



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

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Committee against Torture

**Information received from El Salvador on  
follow-up to the concluding observations on its  
third periodic report\***

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\* The present document is being issued without formal editing.



1. The State of El Salvador submits its report on the follow-up to the concluding observations on its third periodic report, which was considered by the Committee against Torture at its 1964th and 1966th meetings, held on 17 and 18 November 2022. The concluding observations were adopted at the Committee's 1971st meeting, held on 23 November 2022. This report is submitted in accordance with paragraph 38 of the concluding observations, which contains a request for information on fundamental legal safeguards, human rights violations during the armed conflict between 1980 and 1992, and the monitoring of places of detention, which are referred to in paragraphs 11 (a) and (b), 13 (a) and 26 of the concluding observations.

## **Fundamental legal safeguards**

### **Follow-up information relating to paragraph 11 (a) of the concluding observations** **(CAT/C/SLV/CO/3)**

2. El Salvador has a broad regulatory framework containing provisions relating to the deprivation of liberty that are mainly applicable to the spheres of law enforcement and the administration of criminal justice.

3. The key laws and regulations governing deprivation of liberty are the Constitution of El Salvador, the Criminal Code and the Code of Criminal Procedure, which guarantee the protection of the rights of persons deprived of their liberty, such as the right to a fair trial, the right to the presumption of innocence and the right not to be subjected to cruel, inhuman or degrading treatment.

4. Additionally, in order to prevent arbitrary detentions, the National Civil Police of El Salvador has an organizational structure corresponding to its constitutional mandate to exercise its functions in accordance with the law while fully respecting human rights. In this connection:

- The **Human Rights Unit** is responsible for training in human rights, in collaboration with the National Police Training Centre, on subjects such as the use of force, the Code of Conduct for Law Enforcement Officials and institutional ethics. It is also responsible for assessing and conducting follow-up on possible human rights violations by or against police officers.
- The **Disciplinary Investigation Unit** is responsible for investigating serious and very serious acts of misconduct attributed to police officers, in accordance with the definitions set out in the Police Discipline Act currently in force.
- The **Control Unit** is responsible for checking and drawing up reports and conducting specific investigations into complaints made or reports issued against police officers acting in the line of duty.
- The **Internal Affairs Unit** is responsible for conducting investigations under the direction of the Attorney General's Office in the event that a police officer has been accused of committing a criminal offence.
- In addition, the National Civil Police has established the **Citizen Services Office for Internal Oversight** in the five regional zones of the country to bring services closer to the general public. The purpose of the Office is to receive complaints of alleged human rights violations committed by members of the police force.

5. With regard to the external oversight of police operations, the Office of the Inspector General for Public Security is legally required to oversee and assess investigations carried out under the law on administrative penalties in respect of members of the National Civil Police suspected of disciplinary offences. The Attorney General's Office is responsible for the operational oversight of investigations into acts that constitute offences.

6. With regard to the exercise of public defence, the Office of the Counsel General of the Republic is required by the Constitution to assign a public defender to persons being prosecuted for an offence who cannot afford a private lawyer. This requirement also applies under the state of emergency.

7. Although a constitutional measure is currently in effect in El Salvador to ensure public security for all citizens by breaking up criminal organizations, the administrative procedures carried out by the National Civil Police and the Attorney General's Office have been conducted in compliance with the operational protocols that safeguard prisoners' rights.

8. Persons deprived of their liberty are assisted by the Office of the Counsel General of the Republic and are assigned a lawyer and interviewed with a view to devising a strategy for their defence. The process of preparing the case is continued in collaboration with family members or authorized persons.

9. All persons deprived of liberty are assigned a public defender. Communication with family members, for the purposes of devising a defence strategy, is continually maintained. There is also an online support centre, which, in the current year, has provided around 46,000 instances of direct support to family members of detainees.

#### **Follow-up information relating to paragraph 11 (b) of the concluding observations**

10. As the Committee was informed in 2022, the state of emergency was ordered by the Legislative Assembly in response to an unprecedented wave of criminal activity and with the main objective of protecting the public.

11. This decision is based on article 27 of the American Convention on Human Rights, which establishes that, in time of public danger or other emergency that threatens the independence or security of a State, it may take measures derogating from its obligations under the Convention to the extent and for the period of time strictly required by the exigencies of the situation.

12. The purpose of the state of emergency is to provide the institutions responsible for public security in El Salvador with the legal tools and mechanisms needed to re-establish order, public security and territorial control, in line with the implementation and execution of the Territorial Control Plan. The state of emergency and its successive extensions were ordered by the Legislative Assembly of El Salvador on the basis of article 131 (27) and articles 29 and 30 of the Constitution, following a careful analysis that determined their necessity on the basis of specific factual evidence relating to the unique circumstances that have continued to point to a state of serious insecurity and grave violations of human rights.

13. As stated above, the extensions of the state of emergency arise from a careful analysis of the temporary context, which led to the conclusion that it is necessary to maintain restrictions on some of the rights specified in the legislative decrees supporting the extensions in order to contain the actions of criminal groups. This is particularly necessary because the country is not dealing with ordinary crime but actions carried out by terrorist organizations, as recognized by the constitutional jurisprudence of El Salvador. At the time of writing, the safeguards that remain suspended are the right to a defence (Constitution, art. 12 (2)); the maximum duration of administrative detention (Constitution, art. 13 (2)); and the inviolability of correspondence and the interception of telecommunications (Constitution, art. 24).

14. Reasons were provided for each of the extensions adopted by the Legislative Assembly to ensure compliance with the constitutional standard applied to determine their legitimacy. These reasons are directly related to those that gave rise to the initial declaration of the state of emergency.<sup>1</sup>

15. Gang activity cannot be understood as a transitory phenomenon. Its evolution has led to gangs developing close ties with organized criminal groups and becoming entrenched in

<sup>1</sup> The degree of seriousness of the organized crime; the entrenchment of criminal groups that developed within society over decades and the failure to deal with them in a timely manner, which led to the situation becoming excessively complex; the persistence of a state of insecurity; the fact that the majority of the terrorists are still at large; the risk of mutation arising from the break-up of criminal organizations; armed attacks on members of public security institutions; the use of police intelligence by mechanisms used to hide terrorist leaders; the need to wrest control of some local governments from terrorist groups; the need to maintain the police response to terrorist attacks; and the varying *modi operandi* used by criminals to avoid being located and captured.

community structures. For this reason, it is necessary to dismantle the entire structure and its activities, from the highest to the lowest levels. This is a huge undertaking and makes it necessary to maintain the extraordinary powers afforded to the institutions responsible for public security.

16. The gains achieved under the state of emergency and the Territorial Control Plan have been tangible and are recognized by the public. They include the following:

- Breaking up organized criminal groups
- Identifying and arresting members of criminal groups
- Restoring public security at the national level
- Ensuring that public security institutions exercise authority effectively
- Safeguarding the public's right to life
- Restoring trust in public security institutions
- Reducing crime and impunity rates
- Increasing the proportion of municipalities that are free from crime
- Re-establishing the financial viability of sectors impacted by the offence of extortion
- Re-establishing property rights
- Reclaiming public spaces for recreation and the regeneration of community life
- Transforming the system of criminal law governing the investigation, prosecution and punishment of offenders and the granting of special protection to victims of offences

17. The sixth stage of the Territorial Control Plan, entitled "Integration", has been initiated, under which the National Directorate for Integration has been established to work for a more integrated society. The Directorate will focus its efforts on addressing medium- and long-term needs, enabling the State, private companies, universities, communities and all sectors of society to come together to tackle problems such as poverty.

## **Human rights violations committed during the armed conflict**

### **Follow-up information relating to paragraph 13 (a) of the concluding observations**

18. Since the Unit for the Investigation of Offences Committed During the Armed Conflict was established in 2016, the Attorney General's Office has strengthened it by gradually providing it with the human and logistical resources that it needs to better carry out its investigations. Originally, this Unit was a working group composed of three prosecutors. In 2019, however, it was transformed into a specialized institutional unit with a head of unit, a coordinator of prosecutors, seven deputy prosecutors, a military adviser, a legal assistant, an administrative aide and a driver. It has also been provided with vehicles for both operational and executive work and a large physical space that is used exclusively to provide support to victims and witnesses in the cases that it investigates. The space meets the essential conditions necessary for guaranteeing the dignity of these persons and the confidentiality of their statements.

19. This Unit has an investigation plan with strategic guidelines that is in compliance with the Policy on Criminal Prosecution<sup>2</sup> and the Policy for the Criminal Prosecution of War Crimes and Crimes against Humanity Committed During the Armed Conflict in El Salvador.<sup>3</sup>

20. In carrying out its work, the Unit focuses on the essential aspects of any prosecutorial investigation: (a) gathering the necessary evidence to establish that the offence being investigated has been perpetrated; (b) using the evidence collected to ensure that the persons

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<sup>2</sup> <https://www.fiscalia.gob.sv/medios/portal-transparencia/normativas/Politica-de-Persecucion-Penal%202017.pdf>.

<sup>3</sup> <https://escuela.fgr.gob.sv/wp-content/uploads/libros/politica-de-persecucion-penal-crimenes-de-guerra.pdf>.

responsible are implicated in the commission of the offence; and (c) determining the manner in which the offence was perpetrated.

21. The Unit's road map is focused on the guidelines and directives set out in the Policy for the Criminal Prosecution of War Crimes and Crimes against Humanity Committed During the Armed Conflict in El Salvador, with priority being given to the cases referred to in the report issued by the Truth Commission. Since this policy was adopted, it has been implemented in a manner that ensures that it cuts across the work of the institutions.

22. The Unit has provided the following data on the cases that it has investigated since it was first established:

<i>Cases</i>	<i>Number of cases</i>
Cases being investigated	201
Cases brought to trial	28
Cases closed	3
<b>Total number of cases processed to date</b>	<b>232</b>

23. As part of the efforts made by institutions to ensure that prompt and appropriate investigations are conducted into the offence of torture, the Attorney General's Office, with the assistance and technical support of the United Nations Office on Drugs and Crime and the Government of Canada, has drawn up the Manual on the Documentation and Investigation of the Offence of Torture in El Salvador, the purpose of which is to strengthen and standardize prosecutors' documentation and investigation skills, based on the standards, principles and procedures set out in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, known as the Istanbul Protocol.

24. In addition, the School for Prosecutors of the Attorney General's Office maintains an ongoing training programme for prosecutors in general and those attached to the Unit for the Investigation of Offences Committed During the Armed Conflict in particular. Since November 2022, the latter have received the following training:

- A course on the Manual on the Documentation and Investigation of the Offence of Torture
- A course on the implementation of, and follow-up given to, the recommendations of international human rights organizations
- A specialized course on international humanitarian law
- An international seminar entitled "Searching for and Identifying Disappeared Persons: A View from the State Search Mechanisms in Latin America"

## Monitoring of places of detention

### Follow-up information relating to paragraph 26 of the concluding observations

25. As the Committee has been informed, places of detention are monitored and visits by independent national<sup>4</sup> and international<sup>5</sup> agencies and organizations have been permitted. These visits are intended to ensure compliance with national and international regulations and are complemented by active cooperation with international organizations, which allows the authorities to maintain a constructive dialogue and receive valuable feedback to constantly improve practices and policies in this area.

<sup>4</sup> <https://diarioelsalvador.com/pddh-confirma-que-se-estan-respetando-los-derechos-humanos-en-centros-penales-durante-el-regimen-de-excepcion/244137/>.

<sup>5</sup> <https://www.presidencia.gob.sv/vicepresidente-se-reune-con-jefe-del-comite-internacional-de-la-cruz-roja-en-el-salvador/>.

26. In addition, the activities undertaken by the Presidential Commissioner for Human Rights and Freedom of Expression include scheduled visits to prisons, conducted for strictly humanitarian purposes. The main purpose of these visits has been to gain first-hand knowledge of the living conditions of inmates and the prison population as a whole. This initiative is a government mechanism for monitoring and evaluating the situation and quality of human rights in prisons.

27. In parallel with these national measures, international organizations such as the International Committee of the Red Cross carry out inspections in places of deprivation of liberty in El Salvador. This international body, which makes use of a special protocol, conducts thorough assessments of places of detention, establishing specific objectives and adapting the duration of its visits in accordance with them.

28. The presence of national and international bodies in prisons reflects a joint commitment to ensuring respect for human rights and continually improving prison conditions.

29. In conclusion, the humanitarian visits conducted at the national and international levels highlight the importance of constant monitoring to safeguard the fundamental rights of persons deprived of their liberty. The purpose of these collective efforts is to identify possible violations and advocate corrective measures to promote fairer prison environments that are more respectful of human dignity.

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