



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

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Committee against Torture

**List of issues prior to submission of the sixth periodic report
of Bulgaria, adopted by the Committee at its fiftieth session
(6–31 May 2013)**

The Committee against Torture at its thirty-eighth session (A/62/44, paras. 23-24) established a new optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

Articles 1 and 4

1. With reference to the Committee's previous concluding observations¹ (para. 8), please indicate whether a definition of torture that covers all the elements contained in article 1 of the Convention has been adopted and if these offences are punishable by appropriate penalties which take into account their grave nature, as set out in article 4, paragraph 2, of the Convention. Is torture a separate and specific crime in legislation that is non-derogable and whose prohibition is absolute?

Article 2²

2. In the light of the previous concluding observations (para. 9) and the State party's follow-up replies,³ please provide an update on equal access to justice and legal counsel of all detainees from the very outset of detention and on the work of the mechanism for the provision of legal assistance by lawyers on duty in the first 24 hours of police detention.

3. Is legal counsel available only to persons in extreme poverty and those investigated for serious crimes?⁴ Does the Legal Aid Bureau have sufficient staff and financial resources?⁵ Do State-sponsored legal aid⁶ lawyers have appropriate contact with defendants and are they paid on time?⁷ What is the status of the draft bill⁸ amending the Legal Assistance Act?

4. With reference to the previous concluding observations (para. 10) and the State party's follow-up replies,⁹ please provide information on specific measures taken and indicate if the use of excessive force and firearms by law enforcement officials has been reduced since the amendments to the Ministry of Interior Act. Do the police training programmes and practical exercises cited conform to international standards?

5. In the light of the previous concluding observations (paras. 11 and 13), please inform the Committee of any amendments to the mandates of the Ombudsman and the Commission on Protection against Discrimination to bring them into line with the Paris Principles. Has legislation been amended to enable the Office of the Ombudsman to assume the role of national preventive mechanism¹⁰ and has it been established? Are independent non-governmental bodies able to monitor all places of detention regularly?

6. With reference to the previous concluding observations (para. 12), please provide an update on the reform of the judicial system and on enhancing the independence of the

¹ Paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee, published under symbol CAT/C/BGR/CO/4-5.

² The issues raised under article 2 could also imply different articles of the Convention, including but not limited to article 16. As general comment No. 2, paragraph 3, states: "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 also chapter V of the same general comment.

³ CAT/C/BGR/CO/4-5/Add.1.

⁴ A/HRC/20/19/Add.2, para. 80.

⁵ A/HRC/20/19/Add.2, para. 81.

⁶ A/HRC/20/19/Add.2, para. 84.

⁷ A/HRC/20/19/Add.2, para. 82.

⁸ CAT/C/BGR/CO/4-5/Add.1.

⁹ CAT/C/BGR/CO/4-5/Add.1.

¹⁰ CAT/C/SR.1032, para. 4.

judiciary in conformity with international standards, taking into account the recommendations of the Special Rapporteur on the independence of judges and lawyers, especially paragraphs 97-100 in document A/HRC/20/19/Add.2. Have campaigns been conducted to raise awareness about the importance of the independence of the judiciary? Please inform the Committee about efforts to fight corruption and the number of cases investigated and prosecuted under the 2010 Integrated Strategy for Combating Crime and Corruption, and with what outcome.

7. In the light of the previous concluding observations (para. 25), please inform the Committee of any amendments to legislation making domestic violence a specific crime in the Criminal Code. Please provide information on steps to protect against and monitor domestic violence and on whether the duration of protection orders has been increased. Has a complaints mechanism been established and has there been an increase in reporting cases of domestic violence? Does the requirement that allegations must be initiated by the victims continue to apply? Please inform the Committee about the number of complaints, investigations, prosecutions, convictions and sentences handed down in cases of domestic and gender-based violence.

8. With reference to the previous concluding observations (para. 26) and in order to reduce the incidence of informal early and forced marriage of Roma girls, please provide an update on the enforcement of legislation concerning minimum marriage age and the requirement to register all marriages. Please provide information about any awareness-raising campaigns on the prohibition and harmful effects of early marriages and about the number of related investigations, prosecutions and convictions.

9. In the light of the previous concluding observations (para. 27), please inform the Committee about specific measures to combat trafficking in persons, including pregnant women, newborns and children,¹¹ and on any improvements in the identification of victims. Please describe measures taken to investigate, prosecute and punish human trafficking and strengthen cooperation with countries of origin, transit and destination. Please provide information disaggregated by age, sex and ethnicity of the victims, on the number of complaints, investigations, prosecutions and whether perpetrators are punished in a way commensurate with the gravity of the crime.¹²

10. In the light of the previous concluding observations (para. 19), please inform the Committee about efforts to review the legislation and policy of depriving persons with mental disabilities of their legal capacity, providing legal and procedural safeguards for their rights and ensuring that they have prompt access to effective judicial review of decisions and effective remedy against violations. Have measures been taken to regulate the system of guardianship so as to avoid conflict of interest and situations that amount to forced treatment and de facto detention? Is there a system of close monitoring of placements by judicial organs and independent inspection mechanisms in order to ensure the implementation of safeguards and international standards? Are cases evaluated on an individual basis and are the decisions and preferences of the institutionalized persons taken into account? Is respect for the right of institutionalized persons to physical and mental integrity ensured, in particular during use of restraint and enforced administration of intrusive and irreversible treatments such as neuroleptic drugs?

11. In the light of paragraph 19 of the previous concluding observations, please indicate whether independent mechanisms, including the national human rights institution and civil society organizations, carry out oversight and monitoring of all institutions. Please give an

¹¹ A/HRC/16/9, para. 80.57.

¹² E/C.12/BGR/CO/4-5, para. 16.

update on the reform of the residential care system for children (deinstitutionalization) and measures taken to ensure the integration of children who leave institutional care, including those with disabilities.¹³ What type of family substitute, family support services and community-based services are envisaged for the reintegration of children who do not have a family?¹⁴ Do institutions have sufficient numbers of competent professional staff to maintain a sustainable system of care? Have necessary material renovations been carried out on existing facilities and are new facilities being set up in large cities that have hospitals and medical centres?

Article 3

12. With reference to the previous concluding observations (para. 14), please provide information about the status of any amendments to article 16 of the Ordinance for the Responsibilities and Coordination between the State Agency for Refugees, the Directorate of Migration and the Border Police in order to remove the rule allowing for the detention of asylum seekers on the basis of illegal entry. Are asylum seekers still sent to detention centres for lack of adequate reception facilities and has the Pastrogor transit centre been opened? Has the State Agency for Refugees reinstated its legal assistance programme and are interpretation and translation services available at all border crossings and centres dealing with asylum seekers? Please indicate if reports, descriptions of evidence presented by asylum seekers, minutes and interviews are established in a professional manner. Do asylum seekers enjoy accommodation, access to health care, social assistance, documentation, education and language training in keeping with articles 29 and 30 (a) of the Law on Asylum and Refugees?

13. In the light of the previous concluding observations (para. 16), please indicate whether safeguards ensuring respect for the principle of non-refoulement are fully implemented, including consideration of whether there are substantial grounds that the asylum seeker might be in danger of torture or ill-treatment upon deportation. Do judges receive training on the risks of torture in receiving countries and the need to hold individual interviews in order to assess the personal risk to applicants? Has legislation been amended to guarantee a suspensive in-country right of appeal, with respect for all safeguards and interim measures regarding asylum and deportation procedures pending outcome of the appeal? Is interpretation available to asylum seekers in asylum cases and appeals? Please indicate the number of persons by country of origin, who have been granted asylum or humanitarian protection, and the number of those who have been returned, extradited or deported since the consideration of the previous report, the grounds on which they were sent back and the list of countries to which individuals were returned.

14. With reference to the previous concluding observations (para. 16) and in the light of the judgement of the European Court of Human Rights, please provide follow-up information on the cases of rejected Palestinian asylum seekers, Youssef Kayed and Moussa Kamel Ismael, who were tortured upon their return to Lebanon on 27 November 2010.

15. In the light of the previous concluding observations (para. 15), please provide information on any steps to introduce a definition of statelessness in legislation and establish a legal framework and mechanisms to determine statelessness.

¹³ E/C.12/BGR/CO/4-5, para. 14.

¹⁴ E/C.12/BGR/CO/4-5, para. 14.

Articles 5, 7 and 8

16. With reference to the previous concluding observations (para. 17), please inform the Committee about progress made to ensure that national legislation provides for jurisdiction over offences referred to in article 4 of the Convention for all acts of torture and not only those amounting to war crimes and that all suspected perpetrators of such acts found in Bulgarian territory are either extradited or prosecuted in accordance with article 6 of the Criminal Code, as required by article 7 of the Convention. Please indicate whether the State party has rejected, for any reason, requests for extradition by another State of an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. Please provide information about any new cases that have reached trial and with what result.

Article 10

17. In the light of the previous concluding observations (para. 20), please inform the Committee about training programmes for judges, prosecutors, law enforcement officials and prison staff on the provisions of the Convention and the absolute prohibition of torture. Do medical personnel and others involved in the custody, interrogation or treatment of persons subjected to any form of arrest, detention or imprisonment and professionals involved in the documentation and investigation of torture receive training on the Istanbul Protocol? Does methodology exist to assess its effectiveness and impact on the reduction of cases of torture and ill-treatment?

18. With reference to the previous concluding observations (para. 27), please indicate whether law enforcement and police officials, social workers and medical personnel receive training to detect and adequately advise victims of domestic violence, particularly violence against women?¹⁵ Is training provided to police, prosecutors and judges on the effective prevention, investigation, prosecution and punishment of acts of trafficking, including on the right to be represented by an attorney of one's own choice? Have campaigns been conducted to make the public aware of the criminal nature of human trafficking? Have training modules been developed to sensitize law enforcement and other officials against discrimination based on ethnicity and religion?

Article 11

19. In the light of the previous concluding observations (para. 21), please provide an update on:

(a) Reform of the prison system and implementation of the Strategy for Reforming Places of Detention (2009-2015); have they been accelerated and provided with appropriate funds?

(b) Specific measures to reduce severe overcrowding in prisons, including through increased use of alternatives to detention such as conditional release (parole) and early release,¹⁶ and in ensuring better access to legal aid;¹⁷

(c) Time frames for the construction of new prisons in Burgas, Varna and Sofia¹⁸ and the renovation of existing ones in order to bring living conditions in detention facilities

¹⁵ E/C.12/BGR/CO/4-5, para. 15.

¹⁶ Report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (CPT/Inf (2012) 32), paras. 10-11.

¹⁷ A/HRC/20/19/Add.2, para. 79.

¹⁸ CPT/Inf (2012) 32, para. 10.

in conformity with international standards; progress in increasing the living space to 4 m² per prisoner;¹⁹

(d) Increases in the number of prison staff, on measures to prevent and fight corruption, to end the physical ill-treatment of prisoners by prison staff,²⁰ and to abolish 24-hour work shifts;

(e) Measures to improve the material conditions and basic amenities in prisons which may amount in some cases to inhuman and degrading treatment,²¹ including access to drinking water, food in sufficient quality and quantity,²² hygiene and sanitation, sufficient natural and artificial light, heating, and contact with the outside world;

(f) Hiring of additional medical staff and improvements in the provision of health care and psychosocial support care for detainees who require psychiatric supervision and treatment; an update on the fixation of prisoners with handcuffs and other means of restraint.²³

20. With reference to the previous concluding observations (para. 22), please indicate whether the five underground investigative detention facilities for remand prisoners have been closed and if existing facilities above the ground have been adapted and renovated and any new ones built and where? Have conditions of detention in police stations and facilities improved in terms of sufficient cells and material conditions suitable for overnight stay, including adequate sanitation, ventilation, heating, lighting, clean mattresses and blankets? Has the handcuffing of persons to immovable objects in police stations been prohibited in law and practice?

21. In the light of the previous concluding observations (para. 23), please provide information about steps taken to reduce inter-prisoner violence and the number of deaths in custody. Please specify measures taken to enhance the protection of prisoners, establish the psychosocial profiles of those who engage in violence and provide training to prison staff in the management of inter-prisoner violence. Has the quality and frequency of supervision and monitoring, including additional video surveillance, increased? Are deaths in custody, including suicide, promptly investigated, results of investigations made public and the persons responsible for committing violations leading to deaths prosecuted and punished? Please provide data disaggregated by age, gender and type of violence in prisons and the number of deaths in custody.

22. With reference to the previous concluding observations (para. 24), please inform the Committee of any changes in the use of solitary confinement, including of asylum seekers, and whether there has been a reduction in the periods of solitary confinement and related restrictions. Has legislation imposing a strict regime of segregation during the first five years for prisoners serving life sentences been amended and has the sentence “life imprisonment without the right to substitution” been removed from the Criminal Code to allow for the possibility of parole?²⁴ Do life prisoners continue to be handcuffed when outside their cells?

23. With reference to paragraph 19 of the previous concluding observations, please provide an update on any indictments concerning the 166 criminal investigations into the deaths of 238 children with mental disabilities who died between 2000 and 2010. Have

¹⁹ CPT/Inf (2012) 32, para. 10.

²⁰ CPT/Inf (2012) 32, paras. 14-16.

²¹ CPT/Inf (2012) 32, paras. 22 and 25.

²² CPT/Inf (2012) 32, para. 31.

²³ CPT/Inf (2012) 32, para. 20.

²⁴ CPT/Inf (2012), para. 32.

there been any prosecutions, convictions and sanctions of those responsible, including in relation to the deaths in similar circumstances of two children in Medven in 2011? Have legislation and accountability been strengthened to prevent recurrence and impunity and regulate authorized treatment in institutions, especially of persons and children with mental disabilities, and is attention paid to the individual needs of each child?

Articles 12 and 13

24. In the light of the State party's follow-up replies,²⁵ please provide an update on the 10 criminal proceedings relating to acts of violence at arrest and detention places that are pending before courts. Do mechanisms exist to collect and process data on the ethnicity of victims and allegations of excessive use of force and unlawful conduct of police officers? Please provide information on allegations of torture and ill-treatment, the results of any investigations in connection with these allegations, disciplinary and criminal proceedings, convictions and the sanctions applied, as well as on any compensation provided to the victims; and the percentage of such allegations that concern foreigners.

Article 14

25. With reference to the previous concluding observations (para. 27), please provide updated information on effective redress, including compensation and rehabilitation, available to victims of trafficking and whether they receive legal, medical and psychological aid and rehabilitation, including genuine access to health care, counselling and adequate shelters, as well as any assistance in reporting incidents to the police. Please provide statistical data and examples of cases in which victims of torture or ill-treatment have received adequate redress and compensation, including rehabilitation, since the examination of the previous periodic report.

Article 15

26. In the light of the previous concluding observations (para. 18), please provide information about any new legislation specifically prohibiting the use of statements obtained under torture as evidence as well as about cases where evidence obtained as a result of torture has been held admissible.

Article 16

27. With reference to the previous concluding observations (para. 28) and the State party's follow-up replies,²⁶ please inform the Committee about any amendments to the Criminal Code that make racist motivation an aggravating circumstance in the commission of all types of offences.²⁷ Please provide an update on the enforcement of anti-discrimination legislation and efforts to ensure that violent acts motivated by the victims' national or ethnic identity,²⁸ discrimination and hate speech, are systematically investigated and prosecuted and that the perpetrators are convicted and punished. Are victims compensated and afforded remedies, including reparation for damages? What is the outcome of the judicial proceedings in relation to attacks on journalists, newspapers and television networks in 2011 and 2012? What is the status of the criminal investigation of attacks by supporters of the Ataka party against members of the Muslim community in May

²⁵ CAT/C/BGR/CO/4-5/Add.1.

²⁶ CAT/C/BGR/CO/4-5/Add.1.

²⁷ A/HRC/16/9/Add.1, recommendation No. 9.

²⁸ E/C.12/BGR/CO/4-5, para. 7.

2011 near the Banya Bashi Mosque in Sofia?²⁹ Has the annual 10-week theoretical and practical training course entitled “Police Work with Ethnic Groups” begun?

28. In the light of the previous concluding observations (para. 30), please provide an update on measures to implement legislation explicitly forbidding corporal punishment. Does it cover corporal punishment as a disciplinary measure in penal institutions? Please indicate which safeguards and complaints mechanisms are available to children in practice and describe specific measures to enforce laws prohibiting corporal punishment in institutions for children with disabilities. Please inform the Committee about any professional and public awareness-raising campaigns aimed at eradicating corporal punishment in all settings, including the home, schools, the penal system and situations of employment. Please indicate how the State party has investigated and prosecuted incidents of corporal punishment and sanctioned the perpetrators during the period under review.

29. Please provide information on measures taken by the State party to address the problems of street and socially vulnerable children, especially Roma, who are engaged in harmful and exploitative labour, in particular in agriculture, industry and domestic service.³⁰

Other issues

30. Please provide updated information on the measures taken by the State party to respond to any threats of terrorism and please describe if, and how, these anti-terrorism measures have affected human rights safeguards in law and practice and how it has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with relevant Security Council resolutions, in particular resolution 1624 (2005).³¹ Please describe the relevant training available given to law enforcement officers; the number of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to anti-terrorist measures in law and in practice; whether there are complaints of non-observance of international standards; and the outcome of these complaints.

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

31. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report that implement the provisions of the Convention or the Committee’s recommendations. This may include institutional developments, plans and programmes, including resources allocated, and statistical data or any other information that the State party considers relevant.

²⁹ A/HRC/19/56/Add.2, para. 59.

³⁰ E/C.12/BGR/CO/4-5, para. 10.

³¹ S/2001/1273, S/2002/793, S/2003/632, S/2004/340, S/2005/94, S/2005/705.