodies that play a role in the promotion and protection of human rights and the prevention and punishment of human rights abuses and violations, including torture and related practices. These include:

- The National Council of Communities, established by Constitutional Act No. 045-2023 ALT of 30 December 2023, amending the Constitution
- The National Council on Intelligence, established by Constitutional Act No. 045-2023 ALT of 30 December 2023, amending the Constitution
- The framework for consultations, monitoring and early warning in connection with alleged human rights violations and abuses, which became operational on 24 August 2023 and brings together the Government, the National Human Rights Commission, the OHCHR Country Office and other United Nations agencies
- The interministerial working group responsible for monitoring, flagging and following up on allegations of human rights violations made in the context of the fight against terrorism, which was established on 1 June 2023 and became operational on 10 October 2023
- The national commission responsible for examining and dealing with applications for the status of national hero, national martyr or person with disabilities acquired in the service of the nation, which was established on 29 September 2023
- The Volunteers for the Defence of the Homeland, a brigade established in 2022
- The Ouaga II court of major jurisdiction (*tribunal de grande instance*), which became operational in 2021
- The Pô court of major jurisdiction, which became operational in 2021
- The Central Unit for Combating Cybercrime, established in 2020
- The Special Unit for Counter-Terrorism Investigations and the Fight against Organized Crime, established in 2020

9. In addition, the mandates of some existing bodies have been strengthened, namely:

- The National Human Rights Commission, which now serves as the national preventive mechanism following the adoption of the relevant amendments on 30 March 2021
- The Data Protection Commission, which was strengthened in 2021

Information concerning the implementation of the Committee's recommendations

10. Following the presentation of the second periodic report to the Committee in 2019, the Government shared the Committee's concluding observations with more than 500 implementing actors in all 13 regions of the country, such as representatives of government departments, the National Assembly and other institutions, the judiciary, local authorities, and civil society organizations, including local security initiatives. This allowed for the wide dissemination of the recommendations and the gathering of proposals for their implementation.

11. In addition, with a view to ensuring the effective and efficient implementation of these recommendations, a road map was drawn up in 2022 by the committee that monitors the implementation of the recommendations made during the universal periodic review and by treaty bodies. This committee is made up of representatives of government ministries, the National Human Rights Commission and human rights organizations. The road map, which is intended as a tool for monitoring and evaluating the implementation of the Committee's recommendations, has helped to accelerate their implementation.

12. The status of implementation of the Committee's recommendations is as follows.

The Committee invites the State party to adopt the necessary provisions, in the Criminal Code and Act No. 022-2014/AN, to explicitly exclude application of the statute of limitations for the crime of torture (CAT/C/BFA/CO/2, para. 8).

13. Torture and related practices are now governed by Act No. 025-2018/AN of 31 May 2018 on the Criminal Code. Acts of torture that constitute a crime against humanity or genocide are not subject to any statutory limitation under national law (Criminal Code, arts. 421-1 and 422-1).

Include, in the Code of Criminal Procedure, the right to have medical examinations without conditions and in full confidentiality, carried out by qualified medical personnel promptly upon arrival at a police station, detention centre or prison, and to have access to an independent physician or a physician of one's choosing, on request (CAT/C/BFA/CO/2, para. 10 (a)).

14. The fourth paragraph of article 100-1 of Act No. 040-2019/AN of 29 May 2019 on the Code of Criminal Procedure states that any person charged with a criminal offence shall be presumed innocent until proved guilty according to law. He or she has the right to be examined by a doctor of his or her choosing and to contact and be visited by a family member or relative. Violations of the presumption of innocence are foreseen, punished and remedied under the conditions set forth by law.

15. Articles 256 and 258 of Act No. 010-2017/AN of 10 April 2017 on the prison system establish the principle that prisoners should be granted a confidential medical examination upon arrival at a prison.

16. In addition, article 251-26 of the Code of Criminal Procedure provides that persons held in police custody are entitled to be examined by a doctor. Public prosecutors may designate a doctor to examine persons held in custody at any time during the custody period if they consider it necessary or a request is made by a family member. After 72 hours, the person in custody is entitled to a medical examination upon request.

17. Furthermore, article 515-15 of the Code of Criminal Procedure provides that, when a decision is taken to extend the custody period, the person being held in custody must be given a medical examination by a doctor designated by the public prosecutor, the investigating judge or the criminal investigation officer. The designated doctor must issue a medical certificate for the case file, including an assessment of whether the extension is compatible with the person's state of health. The criminal investigation officer must mention all these steps in the record of the proceedings.

18. As regards minors, article 516-20 of the Code of Criminal Procedure states:

Upon being placed in detention or custody, minors shall undergo a medical examination by a doctor appointed by the judge under whose authority they are being detained, or by the criminal investigation officer with the judge's authorization. The steps taken shall be mentioned in the record of the proceedings, failing which it shall be null and void. The medical certificate shall be attached to the record.

Reduce the maximum length of police custody, ensuring that its renewal is limited to duly justified exceptional circumstances and respects the principles of necessity and proportionality, and providing for judicial review of the legality of the detention (CAT/C/BFA/CO/2, para. 10 (b)).

19. The length of police custody is strictly regulated in Burkina Faso. Any extension is governed by the principles of necessity and proportionality. For example, in terrorism cases, police custody may be extended by 10 days as an exceptional measure (Code of Criminal Procedure, art. 515-15). Any such extension must be authorized by the president of the court or the judge appointed by him or her.

20. In addition, the Code of Criminal Procedure strengthens the oversight of police custody by establishing the following requirements:

- Criminal investigation officers must inform the public prosecutor immediately when a person is placed in police custody (art. 252-4) to enable the prosecutor to assess whether it is appropriate to keep the person in custody (art. 251-26).
- Persons in police custody must be brought before the president of the court or the judge appointed by him or her, who must decide whether to extend the length of custody (article 515-15).
- The initial period of police custody for minors aged 16 or 17 years old must not exceed 48 hours (art. 516-18).

Provide for effective oversight of the practice of pretrial detention, ensuring that it complies with the provisions establishing its maximum duration, that its use is as short as possible and is exceptional, necessary, and proportionate (CAT/C/BFA/CO/2, para. 12 (a)).

21. Article 261-79 of the Code of Criminal Procedure states that pretrial detention is an exceptional measure imposed, following a hearing in the presence of both parties, by the investigating judge if he or she deems it appropriate after hearing the prosecutor's submissions. In order to ensure compliance with the time limits for pretrial detention, the president of the investigating chamber, in the exercise of his or her powers, has a quarterly report drawn up on all pending cases, indicating for each case the date of the last investigative measure taken and the pretrial detention status of each person under investigation. The president of the investigating chamber checks the relevant documents to ensure that the time limits for pretrial detention have been observed (Code of Criminal Procedure, art. 262-26).

22. Detention is also monitored on site. The president of the investigating chamber visits the detention centres within his or her jurisdiction at least once a year to assess the situation of pretrial detainees (Code of Criminal Procedure, art. 262-27).

23. In addition, the technical inspectorate, whose role is to monitor the application of laws and regulations, conducts annual audits of investigating judges' offices to ensure that pretrial detention time limits are being respected.

24. When the legal deadline expires, the person being prosecuted is automatically released. During the investigation of a case, the person under investigation must be released if no investigative measures helping to establish the truth are under way or have been taken within six months of receipt of the request for release (Code of Criminal Procedure, art. 261-86).

Actively promote, within the prosecution service and among judges, the use of alternatives to pretrial detention, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) (CAT/C/BFA/CO/2, para. 12 (b)).

25. Steps are taken under the current criminal justice policy to promote alternatives to imprisonment and to pretrial detention. Provision has been made for mechanisms such as the direct summons procedure (Code of Criminal Procedure, art. 331-3) and criminal mediation (Act No. 15-2014/AN of 13 May 2014 on the protection of children in conflict with the law or at risk, arts. 40–46).

26. In addition, article 261-91 of the Code of Criminal Procedure provides for release on bail in cases where release is not automatic, and article 261-75 of the Code provides for placing accused persons under court supervision.

Review the case files of all detainees in pretrial detention and immediately release all persons who have already been in detention for periods exceeding the maximum sentences carried by the offences of which they stand accused (CAT/C/BFA/CO/2, para. 12 (c)).

27. In order to protect the rights of accused persons, the Code of Criminal Procedure imposes time limits on pretrial detention, beyond which detainees are automatically released.

28. In cases of flagrante delicto, pretrial detention may not exceed two weeks. If this period elapses without the accused person being brought before the court, he or she must be released immediately. He or she must also be released if no ruling has been handed down within two months of the date of the first hearing (Code of Criminal Procedure, arts. 321-15 and 321-16).

29. For lesser offences, when the maximum sentence provided for by law is less than or equal to 1 year's imprisonment, the accused person may not be detained for more than three months after his first appearance before the investigating judge if he has not already been either convicted of a serious offence or given an unsuspended sentence of more than 3 months for an ordinary offence (Code of Criminal Procedure, art. 261-80, first paragraph).

30. In cases other than those provided for in the first paragraph of article 261-80 of the Code of Criminal Procedure, pretrial detention may not exceed six months. If a longer period of detention appears necessary, the investigating judge may extend the detention by a special reasoned order referring to specific aspects of the case, based on a reasoned request by the public prosecutor. Each extension may not exceed six months (Code of Criminal Procedure, art. 261-80, second paragraph).

31. For serious offences, pretrial detention may not exceed one year. If a longer period of detention appears necessary, the investigating judge may extend the detention by a special reasoned order referring to specific aspects of the case, based on a reasoned request by the public prosecutor. Each extension may not exceed one year (Code of Criminal Procedure, art. 261-81).

32. When the legal deadline expires, the person being prosecuted is automatically released.

33. There are currently no prisoners who have already been in detention for periods exceeding the maximum sentences carried by the offences of which they stand accused.

Expedite trials of terrorism cases, and to do so, provide the counter-terrorism unit with the human, material and financial resources necessary to investigate and prosecute cases within a reasonable time (CAT/C/BFA/CO/2, para. 12 (d)).

34. The counter-terrorism unit became operational with the opening of the Ouaga II court of major jurisdiction in May 2021. Several measures have been taken to speed up investigations and trials:

- The establishment of an imprest account in August 2022 by Order No. 2022-0361 of 23 August 2022, establishing special imprest accounts for the specialized sections of the prosecutors' offices attached to the specialized judicial units of the Ouaga I,

Ouaga II and Bobo-Dioulasso courts of major jurisdiction and to the military court. The funds made available through this account are used by the counter-terrorism unit to cover the costs of inspections by the court and forensic expertise, as well as the costs associated with informants, witnesses, interpreters and special committees of inquiry. They are also used to purchase specific investigation equipment and to reimburse the communication and fuel costs incurred by members of the unit.

- The strengthening of human resources, with the number of specialized investigation offices rising from two in 2018 to four in 2024. Over the same period, the number of prosecutors attached to the unit rose from 4 to 7 and the number of judges attached to the unit rose from 5 to 8.

35. Thanks to these measures, it has been possible to hold a number of trial sessions. From 2021 to 2023, four trial sessions, including one devoted to cases involving minors, were held, during which 68 cases were tried. A total of 51 people were convicted and 31 were acquitted.

36. In addition, with a view to ensuring a better defence for persons accused of terrorism, an agreement on lawyers' fees has been reached between the Ministry of Justice and the Burkina Faso Bar Association.

Clearly reaffirm the absolute prohibition on torture by publicly condemning the practice of torture and raising awareness and disseminating the content of Act No. 022-2014/AN and the 2018 Criminal Code (CAT/C/BFA/CO/2, para. 14).

37. Torture and all other related practices are punishable under article 512-2 et seq. of the Criminal Code. In order to prevent such offences from being committed, sessions have been held to raise awareness of Act No. 022-2014/AN and the 2018 Criminal Code and to make these instruments more accessible. For example, between 2021 and 2023, 150 members of the National Armed Forces and the Internal Security Forces received training on the Convention and on their roles and responsibilities in protecting young human rights defenders in areas with significant security challenges (Dori, Fada N'Gourma and Ouahigouya).

38. Between 2022 and 2023, on the United Nations International Day in Support of Victims of Torture, 1,643 members of the National Armed Forces and the Internal Security Forces, members of civil society organizations and health workers took part in awareness-raising activities on the prohibition of torture, including conferences. In addition, 1.3 million members of the general population were reached by awareness-raising on the gravity of the crime of torture and on what to do if one is subjected to or witnesses an act of torture.

39. In 2023, 397 members of the National Armed Forces and the Internal Security Forces responsible for training the Volunteers for the Defence of the Homeland received training on respect for human rights in the fight against terrorism. This training covered the absolute prohibition of torture. The participants subsequently shared the content of the training with more than 21,000 members of the Volunteers for the Defence of the Homeland.

40. In addition, 350 young human rights defenders have received training on mechanisms for preventing and punishing torture and enforced disappearance in the Nord, Sahel and Est Regions.

41. Several awareness-raising sessions on the national preventive mechanism, involving 438 State and non-State actors, including 107 women, were organized in 2023.

Ensure that the competent authorities routinely launch an investigation whenever there are reasonable grounds to believe that an act of torture has been committed and see to it that suspects are duly brought to justice and, if they are found guilty, receive sentences commensurate with the seriousness of their acts (CAT/C/BFA/CO/2, para. 14 (a)).

42. Torture is defined in accordance with the Convention in article 512-1 of the Criminal Code and is punishable under articles 512-2–512-4 of the Code. Article 512-5 of the Code establishes that the courts of Burkina Faso have jurisdiction over offences of torture in accordance with article 5 of the Convention. Pursuant to article 518-5 of the Code of Criminal

Procedure, allegations of torture or ill-treatment are routinely investigated by the competent authorities in order to determine responsibility and ensure that any perpetrators are punished.

43. As part of efforts to prevent and monitor human rights abuses and violations, steps have been taken to establish a framework for consultations, monitoring and early warning in connection with alleged human rights violations and abuses, which brings together the Government and the OHCHR Country Office, as well as an interministerial working group responsible for monitoring, flagging and dealing with allegations of human rights violations made in the context of the fight against terrorism. These mechanisms reflect the Government's desire to communicate better and respond more effectively to allegations of human rights abuses and violations.

Expedite the investigations opened into the social and political unrest of 2014 and 2015 and promptly finalize the investigation into the abuses committed in Yirgou in January 2019, providing a legal aid mechanism for victims and a victim and witness protection mechanism (CAT/C/BFA/CO/2, para. 14 (b)).

44. Following the popular uprising of 2014 and the failed coup d'état in September 2015, the Ouagadougou public prosecutor's office immediately opened a judicial investigation. The Government subsequently established two independent commissions of inquiry to establish responsibility and identify the perpetrators and accomplices, both military and civilian, involved in the crimes committed during these events.

45. The judicial investigation into the popular uprising is still under way.

46. A total of 84 persons were brought before the military court in connection with the failed coup d'état. After a three-year investigation, the trial began on 27 February 2018 and the verdict was handed down on 2 September 2019, with 74 people sentenced to terms ranging from 1 to 30 years' imprisonment. A further 10 people were acquitted, including because the alleged offence had not been established or for lack of evidence.

47. On the subject of compensation, at a military court hearing beginning on 22 October 2019, the persons found guilty of murder and aggravated assault and battery were ordered to remedy the harm caused to the victims. The court delivered its judgment on 13 January 2020, ordering 62 defendants to pay, jointly and severally, damages of 947,279,507 CFA francs (CFAF) to 298 victims.

48. Between 2014 and 2016, all the victims of the uprising and the failed coup d'état who were identified and recorded as such by the commissions created for that purpose received either financial compensation or medical care, amounting to CFAF 632,236,499. The court also ordered the restitution of various assets in the case of the failed coup d'état.

49. In addition to financial compensation, the Government has provided financial assistance to victims of the popular uprising of 2014 and the coup d'état of 2015. Compensation totalling CFAF 271,000,000 in 2023 and CFAF 146,580,000 in 2024 was awarded to 88 people, 3 of whom were women.

50. The public prosecutor attached to the Kaya court of major jurisdiction opened an expedited police investigation into the Yirgou affair. Following this investigation, a judicial investigation was opened and the investigating judge in charge of the case charged 13 individuals with genocide, murder, organized crime, arson, aggravated assault and battery, aggravated destruction of property, conditional threats, illegal possession of firearms and ammunition, concealment of corpses, aggravated theft and any other offences that the investigation may reveal. More than 40 victims were interviewed. The investigation has now been completed and the case has been referred to the criminal division of the Ouagadougou Court of Appeal for trial.

Put in place an independent, effective and confidential complaints mechanism that is accessible to victims, at all police custody facilities and all prisons, and ensure that complainants and victims are protected from any reprisals (CAT/C/BFA/CO/2, para. 14 (c)).

51. Article 29 of Act No. 010-2017/AN on the prison system states that all prisoners may submit requests or complaints to the prison director, who will grant them an interview if

warranted. All prisoners may ask to speak to judges and inspection officials during their visits to the prison, without any staff member present. Moreover, article 219 of the Act provides that correspondence exchanged with counsel, the judicial authorities, social workers and ministers of religion is not subject to inspection.

52. In practice, prisoners write to their counsel and to judges without restriction. They regularly receive visits from lawyers and representatives of human rights movements and associations. Prisoners are regularly received in meetings with the prison director or the director's representative. Such meetings are an opportunity to file a complaint against an officer. In this connection, a directive on the procedure for handling complaints and reports by prisoners was adopted on 21 August 2023. It describes the procedure for handling complaints and reports by prisoners. Prisoners also submit requests to be heard by judges, with whom they may file complaints. Under article 251-12 et seq. of the Code of Criminal Procedure, lawyers assist their clients from the moment they are taken in for questioning during the preliminary investigation or the expedited police investigation at the premises of the police, the gendarmerie or government departments whose staff perform certain criminal investigation functions, or before the public prosecutor.

53. Articles 335-8 and 335-9 of Act No. 025-2018/AN on the Criminal Code establish legal safeguards for witnesses, informants and victims. In addition, article 512-6 provides that the competent authorities must take measures to ensure the protection of complainants and witnesses from any ill-treatment or intimidation. Victims are entitled to redress and fair and adequate compensation, including the means for the fullest rehabilitation possible. If a victim dies as a result of torture or related practices, his or her dependants are entitled to compensation. Regardless of any criminal proceedings, the State has an obligation to provide redress to victims.

54. Furthermore, under article 261-44 of the Code of Criminal Procedure, a protection system for witnesses and victims has been introduced that enables them to give evidence anonymously if revealing their identity could put them in danger or pose a risk to their families or relatives.

Compile and disseminate up-to-date statistics on the complaints filed, investigations conducted, prosecutions initiated and convictions handed down in cases of torture (CAT/C/BFA/CO/2, para. 14 (d)).

55. The statistical yearbook of the Ministry of Justice contains information on the judgments handed down in cases of torture and related practices. Between 2019 and 2022, the criminal divisions of the courts of major jurisdiction handed down 26 judgments.

56. In addition, in 2023, the National Human Rights Commission received 11 allegations of torture. Investigations into those allegations are under way.

Amend Act No. 022-2014/AN so that it includes an obligation for the competent authorities to carry out an investigation whenever there are reasonable grounds to believe that cruel, inhuman or degrading treatment or punishment has been committed in any territory under their jurisdiction (CAT/C/BFA/CO/2, para. 14 (e)).

57. The Code of Criminal Procedure already requires the competent authorities to open investigations as a matter of course whenever allegations of torture or related practices are brought to their attention. Article 518-4 of the Code of Criminal Procedure establishes that anyone who alleges that he or she has been subjected to torture or related practices in Burkina Faso has the right to complain to, and to have his or her case promptly and impartially examined by, the competent authorities.

58. The competent authorities must take measures to protect the complainant and witnesses from any ill-treatment or intimidation.

The State party should ensure that no immunity is granted to intelligence officers who have committed acts of torture or ill-treatment (CAT/C/BFA/CO/2, para. 16).

59. Intelligence officers who have committed acts of torture do not enjoy functional immunity. Article 18 of Act No. 026-2018/AN of 1 June 2018 enacting general regulations

on intelligence, exempts from punishment intelligence officers who commit an offence in the performance of their duties only in cases of self-defence or necessity. Acts of torture and related practices are not covered by this immunity.

Stop delegating the sovereign prerogatives that are exclusively incumbent upon it, or otherwise encouraging or supporting non-State armed groups to carry out missions to maintain security (CAT/C/BFA/CO/2, para. 18 (a)).

60. The Koglweego are neither self-defence militias nor non-State armed groups. Some Koglweego groups with the formal status of associations have been integrated into local security initiatives, which used to be governed by Decree No. 2016-1052/PRES/PM/MATDSI/MJDHPC/MINEFID/MEEVCC of 14 November 2016, regulating public participation in community policing. Their actions respond to the desire of local populations to participate in community policing by providing information and reporting crimes to criminal investigation officers. The Government does not intend to delegate any of its sovereign prerogatives in the area of security.

61. As part of efforts to secure national territory, some members of local security initiatives have joined monitoring and development committees in accordance with Act No. 003-2023/ALT of 25 March 2023, establishing monitoring and development committees, which repealed Decree No. 2016-1052.

Establish a mechanism to identify and monitor the actions of the Koglweego (CAT/C/BFA/CO/2, para. 18 (b)).

62. Act No. 003-2023/ALT of 25 March 2023, establishing monitoring and development committees, and its two implementing decrees were adopted to improve the participation of local populations in the process of securing national territory.

63. The Act established coordinating and operational structures for the monitoring and development committees, which are responsible for monitoring the actions of committee members in the area of security surveillance. The Act provides for these structures to be established at the regional, provincial, departmental and district levels. Article 14 of the Act establishes that monitoring and development committees should adopt standard internal regulations, to which their members must adhere. Anyone who contravenes these regulations is liable to disciplinary sanctions, without prejudice to any resulting criminal penalties.

Strengthen the presence and the manpower of the national security and defence forces, as necessary (CAT/C/BFA/CO/2, para. 18 (c)).

64. The following measures have been taken to strengthen security and protect civilians and their property:

- The recruitment of 16,800 internal security officers between 2018 and 2023, increasing the ratio of security officers to members of the population from 1:729 in 2018 to 1:624 in 2023
- The recruitment of 12,350 new members of the National Armed Forces between 2019 and 2022
- The recruitment of 1,534 prison security officers between 2019 and 2023
- The recruitment of more than 50,000 members of the Volunteers for the Defence of the Homeland as auxiliaries of the National Armed Forces and the Internal Security Forces
- The construction of 39 police stations and 20 gendarmeries between 2018 and 2023, leading to an increase in security service coverage from 65.81% of the territory in 2018 to 69.23% in 2023
- The provision of more than 646 vehicles to the police and the national gendarmerie to improve their operations
- The creation, in 2022, of three new military regions, three new gendarmerie divisions, three new territorial security task forces and two new air regions

- The operationalization of 25 rapid response brigades
- The deployment of 13 mobile intervention unit groups
- The recruitment of 2,000 water and forestry officers in 2023

Continue to investigate and prosecute alleged perpetrators of abuse, torture and ill-treatment, and, if they are found guilty, sentence them to appropriate penalties, providing reparation for victims (CAT/C/BFA/CO/2, para. 18 (d)).

65. The authorities routinely investigate all allegations of human rights violations, including those related to torture, ill-treatment and the excessive use of force by members of the National Armed Forces and the Internal Security Forces, the Volunteers for the Defence of the Homeland and local security initiatives. Members of these groups suspected of cruel, inhuman or degrading treatment are always prosecuted. By way of illustration, between 2018 and 2022, 94 people were prosecuted before courts of major jurisdiction within the jurisdiction of the Bobo-Dioulasso Court of Appeal. Of those, 33 were sentenced to fines and/or imprisonment.

The State party should ensure that its counter-terrorism measures and legislation are in conformity with the Convention's prohibitions against torture and ill-treatment, and that all allegations of torture and ill-treatment of persons accused of involvement in terrorist acts or organized crime are promptly, impartially and effectively investigated and that the perpetrators are prosecuted and duly punished (CAT/C/BFA/CO/2, para. 20).

66. Torture is defined in accordance with the Convention in article 512-1 of the Criminal Code and is punishable under articles 512-2–512-4 of the Code. Article 512-5 of the Code establishes that the courts of Burkina Faso have jurisdiction over offences of torture in accordance with article 5 of the Convention.

67. Pursuant to article 518-5 of the Code of Criminal Procedure, allegations of torture or ill-treatment are routinely investigated by the competent authorities in order to establish responsibility and ensure that the perpetrators are punished where appropriate.

68. Several measures have been taken to prevent torture and related practices in the context of the fight against terrorism. Between 2018 and 2022, more than 1,400 members of the National Armed Forces and the Internal Security Forces received training on human rights and international humanitarian law, including the prohibition of torture. In 2023, 397 members of the National Armed Forces and the Internal Security Forces responsible for training the Volunteers for the Defence of the Homeland received training on respect for human rights in the fight against terrorism. This training covered the absolute prohibition of torture. The participants subsequently shared the content of the training with more than 21,000 members of the Volunteers for the Defence of the Homeland.

69. In addition, the military police force, which was established, as part of efforts at the national level to bring the theatre of operations under control of the courts, by Act No. 001-2023/ALT of 16 February 2023, amending the Code of Military Justice, has the task of recording all human rights violations, including acts of torture, gathering evidence of possible violations where necessary and drawing up reports thereon, and ensuring that the rights of persons arrested and detained during operations are respected.

Quickly finalize the investigation opened on 15 July 2019 by the chief prosecutor in the Ouagadougou court of major jurisdiction so as to determine responsibilities and prosecute and punish those responsible for the deaths of the 11 persons detained by the anti-drug unit (CAT/C/BFA/CO/2, para. 22).

70. On 6 April 2022, three police officers were each given a suspended sentence of 3 months' imprisonment and fined CFAF 500,000 by the Ziniaré court of major jurisdiction. The court also ordered the State of Burkina Faso to pay CFAF 107 million to the victims' families.

Take all necessary measures to bring the conditions of detention in all places of deprivation of liberty into line, in practice, with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) (CAT/C/BFA/CO/2, para. 22).

71. To reduce prison overcrowding, the Government completed construction of the large detention facility at the Bobo-Dioulasso detention and correctional facility, which reduced the occupancy rate at the detention and correctional facility from 373.9% in 2019 to 89.4% in 2020.

72. Between 2019 and 2022, two prisons were built in Koupéla and Pô. Construction of the prison in Boulsa is in progress. In addition, during the same period, 22 prisons underwent refurbishment or work to bring them up to standard. The work to bring prisons up to standard involved the construction of boundary walls, gatehouses, walking areas, women's quarters, minors' quarters and police posts, the installation of gas ducts and the setting up of containerized food stores. These improvements reduced the national prison overcrowding rate from 89.6% in 2018 to 68% as at 31 December 2023. The construction of the large detention facility at the Tenkodogo detention and correctional facility has been completed; the new facility will help to further reduce prison overcrowding when it becomes operational.

73. The application of alternatives to imprisonment provided for by Act No. 010-2017 on the prison system and the Code of Criminal Procedure reduced the number of prisoners at all detention and correctional facilities and the country's maximum security prison from 7,812 in 2018 to 7,401 in 2020.

74. Between 2020 and 2022, the number of prisoners at detention and correctional facilities and the maximum security prison rose from 7,401 to 8,800. This development can be explained by the upsurge in crime and the complexity of handling terrorism cases.

Allocate a sufficient budget to the prison reform policy and improve material conditions of detention, ensuring that detainees have access to adequate and sufficient food, adequate healthcare and decent sanitary conditions (CAT/C/BFA/CO/2, para. 22 (a)).

75. The prison service budget rose from CFAF 11,272,000,000 in 2019 to CFAF 16,803,000,000 in 2023 – an increase of 49.07%. This budget is decentralized in the form of funds assigned to each prison. The prison service allocates a budget for prisoners' food accordingly. For example, in 2023, the detention and correctional facility in Ouagadougou was allocated CFAF 58,377,000 for food. In addition, prisons have improved their market gardening techniques and thus increased their production. Two thirds of this market garden output is used to improve prisoners' food rations. Furthermore, modern kitchens have been built in prisons to facilitate meal preparation.

76. Older prisoners and prisoners with illnesses or disabilities have diets adapted to their needs.

77. Moreover, all prisons have a supply of drinking water provided by the National Water and Sanitation Bureau.

78. With regard to prisoners' health, between 2021 and 2023, in addition to the funds assigned to prisons, the Ministry of Justice allocated a budget of CFAF 400 million to provide prisons with support in the form of pharmaceutical products and medical consumables and equipment. The Government also increased the budget allocation for prisoner health from 50 million in 2019 to 125 million in 2023 – an increase of 150%. This budget increase made it possible to widen the availability of tracer molecules from 64.97% in 2019 to 96.6% in 2023. The Government has also increased the number of healthcare workers. In 2022, four of the country's prisons had at least three healthcare workers. In addition, infirmaries are currently being brought up to standard in order to improve healthcare in the prison setting, and five new infirmaries were built in 2022. All these efforts made it possible to increase the prisoner health coverage rate from 32.77% in 2019 to 45.55% in 2023. Since 2021, the Government has also been organizing integrated annual medical check-ups for prisoners.

79. In addition, women prisoners currently receive free dignity kits containing feminine hygiene products. In 2023, a budget of CFAF 7,914,750 was allocated for the purchase of

hygiene kits for women and infants, and a budget of CFAF 531,750 was allocated for the purchase of food kits for infants.

Close the Bobo-Dioulasso remand prison, built in 1947, which is impossible to renovate, despite the work already undertaken (CAT/C/BFA/CO/2, para. 22 (b)).

80. As part of efforts to implement this recommendation, in 2020, a new building with a capacity of 700 prisoners was constructed at the detention and correctional facility in Bobo-Dioulasso. The occupancy rate of this detention and correctional facility fell from 373.9% in 2019 to 162% in 2023.

Step up efforts to reduce prison overcrowding, first and foremost by effectively applying existing alternatives to detention, such as reduced sentencing, judicial supervision or community service (CAT/C/BFA/CO/2, para. 22 (c)).

81. A number of steps have been taken to address overcrowding in prisons. These include sentence adjustment measures (semi-custodial treatment, non-custodial placements, sentence enforcement in instalments, suspended sentences, release on parole, presidential pardons), the construction of new prisons and detention units, increased numbers of justice personnel to speed up the handling of cases, the promotion of alternatives to imprisonment, strengthened judicial oversight, pretrial detention and the transfer of prisoners by administrative or judicial decision.

82. Between 2019 and 2022, 2,968 prisoners were granted non-custodial placements, 3,620 received semi-custodial treatment, 414 were released on parole and 4,562 received presidential pardons. In 2023, the remainders of prison sentences were fully remitted in 335 cases and partially remitted by between 3 and 12 months in 626 cases. In 2020, as part of efforts to combat the coronavirus disease (COVID-19), the Government exceptionally ordered full remission of the custodial sentences of 1,207 prisoners.

83. Furthermore, to ensure greater respect for the rights of persons facing charges, the Code of Criminal Procedure sets time limits on their detention, after which they are automatically released.

84. In addition, in 2020, two new detention units were built in Bobo-Dioulasso and Tenkodogo with a view to reducing overcrowding at detention and correctional facilities. Between 2019 and 2020, two prisons were built in Pô and Koupéla. These achievements helped to reduce the national prison overcrowding rate from 89.6% in 2018 to 68% in 2023.

Ensure that persons in pretrial detention are separated from convicted persons and that both categories are treated in a manner that is in accordance with their legal status (CAT/C/BFA/CO/2, para. 22 (d)).

85. Article 34 of Act No. 010-2017/AN of 10 April 2017 on the prison system provides for the separation of prisoners by category. Separation is ensured in practice between women and men, minors and adults, dangerous and non-dangerous prisoners, and prisoners serving life sentences and other prisoners.

86. The Act provides for specific treatment that takes into account prisoners' legal status. For example, article 43 of the Act establishes that defendants, accused persons and persons charged must be held in pretrial detention at a detention centre at the location of the court where the criminal proceedings against them are being conducted. If the detention centre in question lacks suitable facilities, sufficient capacity or adequate security safeguards, then they must be held at the nearest suitable prison. The transfer is ordered by the competent judicial official.

87. Furthermore, article 62 of the Act provides that persons sentenced to imprisonment must serve their sentences at a correctional facility, a central prison, a prison farm, a vocational training centre or a rehabilitation and vocational training centre for minors.

Strengthen judicial supervision of conditions of detention (CAT/C/BFA/CO/2, para. 22 (e)).

88. On 29 May 2019, the new Code of Criminal Procedure was adopted with a view to improving, in particular, respect for the rights of persons deprived of their liberty. The Code establishes many fundamental legal safeguards. For example, article 262-27 of the Code provides that presidents of investigating chambers must visit the detention centres under the jurisdiction of courts of appeal whenever they consider it necessary and at least once a year to check on the situation of pretrial detainees.

89. Article 203 of Act No. 010-2017/AN of 10 April 2017 on the prison system establishes that investigating judges must visit prisons under their jurisdiction at least once a month and that public prosecutors must do so at least once a quarter. Between 2019 and 2023, judicial authorities made 492 visits of this kind.

Adopt effective measures to prevent deaths in detention and measures for the protection of mothers and children in detention (CAT/C/BFA/CO/2, para. 22 (f)).

90. Under article 258 of Act No. 010-2017/AN of 10 April 2017 on the prison system, healthcare personnel are required to examine all incoming prisoners. To this end, the Directorate of Health and Social Welfare has developed certain tools, including registers and forms, and has issued guidelines on the conduct of routine medical examinations for all newly admitted prisoners. Among other benefits, this medical examination enables healthcare personnel to help any prisoners arriving with urgent issues and detect cases of illness.

91. Committees on hygiene and health in the prison environment have been set up in all prisons. If necessary, isolation cells are set up to accommodate prisoners with contagious diseases. For example, during the COVID-19 pandemic, isolation cells were set up at all detention and correctional facilities with the assistance of ICRC. Seventeen prisoners infected with COVID-19 were held in isolation cells, including nine prisoners in Ouagadougou and eight in Koudougou.

92. Article 246 of the Act establishes that the care of minors and pregnant or breastfeeding women must be the subject of specific provisions. In addition, since 2021, cells have been set up to accommodate mothers at the detention and correctional facility in Ouagadougou.

93. Moreover, pursuant to article 273 of the Act, pregnant prisoners receive appropriate medical care from prison healthcare staff. At the end of their pregnancy, they are transferred to the maternity ward.

94. In 2021, a nursery was built at the detention and correctional facility in Ouagadougou to better protect children living with their mothers in prison. In addition, the university hospital in Bogodogo supports the detention and correctional facility in Ouagadougou with specialists in paediatrics, gynaecology and obstetrics.

95. The medical clinic at the detention and correctional facility in Bobo-Dioulasso has four healthcare workers, who are supported on an ad hoc basis by doctors from the health district. In addition, under a cooperation agreement between the detention and correctional facility and the university hospital, prisoners' healthcare costs are waived.

Guarantee that the National Human Rights Commission, non-governmental organizations and the future national mechanism for the prevention of torture have unhindered access to all places of detention, including through unannounced visits, and that they are able to speak with prisoners in private (CAT/C/BFA/CO/2, para. 22 (g)).

96. Under article 6 bis of Act No. 002-2021/AN of 30 March 2021 amending Act No. 001-2016/AN establishing a national human rights commission, the national preventive mechanism has the right to visit places of deprivation of liberty and their equipment and facilities, with unrestricted access, and to make recommendations to the competent authorities.

97. Between 2019 and 2023, the National Human Rights Commission conducted 89 visits to police custody cells in criminal investigation police subunits (gendarmeries and police

stations). Similarly, 22 prisons, including the military detention and correctional facility, received visits from Commission teams as part of their monitoring of places of detention. Following each visit of that kind, the Commission's findings are reported at a workshop for the heads of the investigation units and the detention and correctional facilities. These findings are accompanied by recommendations.

98. In addition, under article 1 of the memorandum of understanding between the Government of Burkina Faso and ICRC, ICRC has the right of unrestricted access to places of detention and the right to speak with detainees in private. In 2023, ICRC carried out 37 visits to 9 prisons, including 8 multidisciplinary visits involving all ICRC professional groups. During these visits, 304 individual interviews were conducted; 29 inmates are being monitored individually.

Continue efforts to ensure that the members of the National Human Rights Commission are fully independent, both from a personal and institutional standpoint, by providing the Commission with adequate and predictable human and material resources to enable it to fully perform its duties as a national institution and as the national preventive mechanism in an independent, impartial and effective manner (CAT/C/BFA/CO/2, para. 24 (a)).

99. To improve the working conditions of the National Human Rights Commission, the Government has provided it with vehicles and a suitable building to serve as its headquarters.

100. Regarding the strengthening of the Commission's human resources, its staff has grown from 14 people in 2018 to 59 people in 2023 – an increase of 321.42%.

101. The Commission's administrative and financial autonomy is guaranteed by articles 2 and 48 of Act No. 001-2016/AN of 24 March 2016. It has been defined as a separate budget unit since 2022. Its budget increased from CFAF 12 million in 2018 to CFAF 704,623,000 in 2022. Its budget for 2023 was CFAF 646,347,000.

102. The national preventive mechanism is in the process of becoming operational. In this regard, the decree on the organization and functioning of the National Human Rights Commission is currently being reviewed and will make it possible to adapt the national preventive mechanism as needed.

Request accreditation for the National Human Rights Commission from the Global Alliance of National Human Rights Institutions (CAT/C/BFA/CO/2, para. 24 (b)).

103. In July 2023, the National Human Rights Commission commissioned a study to assess its capacities with a view to obtaining accreditation. In November 2023, this study was approved and adopted. The institution is currently taking steps to obtain category A status.

Raise public awareness of the National Human Rights Commission's complaints mechanism through the use of publicity, information and education (CAT/C/BFA/CO/2, para. 24 (c)).

104. As part of efforts to raise awareness and inform the public about the National Human Rights Commission's complaint handling services, tours to present the Commission and its complaints mechanism have been conducted in several regions. Awareness-raising advertisements have been produced and broadcast on television and radio stations in three national languages (Mooré, Dioula, and Fulfulde), in addition to French. Furthermore, the Commission has made several channels for reporting human rights violations and abuses available to the public. Complaints can be submitted using the toll-free number (80 00 12 94) or the online complaint form on the website www.cndhburkina.bf, or in person at the office of the Commission. To ensure the processing of complaints, a procedural manual for handling complaints has been developed and adopted by the Commission.

105. These measures have enabled a number of people who consider themselves to be victims of human rights violations and abuses to file complaints with the Commission's complaints department. As at 10 October 2023, 194 complaints have been registered by the Commission, of which 32 have been determined to be admissible. Those complaints

determined to be inadmissible under the Commission's procedures are referred to the competent authorities.

Provide the National Human Rights Commission with mechanisms and procedures to ensure that witnesses and victims of human rights violations, including torture, are effectively protected against any ill-treatment or intimidation as a consequence of their complaints or any evidence they give. (CAT/C/BFA/CO/2, para. 24 (d)).

106. Since 2020, in accordance with its mandate to promote, protect and defend human rights, the National Human Rights Commission has had a working group entitled "services for victims, including legal and judicial assistance", which is responsible for identifying and registering victims and beneficiaries of victims of human rights violations or abuses and examining the situation of any victim requiring an urgent and appropriate intervention, particularly in terms of psychological care. The group monitors the processing of victims' cases referred to it and discusses any difficulties encountered in obtaining access to justice.

107. Furthermore, all individuals who file a complaint with the Commission receive a guarantee that it will be handled confidentially. As the Commission is independent from other national institutions, no State body may compel or coerce it to reveal its sources of information or the identity of the persons who file complaints with it.

Speed up the establishment of the national preventive mechanism and ensure that it has a prevention mandate that is in line with the Optional Protocol and has the necessary independence, staff, resources and budget to effectively carry out its mandate (CAT/C/BFA/CO/2, para. 26).

108. Act No. 002-2021/AN of 30 March 2021 amending Act No. 001-2016/AN of 23 March 2016 establishing a national human rights commission designates the Commission as the national mechanism for the prevention of torture and related practices. That amendment Act repeals the provisions of article 20 of Act No. 22-2014/AN of 27 May 2014 on the prevention and punishment of torture and related practices, which established a national observatory for the prevention of torture and related practices.

Take the necessary legislative and administrative measures to ensure that victims of acts of torture and ill-treatment have access to effective remedies and can obtain redress, including in cases where the perpetrator has not been identified (CAT/C/BFA/CO/2, para. 28 (a)).

109. Pursuant to article 518-5 of the Code of Criminal Procedure, allegations of torture or ill-treatment are routinely investigated by the competent authorities in order to determine responsibility and ensure that any perpetrators are punished. Article 518-6 of the Code of Criminal Procedure provides that victims are entitled to redress and fair and adequate compensation, including the means for the fullest rehabilitation possible. If a victim dies as a result of torture or related acts, his or her dependants will be entitled to compensation. Notwithstanding any criminal proceedings, the State has an obligation to provide redress to victims.

110. In addition, torture is punishable under articles 512-1 et seq. of the Criminal Code.

Conduct a comprehensive assessment of victims' needs and ensure that specialized rehabilitation services are promptly available (CAT/C/BFA/CO/2, para. 28 (b)).

111. Since 2021, Burkina Faso has commemorated the United Nations International Day in Support of Victims of Torture. To mark the occasion, conferences are organized on the implementation of the State's obligations to prevent torture and support the victims of that degrading practice. The conferences have brought together members of the National Armed Forces and the Internal Security Forces, representatives of civil society organizations, medical personnel and actors involved in the promotion and defence of human rights.

Provide detailed information on cases in which victims of torture and ill-treatment have had access to effective remedies and obtained redress, and provide the Committee with this information with the submission of the next periodic report (CAT/C/BFA/CO/2, para. 28 (c)).

112. Between 2019 and 2022, victims of torture took legal action that resulted in the conviction of 26 perpetrators of acts of torture. In addition, on 23 September 2022, the Koudougou court of major jurisdiction convicted a teacher for ill-treatment. The judgment has been appealed and the proceedings are ongoing before the Ouagadougou Court of Appeal.

Provide timely responses to the recommendations of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment following its mission to Burkina Faso from 3 to 9 December 2017 (CAT/C/BFA/CO/2, para. 30).

113. The Government's response to the recommendations made following the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Burkina Faso from 3 to 9 December 2017 was submitted on 1 February 2023.

Disseminate the report submitted to the Committee and the concluding observations widely, in appropriate languages, through official websites, the media and non-governmental organizations, and inform the Committee about the dissemination efforts made (CAT/C/BFA/CO/2, para. 31).

114. In 2020 and 2021, the Government shared the concluding observations on its third periodic report with more than 500 stakeholders involved in their implementation from the 13 regions. These included representatives of government departments and institutions, the National Assembly, the judiciary, local authorities and civil society organizations, including local security initiatives. This allowed the recommendations to be distributed widely and relevant proposals for their implementation to be collected.

115. Following these summary sessions, the interviews conducted by the presenters and a national language summary of the recommendations were shared with the public via the press and local radio broadcasts.

Application of the provisions of the Convention (arts. 1–16)

Article 1

Definition of torture

116. Article 512-1 of Act No. 025-2018/AN of 31 May 2018 on the Criminal Code provides a definition of torture in line with article 1 of the Convention.

Article 2

Legislative, administrative, judicial or other measures to prevent acts of torture

117. It will be recalled that the prohibition of torture and related practices is now governed by Act No. 025-2018/AN of 31 May 2018 on the Criminal Code. Pursuant to article 900-1 of the Criminal Code, death sentences handed down under previous legislation are automatically commuted to life imprisonment.

118. The Code of Criminal Procedure grants judicial authorities jurisdiction to monitor detention conditions. For example, article 516-37 establishes that juvenile court judges must collaborate with the relevant bodies to track and monitor the enforcement of the measures and sentences that they impose on minors and those imposed by the juvenile court of appeal. For this purpose, they must visit minors to ascertain their condition and the degree to which they accept the measures decided upon, and to order medical or psychological examinations or social services reports where necessary.

119. Article 262-27 of the Code provides that presidents of investigating chambers must visit the detention centres under the jurisdiction of courts of appeal whenever they consider it necessary and at least once a year to check on the situation of pretrial detainees.

120. Furthermore, Act No. 002-2021/AN amending Act No. 001-2016/AN establishing a national human rights commission was adopted on 30 March 2021. Under article 6 bis of the Act, the National Human Rights Commission acts as the national mechanism for the prevention of torture and related practices. As the national preventive mechanism, the Commission's responsibilities include preventing torture and similar practices, conducting visits to places of deprivation of liberty and their equipment and facilities, with unrestricted access, and regularly examining the situation of persons deprived of their liberty in places of detention, with a view to strengthening, if necessary, their protection against torture and related practices.

121. Under article 251-12 of the Code of Criminal Procedure, lawyers assist their clients from the moment they are taken in for questioning during the preliminary investigation or the expedited police investigation at the premises of the police, the gendarmerie or government departments whose staff perform certain criminal investigation functions, or before the public prosecutor. The first and second paragraphs of article 516-1 establish that: "Any minor in conflict with the law has the right to be assisted by a lawyer. However, if a lesser offence has been committed, the minor can be assisted by either a lawyer or an authorized social worker." Between 2021 and 2023, 67 minors received assistance from a lawyer.

122. Under article 251-26 of the Code of Criminal Procedure, if they consider it necessary or a request is made by a family member, public prosecutors may designate a doctor to examine persons held in custody at any time during the custody period. After 72 hours, the person in custody is entitled to a medical examination upon request. As regards minors, article 516-20 of the Code states:

Upon being placed in detention or custody, minors shall undergo a medical examination by a doctor appointed by the judge under whose authority they are being detained, or by the criminal investigation officer with the judge's authorization. The steps taken shall be mentioned in the record of the proceedings, failing which it shall be null and void. The medical certificate shall be attached to the record.

123. With regard to the right of persons in police custody to communicate, article 100-1 provides that any person accused of a criminal offence has the right to contact and be visited by a family member or relative.

124. Furthermore, article 29 of Act No. 010-2017/AN of 10 April 2017 on the prison system states: "All prisoners may submit requests or complaints to the prison director, who will grant them an interview if warranted. All prisoners may ask to speak to judges and inspection officials during their visits to the prison, without any staff member present." The prison director receives complaints and reports of any offences committed within the prison. He or she draws up an investigation report for the public prosecutor. Article 137 of the Act provides that a copy of the report must be transmitted to the prison service director.

125. In the context of the fight against terrorism and organized crime, the duration of police custody may not exceed 15 days, even if required by the needs of the investigation. In exceptional circumstances, this period may be extended by an additional 10 days. This extension is authorized by a written and reasoned decision either, at the request of the public prosecutor, by the president of the court of major jurisdiction or the judge appointed by him or her, or by the investigating judge.

126. An order from a superior may not be invoked as a justification of torture. In this regard, article 32 of the Act on the status of the national armed forces provides that:

Military personnel must obey the orders of their superior officers and are responsible for carrying out the tasks assigned to them. However, they may not be ordered to perform and may not perform acts that are contrary to laws and regulations, customs of war and international conventions or that constitute serious or lesser offences, including offences against State security or territorial integrity. The responsibility for

such acts that falls to subordinate officers does not under any circumstances release superior officers from their own responsibility.

Article 3

Prohibition of the expulsion, return or extradition of a person to a State where he or she would be in danger of being tortured

127. The legislation in force in Burkina Faso expressly prohibits the expulsion, return or extradition of a person to another State if that person is in danger of being subjected to acts of torture. Article 518-1 of the Code of Criminal Procedure states that:

Without prejudice to the principles and regulations governing extradition proceedings, no one may be extradited, expelled or removed by the authorities of Burkina Faso to a State where he or she runs the risk of being subjected to torture. In such cases, the courts of Burkina Faso have jurisdiction to try the person for the acts that prompted the extradition request if they are provided for and punishable under the legislation in force in Burkina Faso or if they constitute an international crime.

128. Furthermore, article 113-2 of the Criminal Code states that:

When the extradition, expulsion or return of a person to a State where that person runs the risk of being subjected to torture or similar practices is refused by the authorities of Burkina Faso, the courts of Burkina Faso have jurisdiction to try the person if the acts for which surrender is requested are provided for and punishable under the legislation in force in Burkina Faso or if they constitute an international crime.

Article 4

Classification of torture as a criminal offence under national law

129. Torture and similar practices are established as offences under the Criminal Code. Articles 512-2 and 512-3 of the Criminal Code provide that the crime of torture is punishable by a term of imprisonment of up to 10 years. However, article 512-4 of the Code establishes that, where there are aggravating circumstances, the perpetrators of such acts may face penalties up to life imprisonment. Under article 422-1 of the Code, acts of torture constituting crimes against humanity are not subject to any statutory limitation.

130. Law enforcement officials are subject to rules of ethics and professional practice in the performance of their duties. Any failure to fulfil their obligations constitutes professional misconduct punishable by disciplinary action, without prejudice to any criminal penalties that may be incurred.¹

Articles 5 and 6

Jurisdiction of the national courts over cases of torture

131. Article 512-5 of the Criminal Code provides that the national courts have the power to try and punish anyone who commits an act of torture where:

- The act is committed in the territory of Burkina Faso
- The act is committed aboard a vessel that is registered, licensed or provided with an identification number under the law of Burkina Faso
- The act is committed aboard an aircraft that is either registered in Burkina Faso or leased without crew and operated by a person who is qualified to own an aircraft in Burkina Faso
- The alleged perpetrator is a national of Burkina Faso
- The complainant or victim is a national of Burkina Faso
- The alleged perpetrator is in Burkina Faso after the commission of the acts

¹ See, for example, Act No. 010-2017/AN on the prison system, Act No. 038-2016/AN on the general status of national armed forces personnel and Act No. 027-2018/AN on the status of officers of the National Police.

132. Article 518-2 of the Code of Criminal Procedure provides that when the alleged perpetrator of an offence covered by the Act is apprehended in Burkina Faso, he or she will be tried according to the rules applicable in Burkina Faso unless he or she is extradited to his or her country of origin or a third country.

133. If a foreign national commits a crime, including an act of torture, on national territory, the Government informs his or her diplomatic or consular mission in accordance with the 1963 Vienna Convention on Consular Relations.

Article 7

Obligation to initiate prosecutions for acts of torture

134. In Burkina Faso, alleged perpetrators of acts of torture are protected by the guiding principles of criminal procedure. Article 100-1 of the Code of Criminal Procedure establishes that criminal proceedings must be fair, adversarial and maintain a balance between the parties. It ensures that all persons subject to the jurisdiction of the courts are equal before the law and have the right to be tried within a reasonable time by an independent and impartial court.

135. Furthermore, every person has the right to adequate facilities to prepare his or her defence and, in particular, to be assisted by a lawyer of his or her choice and to be informed of his or her right to have one if he or she does not have one.

136. In addition, article 518-4 of the Code of Criminal Procedure provides that:

Anyone who alleges that he or she has been subjected to torture or related practices in Burkina Faso has the right to complain to the competent authorities, who must consider his or her case promptly and impartially. The competent authorities should take measures to protect the complainant and witnesses from any ill-treatment or intimidation. The competent authorities consistently conduct investigations to this end.

137. Pursuant to article 261-3 of the Code of Criminal Procedure, investigating judges examine the evidence for both the prosecution and the defence without regard to the nationality of the alleged perpetrator of the acts of torture. Furthermore, article 321-49 of the Code provides that judges may base their decisions only on the evidence produced during the trial and discussed in adversarial proceedings before them.

Article 8

Recognition of torture as an extraditable offence

138. In Burkina Faso, torture and related crimes are extraditable offences. Pursuant to article 518-3 of the Code of Criminal Procedure, Burkina Faso affords other countries the greatest measure of assistance in connection with criminal proceedings brought in respect of torture and related crimes, including the supply of all evidence at its disposal necessary for extradition proceedings.

139. Articles 519-1 et seq. of the Code of Criminal Procedure establish that the conditions, procedure and effects of extradition are regulated by the Code of Criminal Procedure in the absence of any provisions to the contrary in international or bilateral treaties or agreements, including the Convention. Under the second paragraph of article 519-1 of the Code, extradition may also be granted on the basis of international comity or in accordance with the principle of reciprocity.

Article 9

Mutual judicial assistance in connection with proceedings brought in respect of torture or related crimes

140. Pursuant to article 518-3 of the Code of Criminal Procedure, Burkina Faso affords other countries the greatest measure of assistance in connection with criminal proceedings brought in respect of torture and related crimes, including the supply of all evidence at its disposal necessary for the proceedings.

141. To date, no request for mutual judicial assistance has been made by Burkina Faso or submitted to it by another State Party to the Convention.

Article 10

Education and information regarding the prohibition against torture

142. The Government has shared the concluding observations with stakeholders involved in their implementation in all 13 regions of the country. During these workshops, more than 500 stakeholders, including representatives of government departments and institutions, the National Assembly, the judiciary, local authorities and civil society organizations, including local security initiatives, received capacity-building on the provisions of the Convention, the second periodic report and the Committee's recommendations. This allowed for their wide dissemination.

143. Furthermore, between 2020 and 2022, more than 500 young human rights defenders, including 200 girls and 300 boys, from areas affected by the security crisis were provided with training on mechanisms for the protection of human rights, the absolute prohibition of torture, and enforced disappearance with a view to strengthening the contribution of human rights defenders to the protection of human rights in the context of the fight against terrorism.

144. In 2023, the National Human Rights Commission held eight training sessions on the national preventive mechanism for 215 State and non-State actors, including persons working in the criminal justice system, healthcare workers and civil society organizations.

145. During the same period, the Government held four training sessions on the justiciability of international legal instruments for the promotion and protection of human rights, including the Convention, for 84 lawyers.

Article 11

Review of interrogation rules, instructions, methods and practices as well as conditions of detention and treatment of persons who have been arrested, detained or imprisoned

146. Act No. 002-2021/AN amending Act No. 001-2016/AN establishing a national human rights commission was adopted on 30 March 2021. Under article 6 bis of the Act, the National Human Rights Commission acts as the national preventive mechanism. In that capacity, the Commission produces and publishes an annual report on the mechanism.

147. Between 2019 and 2023, the Commission conducted 89 visits to police custody cells in criminal investigation police subunits (gendarmeries and police stations). Similarly, 22 prisons, including the military detention and correctional facility, received visits from Commission teams as part of their monitoring of places of detention.

148. In addition, on 5 December 2022, Burkina Faso signed a memorandum of understanding with ICRC allowing it to visit places of detention and speak with detainees in private. Under this memorandum of understanding, ICRC has unrestricted access to all persons arrested, detained, interned or subjected to other forms of deprivation of liberty under the jurisdiction or control of the Government at all stages of their detention, whether or not they are facing criminal proceedings or have been convicted. Following a visit or a series of visits, ICRC submits a written report to the relevant authorities on its observations, including recommendations aimed at assisting the Government in its efforts to take appropriate measures to improve the conditions of detention and treatment of detainees.

149. The judge responsible for enforcing sentences is also responsible for ensuring that prisoners are well treated. The judicial authorities are required to conduct inspection visits to criminal investigation police units and prisons at least once a year. Between 2019 and 2022, these authorities conducted 442 visits to prisons.

150. In addition to these checks, the technical services of the Ministry responsible for the promotion of human rights regularly carry out inspections of places of detention throughout the country. Between 2019 and 2023, a total of 322 visits to prisons were carried out by administrative authorities. Following these visits, 274 people, including prison officers, police officers and gendarmes, participated in capacity-building activities relating to the Nelson Mandela Rules and the laws and regulations governing detention in Burkina Faso.

151. Furthermore, civil society organizations generally have access to places of detention. Between 2019 and 2023, they conducted 1,074 visits and various activities. In addition, religious authorities are present in various prisons in Burkina Faso and report on their activities in places of detention.

Article 12

Prompt and impartial investigation of acts of torture

152. With regard to criminal law, article 518-5 of the Code of Criminal Procedure establishes that, where there are sufficient grounds to believe that an act of torture has been committed, the competent authorities, including criminal investigation police officers, public prosecutors and judges, must launch a prompt and impartial investigation, even in the absence of a complaint.

153. On an administrative level, all public officials are subject to disciplinary action in the course of or in connection with the performance of their duties, without prejudice to any legal proceedings that may be brought. Furthermore, all credible allegations of human rights violations are investigated in order to determine responsibility and ensure that the perpetrators of such violations are punished.

Article 13

Right to complain about unlawful treatment

154. Article 518-4 of the Code of Criminal Procedure establishes that anyone who alleges that he or she has been subjected to torture or related practices in Burkina Faso has the right to complain to the competent authorities, who must consider the complainant's allegations promptly and impartially. The competent authorities should take measures to protect the complainant and witnesses from any ill-treatment or intimidation. When there are sufficient grounds to believe that an act of torture has been committed, the competent authorities must conduct an immediate and impartial investigation, even in the absence of a complaint. In the event of inaction on the part of the prosecuting authorities, the Code of Criminal Procedure provides for other mechanisms that allow the victim to file a complaint and civil claim directly before the courts (art. 331-2 on summonses) or with the investigating judge (art. 243-3).

155. In 2023, the National Human Rights Commission received 11 allegations of torture, which were processed and are awaiting investigation.

Article 14

Right to redress for victims of torture

156. Articles 335-8 and 335-9 of Act No. 025-2018/AN on the Criminal Code establish legal safeguards for witnesses, whistle-blowers and victims. In addition, article 512-6 provides that the competent authorities must take measures to ensure the protection of complainants and witnesses from any ill-treatment or intimidation. Victims are entitled to redress and fair and adequate compensation, including the means for the fullest rehabilitation possible. If a victim dies as a result of torture or related acts, his or her dependants will be entitled to compensation. Article 512-7 provides that, notwithstanding any criminal proceedings, the State has an obligation to provide redress to victims.

157. With regard to the punishment of torture, between 2019 and 2022, 26 convictions for acts of torture were handed down by the courts of Burkina Faso.

158. Furthermore, under article 261-44 of the Code of Criminal Procedure, a protection system for witnesses and victims has been introduced that enables them to give evidence anonymously if revealing their identity could put them in danger or pose a risk to their families or relatives.

Article 15

Inadmissibility of evidence obtained as a result of torture

159. Evidence obtained through torture is inadmissible under article 251-11 of the Code of Criminal Procedure, which provides that "any statement made as a result of torture or related

practices may not be used as evidence in any proceedings, except in order to establish the responsibility of the perpetrator”.

Article 16

Prevention of other cruel, inhuman or degrading treatment or punishment

160. The Criminal Code prohibits and punishes both torture and practices related to torture. Article 512-1 provides that practices related to torture are “acts or omissions, including arbitrary arrest and detention, constituting cruel, inhuman or degrading treatment or punishment that, though not tantamount to torture within the meaning of indent 3 of this article, are committed by or at the instigation of or with the consent or acquiescence of an agent of the State or any other person acting in an official capacity”.

161. Articles 512-2–512-4 of the Code establish that torture is punishable by terms of imprisonment ranging from 3 years to life, depending on the severity of the act.

Difficulties encountered in implementing the Committee’s recommendations and the provisions of the Convention

162. The main constraints on implementation include the security and humanitarian context and the health crisis.

Security situation

163. The terrorist attacks that Burkina Faso has been facing since 2015 have resulted in human rights abuses and large-scale internal displacement. This situation is an obstacle to the effective implementation of the recommendations, as the State is obliged to devote a greater proportion of its human, financial and material resources to security matters and humanitarian assistance.

164. Furthermore, it is difficult to obtain access to certain areas of the country owing to the lack of security, which has limited the implementation of planned activities in these areas.

Health crisis

165. Burkina Faso, in common with many other countries, has had to deal with the COVID-19 pandemic. Protection measures and border closures have led to the postponement or cancellation of certain activities intended to implement the Committee’s recommendations.

166. The subsequent budgetary adjustments made by the Government have also had a negative impact on activities related to the implementation of the Committee’s recommendations.

Conclusion

167. Burkina Faso has made significant progress in implementing the Convention and the recommendations made following the presentation of its last report to the Committee in 2019, despite the difficulties encountered.

168. Burkina Faso reaffirms its readiness for and commitment to collaboration with the Committee in the fight against torture and related practices.
