



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

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Committee against Torture

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List of issues to be considered prior to submission of the third periodic report of Costa Rica (CAT/C/CRI/3)*

Specific information on the implementation of articles 1 to 16 of the Convention, with particular reference to the Committee's previous recommendations

Articles 1 and 4

1. Please provide detailed information on provisions of criminal law currently in force for offences such as attempted torture, instigation to torture, consent to torture and the order to perpetrate torture given by an authority, and the exact penalties imposed for each of these offences. Please indicate the number of cases in which these legal provisions were applied, giving details of the nature of each case and the places where the prosecuted offences were committed, the penalties imposed or reasons for acquittal.

Article 2¹

2. With reference to the Committee's previous concluding observations (paras. 5 and 6),² please provide information on all the new legislative or other provisions adopted for

* The present list of issues was adopted by the Committee at its forty-fifth 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 corresponding periodic reports. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

¹ The issues raised under article 2 could have implications for other articles of the Convention, including but not only article 16. As the Committee states in paragraph 3 of its general comment No. 2 on the implementation of article 2 by States parties: "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter 'ill-treatment') under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. (...) In practice, the definitional threshold between ill-treatment and torture is often not clear." See further chapter V of general comment No. 2.

the purpose of reducing the duration of pretrial detention, eliminating prolonged incommunicado detention and establishing maximum limits for the duration of administrative detention of aliens awaiting deportation.³

3. Please provide updated information concerning legislative or other provisions adopted during the period under consideration to prevent and combat trafficking in persons, especially women and girls, for the purpose of sexual exploitation, and to care for victims.⁴ What measures have been adopted to define and criminalize trafficking in persons in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol)?⁵

4. Please provide information, disaggregated by the sex, age and nationality of victims, regarding the number of investigations, convictions and sentences passed in cases of trafficking in persons and sexual exploitation for commercial purposes in the period 2008–2012.

5. Please indicate the number of shelters available to victims of trafficking and their geographical location. Please also indicate what treatment or services are available to victims in the shelters.

6. Please provide the Committee with information regarding training and awareness campaigns on trafficking in persons for officials who are in direct contact with victims, and for the general public, conducted by the State party during the period under consideration. Please include information on programmes for the prevention of trafficking agreed with the United Nations Children's Fund (UNICEF) and the International Organization for Migration (IOM).⁶

7. Please indicate whether the restructuring and transfer of the Directorate on Trafficking from the Ministry of the Interior, Police and Public Security to the Directorate General for Migration and Alien Affairs will affect the budget, duties and activities of the new anti-trafficking unit.

8. With reference to the previous concluding observations (paras. 24 and 25), please inform the Committee what new measures have been adopted to combat domestic violence in the State party. In that respect, please provide details of the application of the Act Criminalizing Violence against Women and the Act Establishing the National System for Addressing and Preventing Violence against Women and Domestic Violence, approved in April 2007 and December 2008 respectively.⁷ In particular, please describe what effects the declaration of unconstitutionality and annulment by the Constitutional Court of articles 22 (ill-treatment) and 25 (emotional abuse) of the Act on the Criminalization of Violence against Women (vote No. 15447-2008 of 15 October 2008) may have had for the effective protection of victims of domestic violence.⁸

² The paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee, issued under the symbol CAT/C/CRI/CO/2.

³ CCPR/C/CRI/CO/5, para. 8.

⁴ CCPR/C/CRI/CO/5/Add.1, pp. 3–7; A/HRC/WG.6/6/CRI/1, paras. 38 and 84; A/HRC/WG.6/6/CRI/2, para. 20; A/HRC/WG.6/6/CRI/3, para. 20; CRC/C/OPSC/CRI/CO/1, paras. 20–22.

⁵ A/HRC/WG.6/6/CRI/2, para. 20, and A/HRC/13/15, para. 79.

⁶ A/HRC/13/15, para. 79.

⁷ A/HRC/WG.6/6/CRI/1, para. 78.

⁸ A/HRC/WG.6/6/CRI/2, paras. 17 and 23; A/HRC/WG.6/6/CRI/3, para. 18; A/HRC/13/15, paras. 36 and 55.

9. Please provide the Committee with updated statistical data on the results of proceedings initiated, the number and types of cases of violence against women, and the convictions and sentences handed down against the perpetrators.⁹

10. Please also indicate the number and geographical location of shelters available to victims of domestic violence.¹⁰

Article 3

11. Please clarify whether the new Migration and Aliens Act,¹¹ in force since 1 March 2010, meets the concerns expressed by the Committee in its previous concluding observations (paras. 7–10). With regard to the principle of non-refoulement, please clarify whether:

(a) The State party conducts an assessment of each individual case in order to avoid the return, extradition or expulsion of a person to another State if there are substantial grounds for believing that he or she would be in danger of being subjected to torture; please also inform the Committee of what criteria are applied by the Visa and Asylum Commission and the Administrative Migration Tribunal in deciding whether such grounds exist;¹²

(b) Steps have been taken to speed up asylum application procedures;

(c) That principle has been expressly incorporated in the draft regulations that will supplement the Migration and Aliens Act. Please indicate the date at which those Regulations will enter into force;

(d) Effective measures have been taken to ensure that asylum-seekers and persons recognized as refugees are not deprived of proper reception facilities, including accommodation and medical assistance, and are able to initiate family reunion procedures;

(e) The right to free legal aid is recognized in expulsion, return and extradition procedures;

(f) Appeals lodged in procedures to determine refugee status have immediate suspensive effect;

(g) A person may be extradited, returned or expelled, on the basis of diplomatic assurances, to a country where there is a risk of torture, and if so, what the minimum content of such assurance is and what subsequent monitoring measures are taken in such cases;

(h) The necessary steps have been taken to ensure that all personal files of asylum-seekers and refugees remain confidential.¹³

12. Please describe the content of training on asylum and international protection, given to officials of the Migration Police and the Directorate General for Migration and Alien Affairs, giving the number of hours taught.

⁹ A/HRC/WG.6/6/CRI/3, paras. 17, 22 and 23.

¹⁰ A/HRC/WG.6/6/CRI/1, para. 75.

¹¹ A/HRC/WG.6/6/CRI/1, paras. 94–96; A/HRC/WG.6/6/CRI/2, paras. 47–50; A/HRC/WG.6/6/CRI/3, paras. 49–52; A/HRC/13/15, para. 57.

¹² A/HRC/13/15, para. 59, and A/HRC/WG.6/6/CRI/1, para. 96.

¹³ CCPR/C/CRI/CO/5, para. 7.

13. Please inform the Committee whether collective repatriations or expulsions of aliens are practised. If so, please give details of the procedures and criteria used for such repatriations and expulsions. Is legal aid provided to all aliens, especially those without papers, informing them of their rights — including the right of access to asylum procedures — and to enable them to lodge all available appeals challenging an expulsion order?

14. Please indicate the type of protection and assistance provided for unaccompanied minors detained when trying to enter the territory of the State party through a border control post. Please indicate also whether the conditions of their return and the best interest of the child are assessed in each case.

15. Please provide statistical data, disaggregated by age, sex and nationality, on:

(a) The number of asylum applications registered and the number of applications accepted during the period under consideration;

(b) The number of cases of expulsion, return or extradition;

(c) The number of rejected asylum-seekers and immigrants in an irregular situation who are kept in administrative detention;

(d) The countries to which these persons were expelled.

Articles 5, 7 and 8

16. Please indicate whether, since consideration of the previous report in 2008, the State party has for any reason rejected an extradition application presented by another State with regard to a person suspected of having committed an act of torture, and whether, as a result, the State party has initiated legal proceedings. If so, please indicate the present status of those proceedings and what the outcome has been.

Article 10

17. With reference to the Committee's previous concluding observations (paras. 11 and 13), please provide information about the training programmes currently offered by the State party to ensure that prison personnel and law enforcement officials and bodies are fully aware of the provisions of the Convention against Torture, that offences are investigated and not tolerated and that offenders are prosecuted. Please indicate whether the State party has established methods of assessing the effectiveness and impact of training and education programmes in reducing the number of cases of torture, violence and ill-treatment, and, if so, please provide details of the content and application of such methods.

18. Please provide detailed information on programmes intended to train prosecutors, judges, forensic and medical staff dealing with prisoners to detect and document the physical and mental after-effects of torture. Do these training programmes include specific training on the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol)? Please provide information on the assessment of the training programmes and on how the guidelines for the investigation and documentation of torture are used by medical staff in prisons.

Article 11

19. Please provide information on any newly introduced standards, instructions, methods and practices of interrogation and on any custody arrangements which may have

been introduced since consideration of the last periodic report. Please indicate how often they are reviewed.

20. Please provide updated information, including statistical data disaggregated by sex, age, ethnic origin and nationality, concerning the number of persons deprived of their liberty and the occupancy rate of prisons and detention centres for immigrants in an irregular situation in the period 2008–2012. Please indicate what percentage of the prison population is indigenous or of African descent.

21. In its previous concluding observations (paras. 6, 10 and 14), the Committee drew attention to the need to address problems of overcrowding, both in prisons and in detention centres for immigrants in an irregular situation.¹⁴ In this respect, please indicate what reforms have been adopted to strengthen the system of alternative measures to deprivation of liberty prior to and following trial. What measures have been adopted in response to the concerns and recommendations expressed by the Ombudsman regarding the content of the Administrative and Procedural Handbook for Temporary Holding Centres for Irregular Aliens?¹⁵

22. With reference to the Committee's previous concluding observations concerning conditions of detention for women deprived of their liberty (paras. 17 and 18), please indicate whether there has been any progress with the regionalization of women's prisons and the implementation of a gender-specific policy.¹⁶ If not, what action is planned in this regard? Please also state whether any new Casa Cuna centres have been opened as part of the necessary reorganization of health services in prisons.

23. Please indicate the number of prisons in the State party, their maximum capacity and the current levels of occupation. Please also provide information on health care, education and vocational training available to prisoners.

Articles 12 and 13

24. Please provide statistical data regarding complaints of torture and ill-treatment during the period 2008–2012. If possible, these data should be disaggregated by the place of deprivation of liberty, sex, age, ethnic origin and nationality of victims. Please also provide detailed information on the investigations conducted into those complaints, in particular on the prosecutions and penalties in each case.¹⁷ Please provide detailed information on the content and application of the new Protection of Victims and Witnesses Act.¹⁸ Please indicate how many people have benefited under this Act, and for how long.

25. Please supply statistical data on deaths during custody in the period under consideration, disaggregated by the place of deprivation of liberty, sex, age, ethnic origin and nationality of the deceased and the cause of death. Please provide detailed information on the findings of investigations into these deaths, and on measures taken to prevent the reoccurrence of similar cases. Please indicate whether, in any of the cases, relatives received compensation.

¹⁴ Ibid., para. 9.

¹⁵ A/HRC/WG.6/6/CRI/1, para. 93; A/HRC/WG.6/6/CRI/3, para. 50; and CCPR/C/CRI/CO/5/Add.1.

¹⁶ A/HRC/WG.6/6/CRI/2, para. 9; A/HRC/WG.6/6/CRI/3, para. 7; and A/HCR/13/15, para. 55.

¹⁷ A/HRC/WG.6/6/CRI/2, paras. 15 and 25; A/HRC/WG.6/6/CRI/3, para. 15.

¹⁸ A/HRC/WG.6/6/CRI/1, para. 28.

Article 14

26. On the basis of the Committee's previous concluding observations (para. 19), please indicate what services are available for the treatment of traumas, or other forms of rehabilitation for torture victims.

27. Please provide statistical data on compensation granted to the victims of acts of torture or cruel, inhuman or degrading treatment recorded in the period 2008–2012, giving the specific amounts involved. Please disaggregate data by the sex, age, ethnic origin and nationality of victims.

28. Please indicate whether the right to compensation is based on criminal judgements imposing payment of compensation. Are victims of torture or cruel, inhuman or degrading treatment entitled to receive compensation where the perpetrator has been subject to a disciplinary but not a criminal sanction? Is compensation obtainable through purely civil action?

Article 16

29. In the light of the Committee's previous concluding observations (para. 23), please indicate whether all corporal punishment of children has been abolished in all circumstances.¹⁹ What steps has the State party taken in response to the concern expressed by the Committee on the Rights of the Child regarding allegations of ill-treatment of children during detention?²⁰

30. Please provide information on the measures taken by the State party to protect homosexual and transsexual detainees from discrimination, sexual abuse and physical violence.

Other issues

31. With regard to the temporary designation in 2007 of the *Defensoría de los Habitantes* (Office of the Ombudsman) as a National Preventive Mechanism (NPM) in accordance with the provisions of the Optional Protocol to the Convention, please indicate whether any progress has been made as regards the adoption of the corresponding legislation. Please also indicate whether the NPM has access to all places under the jurisdiction and control of the State party where persons are or may be deprived of their liberty, as stipulated in article 4 of the Optional Protocol.²¹ Please provide information on the level of follow-up given to the recommendations made by the Office of the Ombudsman within the framework of its visits to detention centres.

32. In the light of the Committee's previous recommendations (para. 22), please provide information regarding measures taken by the State party to prevent or prohibit the production, trading, export or use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. In the affirmative, please provide details of the content and application of such measures. If there are none, please indicate whether the adoption of appropriate legislation is being considered.

¹⁹ A/HRC/WG.6/6/CRI/2, para. 2; CRC/C/15/Add.266, paras. 31 and 32.

²⁰ CRC/C/15/Add.266, para. 55.

²¹ A/HRC/WG.6/6/CRI/3, para. 3.

33. Please provide updated information on measures adopted by the State party in response to terrorist threats and explain whether such measures, in law and in practice, have affected the safeguards that protect human rights, and if so, how. In what way has the State party ensured that anti-terrorist measures comply with all its obligations under international law? Please give a description of any relevant training given to law enforcement officials, the number and type of sentences handed down under anti-terrorist legislation, and the legal remedies available to persons subjected to anti-terrorist measures, and indicate whether there have been any complaints that international standards have not been complied with and give details of the outcome of such complaints.

34. It will be recalled that, in paragraph 29 of its previous concluding observations, the Committee requested Costa Rica to communicate within one year information on implementation of the recommendations contained in paragraphs 5–7, 10 and 12. On 12 November 2009 the Rapporteur on follow-up to concluding observations sent a reminder to the Permanent Mission of Costa Rica to the United Nations Office at Geneva. In this regard, please send the requested information, for the purposes of assessment.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

35. Please provide detailed information on any relevant new developments in the legal and institutional framework for the promotion and protection of human rights at national level since the last periodic report, including any relevant new case law.

36. Please provide detailed relevant information on any new political, administrative and other measures taken to promote and protect human rights at national level that have been adopted since the last periodic report, including any national human rights plans or programmes, and on their funding, means, objectives and results.

37. Please provide any other information on any new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the last periodic report in 2008, giving statistical data where necessary, as well as on any events that have occurred in the State party that may be relevant in relation to the Convention.
