



**Optional Protocol to the
Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment**

**Comments of Burkina Faso on the recommendations and
observations addressed to it in connection with the
Subcommittee's visit to Burkina Faso from 3 to 9 December
2017***

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* The present document is being issued without formal editing.



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I. Introduction

1. In a note verbale dated 6 July 2020, reference MSB/GGK, the Subcommittee on Prevention of Torture invited the Government of Burkina Faso to submit its reply concerning the follow-up given to the observations and recommendations arising from the Subcommittee's visit to Burkina Faso from 3 to 9 December 2017.
2. The Government of Burkina Faso thanks the Subcommittee for the interest that it takes in the human rights situation in the country in general and the humanization of places of detention in particular.
3. The Government wishes to make specific observations and comments on the facts and on the status regarding implementation of the recommendations arising from the visit.
4. The Government's reply is focused on the following matters: development of the legislative and institutional framework for the promotion and protection of the rights of persons deprived of their liberty, observations and comments on the facts and findings in the Subcommittee's report and the status as regards the implementation of the recommendations arising from the visit.

II. Development of the legislative framework for protection of the rights of persons deprived of their liberty

5. Since the Subcommittee's visit to Burkina Faso in 2017, the Government has made every effort to implement the provisions of the Convention against Torture and the Optional Protocol thereto, including by strengthening the regulatory and institutional framework for human rights protection.
6. As regards legislation, several instruments designed to contribute to the protection of persons deprived of their liberty have been adopted. The most significant of these are the following:
 - Act No. 025-2018/AN of 31 May 2018 on the Criminal Code
 - Act No. 040-2019/AN of 29 May 2019 on the Code of Criminal Procedure
 - Act No. 019-2019/AN of 2 May 2019 on the Organization of the Judiciary
 - Act No. 023-2019/AN of 14 May 2019 on the Regulation of States of Siege and States of Emergency
 - Act No. 002-2021/AN of 30 March 2021 amending Act No. 001-2016/AN establishing the National Human Rights Commission

III. Observations and comments on the facts and the observations contained in the report of the Subcommittee

7. The Government reaffirms its commitment to ensuring that the national preventive mechanism against torture provided for under Act No. 022-2014/AN is operational, by transferring its mandate to the National Human Rights Commission. To this end, Act No. 002-2021/AN, amending Act No. 001-2016/AN establishing the National Human Rights Commission, was adopted on 30 March 2021. Under article 6 *bis* of the Act, the National Human Rights Commission is designated to act as the national mechanism for the prevention of torture and related practices.
8. The Government assures the Subcommittee that the process of transferring the mandate of the national preventive mechanism to the Commission was a participatory and inclusive one and was carried out in accordance with the Optional Protocol and the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

9. The Commission, which is involved in this process, is planning to review the decree on its organization and functions with the aim of establishing a standing subcommittee to assume the mandate of the national preventive mechanism. In so doing, the Commission will be guided by the good practices of other national human rights institutions with the mandate of national preventive mechanisms.

Improve the conditions of detention in the Ouagadougou short-stay prison and correctional facility (para. 98 (a)–(e))

10. In order to ensure that the Subcommittee has information about the real conditions of detention on the ground, the Government should like to provide clarifications concerning some of the observations and claims contained in the visit report.

11. Contrary to the assertion made in paragraph 86 of the Subcommittee’s visit report, namely that the maximum security prison in Ouagadougou houses persons who have been convicted of terrorism, persons who have been sentenced to death and juveniles, the fact is that the prison accommodates extremely dangerous prisoners and those detained for acts of terrorism or violent extremism, in accordance with article 17 of 010-2017/AN of 10 April 2017 on the Prison System in Burkina Faso.

12. Improvements have been made with regard to the duration of visits (paragraph 88 of the Subcommittee’s report). Visiting time has been increased from 15 to 20 minutes, pursuant to article 31 of Order No. 2018-097/MJDHPC/CAB of 1 August 2018 on the internal regulations for maximum security prisons. In practice, when there are not many visitors, visiting times can exceed 20 minutes.

13. Regarding the exercise yard mentioned in paragraph 88 of the Subcommittee’s report, which was not open for use on security grounds, recent adaptations have made it possible for prisoners to use it. Prisoners can now exercise outside in the open air as well as by walking along the corridors of the cell blocks.

14. Regarding the mention of prison overcrowding in paragraph 90 of the Subcommittee’s report, it would be more appropriate to refer to occupancy rates. Equally, the correct term is collective imprisonment rather than collective internment (Subcommittee’s report, para. 92). Internment is a situation in which a person is deprived of liberty for security reasons without being accused of a criminal offence, whereas imprisonment implies that an offence was committed.

15. Regarding the hygiene conditions for women described in paragraph 94 of the Subcommittee’s report, women prisoners now receive dignity kits containing feminine hygiene products.

IV. Status of implementation of the recommendations arising from the visit

16. Burkina Faso takes note with interest of the Subcommittee’s report. The Government has closely considered the Subcommittee’s recommendations and taken the appropriate action to implement them. This action has facilitated the achievement of the progress described below.

Distribute the visit report to all relevant authorities, departments and institutions, including those to which it specifically refers, and request its publication by the Subcommittee (paras. 8–10)

17. Burkina Faso sees no obstacle to the publication of the Subcommittee’s report and the Government’s reply. Furthermore, it undertakes to distribute the report to the relevant authorities, departments and institutions.

Carry out a prompt inspection of the Wemtenga police station and report its findings to the Subcommittee (para. 17)

18. Burkina Faso regrets the incident which occurred at the Wemtenga police station following the chief's refusal to allow the Subcommittee delegation to visit. This incident should not be viewed as indicative of a desire to encourage the practice of torture or ill-treatment at any place of detention, including the Wemtenga police station. All police custody cells, including the one in the Wemtenga police station, are subject to inspections at various levels. Weekly inspections are carried out on the days scheduled for police custody facilities. In addition, unannounced inspections are carried out by the inspection services of the Directorate General of the National Police. For example, on 12 February 2019, a team of chief superintendents working for the inspection service of the Directorate General of the National Police carried out an inspection of the Wemtenga police station to ensure compliance with detention regulations. The results of the inspection were satisfactory.

19. As part of its mandate to visit places of detention, a team from the National Human Rights Commission visited the custody cells in the Wemtenga police station on Thursday 13 February 2020. During this visit, the team conducted interviews with persons in custody and with staff.

20. The technical inspectorate of the Ministry of Security conducts regular inspections of custody facilities whenever necessary. On 6 May 2021, an inspection was performed by a team from the inspectorate consisting of two police chief superintendents. The report on the inspection mentions that the register was in order with a comment stating "well-kept register". However, the team recommended that action be taken to "review the introductory wording in the register".

21. In accordance with article 241-1 of the Code of Criminal Procedure, the public prosecutor carries out unannounced inspections of police units and subunits, including the Wemtenga unit. On 25 October 2021, an inspection was carried out by the deputy prosecutor attached to the Ouaga I *tribunal de grande instance* (court of major jurisdiction). Following the inspection, the prosecutor gave instructions to clearly mark dates of presentation before a judge and release along with the related reasons in the custody register.

22. On 16 September 2022, a team from the Directorate General for Human Rights of the Ministry of Justice and Human Rights visited the Wemtenga police station to gather additional information about the detention conditions there. The overall assessment indicates that the custody register was properly maintained.

23. Following the Subcommittee's visit, the Government took a series of measures to, among other things, increase the number of senior police officers working for the Wemtenga regional criminal investigation service. The number of superintendents assigned to this service has increased from 3 to 10 since the Subcommittee's visit.

Ensure that the national preventive mechanism is provided by law with a sufficient budget of its own and sufficient qualified staff, and that its members are independent, and incorporate the criteria set out in the Optional Protocol and the Paris Principles, make reference to the Optional Protocol and to the Subcommittee, explicitly mention the creation or identification of a national preventive mechanism and refer to the publication of the mechanism's annual report in the amended version of Act No. 022-2014/AN on the Prevention and Punishment of Torture and Related Practices (paras. 23 and 31)

24. The National Human Rights Commission, restructured pursuant to Act No. 001-2016/AN, has been operating since 26 March 2018, when its members took their oath of office before the Ouagadougou Court of Appeal, in accordance with article 17 of the Act. The Commission then established its statutory bodies, electing members of the Bureau, who were appointed by the Council of Ministers on 16 May 2018. The Act was amended by Act No. 002-2021/AN of 30 March 2021, transferring the mandate of a national preventive mechanism to the Commission. Its responsibilities are now to:

- Prevent torture and related practices, taking into account the applicable standards at the national, regional, subregional and international levels

- Inspect places of deprivation of liberty and their equipment and facilities, with unrestricted access
- Regularly examine 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
- Make recommendations to the competent authorities, with a view to improving the treatment and situation of persons deprived of their liberty
- Submit proposals to the competent authority concerning relevant existing or draft legislation

25. To this end, the Commission produces and publishes an annual report on the national mechanism for the prevention of torture and related practices.

26. Since 2019, the State has provided the Commission with overall annual funding that it may allocate according to its annual workplan. The Commission received 62 million CFA francs (CFAF) in 2019 and CFAF 162 million in 2020. It participates in the setting of its budget, both at the executive level (Ministry of Finance) and in the National Assembly. Specifically, it participates in discussions on the adoption of the budget law. Its involvement in this exercise helped it secure an increase of from CFAF 212 million in the initial budget forecast for 2021 to CFAF 592 million in the budget law. With the adoption of this law by the National Assembly on 19 October 2020, the budget allocated to the Commission for 2021 is therefore CFAF 592 million. In addition to resources allocated by the State, the Commission receives support from technical and financial partners to fulfil its mission.

27. The principle of independence is upheld, as the commissioners and staff of the Commission do not receive instructions from any other authority. During their term and in the exercise of their functions, commissioners cannot be declared wanted or prosecuted, arrested, detained or tried on account of their views, actions or investigations relating to their mission of promoting and protecting human rights. They retain immunity after their term of office has ended for actions undertaken in pursuance of their mandate.

28. Article 45 of the Act establishing the National Human Rights Commission provides that, commissioners should carry the official accreditation that they were provided with in 2019 when carrying out their duties. They can request the security forces to provide them with assistance, aid and protection.

Take decisions as to the form and structure of the national preventive mechanism through a transparent, inclusive and participatory process in order to determine the most effective institutional configuration and avoid overlap of mandates and duplication of effort (para. 32)

29. Act No. 002-2021/AN of 30 March 2021, amending Act No. 001-2016/AN establishing the National Human Rights Commission, provides for the transfer of the mandate of the national preventive mechanism to the Commission. As a reminder, the Commission is an independent public authority with legal personality, which has administrative and financial autonomy and independence of action with respect to the other institutions with which it cooperates. The work of the Commission is guided by the Paris Principles, namely independence, impartiality, pluralism, complementarity and cooperation.

30. As indicated in paragraph 21 of the present report, article 6 *bis* of Act No. 002-2021/AN provides that the Commission must publish an annual report on the national preventive mechanism.

Establish a transparent process for the nomination and selection of members of the mechanism, which should ensure gender balance and take into account ethnic pluralism. Members should have the capabilities and knowledge necessary to fulfil their mandate, including medical and legal knowledge, and should not hold positions that could give rise to conflicts of interest (para. 33)

31. Under article 9 of Act No. 001-2016/AN, the Commission has 11 commissioners representing various sectors of Burkina Faso society. The commissioners are given

continuing appointments and serve on a full-time basis. The Act sets out the criteria for designating members, which include the need for experience in a field related to human rights that may be of interest to the Commission. The Commission consists of:

- Two representatives elected by national associations and non-governmental organizations working on human rights
- One representative elected by trade unions
- One representative elected by youth associations
- One representative elected by women's associations
- One representative elected or nominated by the medical association
- One representative elected or nominated by the bar association
- One representative elected by associations of persons with disabilities
- One representative elected by media associations
- Two academics, one of whom is a law professor and one a sociology professor, elected or nominated by their peers

32. Regarding the selection process, the different groups begin by electing three candidates for commissioner, including at least one of each sex, following a call for candidates disseminated widely over print, broadcast and online media. This list is then transmitted to a selection committee consisting of a judge from the Court of Cassation, a representative of the Office of the Ombudsman, a representative of human rights organizations, a representative of the National Assembly and a representative of religious and customary authorities. This committee nominates the members of the Commission, who are appointed by the Council of Ministers. Article 14 of the Act on the Commission provides that the selection committee must consider the equal representation of men and women when nominating the commissioners, with each sex accounting for at least one third of the members on the final list. The Commission currently has five male and four female commissioners. Moreover, the Act stipulates equal representation of men and women on the Bureau of the Commission. In accordance with this provision, the current Bureau has two male and two female members. Two of the three subcommissions are chaired by women.

33. Regarding the capabilities and knowledge necessary to fulfil their mandate, apart from the fact that there are representatives of the medical association and the bar association, the members and staff may build their capacity through training sessions, in addition to the session on techniques for conducting professional visits to places of detention that is already organized for them. Article 41 of the Act on the Commission stipulates that the Commission may consult any person or institution with the competence or knowledge that it needs to handle a case and also that it may draw on any external capabilities or expertise that facilitate the accomplishment of its mission, including by recruiting one or more experts on an ongoing or one-off basis. This arrangement means that it can draw on the assistance of any person whose expertise is considered essential for the analysis of a given situation.

34. In keeping with its independent nature, the Commission may always request the support of any entity or institution, including the Subcommittee, to build the capacity of its members and of the staff who carry out the tasks of the national preventive mechanism.

35. To avoid conflicts of interest, the Act establishing the National Human Rights Commission provides both that commissioners are given continuing appointments and serve full time, in their individual capacities, not in the name of their original organizations, from which they take no instructions (art. 16). Moreover, the functions of a commissioner are incompatible with the performance of any other elected office, private or public employment, professional activity or national representative function (art. 18).

Provide the national preventive mechanism with the ability to carry out unannounced visits to all places of deprivation of liberty, with the frequency that it decides and the ability to conduct private interviews with persons deprived of their liberty (para. 34)

36. Under Act No. 002-2021/AN of 30 March 2021, amending Act No. 001-2016/AN establishing the National Human Rights Commission, the national preventive mechanism has the right to inspect places of deprivation of liberty and the equipment and facilities therein, subject to no restrictions as regards access. The Act also grants them the right to organize regular inspections, announced and unannounced, and make recommendations to the competent authorities (art. 5), and the power to enter any place to verify any allegation of a human rights violation (art. 26).

Guarantee the financial and operational autonomy of the national preventive mechanism by law and in practice and allocate the necessary resources to ensure that it operates effectively (para. 35)

37. In practice, the National Human Rights Commission is an independent public authority with legal personality. It has administrative and financial autonomy and independence of action with respect to the other institutions with which it cooperates.

38. Article 49 of Act No. 001-2016/AN provides that the National Human Rights Commission may seek and receive gifts, bequests and grants from individuals or legal entities, while maintaining its independence. In this regard, the Commission receives grants under partnership agreements. Therefore, in its capacity as the national preventive mechanism, the Commission enjoys guaranteed financial and operational independence. The information in paragraph 22 of the present report regarding the continuous increase in the Commission's budget shows that financial resources are being allocated for the effective functioning of the national preventive mechanism. Between 2016 and 2020, the Commission's workforce increased from 8 officers, including 2 human rights advisers and 1 human rights assistant,¹ to 20 officers, including 7 human rights advisers and 1 human rights assistant. The number of vehicles at its disposal increased from one in 2016 to four in 2020.

Undertake awareness-raising and communication efforts to ensure the visibility of the national preventive mechanism and to distinguish it from the National Human Rights Commission (para. 36)

39. Awareness-raising and communication activities are undertaken to ensure the visibility of the national preventive mechanism. Increases in the budget allocated to the Commission will allow it to schedule and carry out these activities.

Improve detention conditions (para. 50 (a)–(i))

40. In accordance with article 251-22 of the Code of Criminal Procedure, which provides that "placement in police custody must be effected in conditions which ensure respect for personal dignity", the Government has introduced major reforms in various facilities to help improve detention and reception conditions for persons held in custody.

41. Major changes have been made at the Ouagadougou central police station. These include:

- Engaging a private cleaning provider to regularly disinfect and clean the custody cells and the areas used by persons under arrest
- Transferring persons held in custody to the custody cells in the six district police stations of Ouagadougou. The aim here is to reduce overcrowding in the cells of the central police station and afford persons in police custody comfortable conditions as regards food, health care, ventilation, access to drinking water and exercise areas

¹ The position of human rights attaché was converted to human rights assistant in accordance with decree No. 2019-1111/PRES/MFPTPS/MINEFID of 15 November 2019 on the Interministerial Directory of Public Sector Jobs.

- Arranging weekly updates on the situation in custody cells. On these occasions, criminal investigation officers update the chief of service on the number of persons held in custody for whom they are responsible, their state of health and the problems encountered. Their superior is then responsible for formulating appropriate responses in order to address the problems
- Organizing capacity-building for the criminal investigation officers and staff of the central police station and six district police stations of Ouagadougou. On the initiative of a police superintendent working at the central police station who is a trainer at the National Police School, three training sessions on interview techniques and respect for the fundamental rights of persons held in police custody were held. This allowed for capacity-building to be provided to 126 criminal investigation officers and staff.

42. In 2019, the Ministry of Security upgraded the custody facilities in four district police stations in Ouagadougou, taking into account the criteria and standards set out in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

43. The Ministry has also launched plans for the construction of new district police stations in Ouagadougou in line with international rules and standards. These police stations will have well-ventilated cells with sanitation facilities, including inside toilets and access to drinking water. There will also be a space to store the personal belongings of those being held in custody, a procedure for registering and depositing them, adequate lighting and cells where men and women and adults and juveniles can be held separately. For 2021, there are plans to build three more district police stations in Ouagadougou and another in Bobo-Dioulasso. The construction of this infrastructure is part of a decentralization strategy for the Ouagadougou central police station that is designed to improve conditions for persons being held in custody.

44. Regarding security infrastructure, 18 police stations and 7 gendarmeries were built between 2018 and 2020. This led to an increase in security service coverage from 65.81 per cent of the territory in 2018 to 69.23 per cent in 2020.

45. The commander of the investigation and intervention brigade of the National Gendarmerie in Paspanga has been given instructions prohibiting the use and storage of non-approved and non-regulation objects such as clubs and ropes in interview rooms. The leadership has put in place continuous awareness-raising activities for staff to ensure respect for the human rights of persons under arrest and those held in custody.

46. Instructions have also been given to the security services to allow each inmate to have at least one hour a day of outdoor exercise in appropriate conditions of protection and security.

47. The Ministry of Security has widely disseminated letter No. 3196/2019, dated 7 November 2019, from the public prosecutor attached to the Ouaga I *tribunal de grande instance*, providing guidelines for the criminal investigation police on the following measures:

- Reporting continuously to the prosecution service on criminal investigation police activities
- Informing the prosecution service whenever anyone is taken into police custody
- Complying strictly with the legal time limits for custody and the legal conditions for extensions
- Respecting the rights of accused persons to be presumed innocent and to receive a fair trial, with a particular focus on their health and right to a defence, and prohibiting any form of torture or related practices

Adopt the necessary legislative and administrative measures to ensure that all persons deprived of their liberty are informed, upon arrest, of their rights and the reasons for their arrest, both orally, in a language that they understand, with the assistance of an interpreter if necessary, and in writing (para. 53 (a))

48. On 29 May 2019, Burkina Faso adopted the Code of Criminal Procedure, with the intention of improving respect for the rights of persons deprived of their liberty in particular.

The Code introduces many fundamental legal safeguards. For example, under article 251-14 of the Code:

- Arrested persons are to be immediately informed by a criminal investigation officer or a staff member supervised by such an officer, in a language they understand, of the time at which they are being taken into custody, the right to be assisted by a lawyer and the name and alleged date and location of the offence they are suspected of committing or attempting. They are also required to give an address. The officer in charge of the investigation must inform them that any notification, summons or service delivered to this address will be considered duly delivered to them and that they must inform the court of any change of address in writing
- The investigating officer is required to record the information provided by arrested persons and their responses in the interview and police custody reports, which the arrested persons then sign. These persons may refuse to sign, and this is also recorded in the report

49. To strengthen these safeguards, police custody is subject to the supervision of the public prosecutor, without prejudice to the prerogatives of the presiding judge of the *tribunal de grande instance* or of the judge designated by the presiding judge (Code of Criminal Procedure, art. 251-26).

Ensure that police and gendarmerie stations display posters specifying the rights of detainees (para. 53 (b))

50. The Government is committed to implementing this recommendation. Guides to the rights and obligations of persons deprived of liberty in the prisons of Burkina Faso and to the rights of persons held in police custody have already been produced – in 2017 and 2018, respectively – and awareness-raising on these guides has been conducted among prison staff, gendarmes, police officers and prisoners.

Make legislative changes in order to guarantee the right of persons in police custody to be assisted by a lawyer of their choice or an officially appointed lawyer from the moment of arrest and during initial questioning (para. 57 (a))

51. The Code of Criminal Procedure of 2019 gives full effect to the present recommendation. Articles 251-12 and 251-14 to 251-20 of the Code provide that persons held in custody have a guaranteed right to be assisted by a lawyer of their choosing or an officially appointed lawyer as from the moment of arrest and during initial questioning. In 2021, there were a total of 203 lawyers, up from 168 in 2013, which represents an increase of 2.3 per cent per year.

Set up an effective legal aid system for indigent persons (para. 57 (b))

52. Persons of limited means enjoy access to a lawyer through legal aid, which is governed by Decree No. 2016-185/PRES/PM/MJDHPC/MINEFID of 11 April 2016 on the organization of legal aid in Burkina Faso. In article 1 of the Decree, legal aid is defined as the support granted by the State to destitute persons and specific categories of persons so that they may assert their rights before the courts. Legal aid is granted by the Legal Aid Fund, upon request, to all natural persons who are unable to exercise their legal rights as claimants or defendants owing to the fact that they are destitute.

53. In practice, to improve access to justice, the Legal Aid Fund covers the fees of lawyers, bailiffs and notaries and expert assessments for the beneficiaries of legal aid. The number of new beneficiaries of the Fund increased from 239 in 2017 to 562 in 2021. In 2019, there were 314 assisted persons, including 79 indigent prisoners. The Government aims to increase the proportion of eligible persons who receive aid from 37 per cent in 2016 and 59.1 per cent in 2020 to 90 per cent by 2027.

Make legislative changes in order to guarantee the right of persons in police custody to undergo a medical examination from the moment of arrest; ensure that such examinations are conducted properly and as a matter of course at the beginning of the custody period. Ensure that the examinations are performed by a doctor chosen by the person in custody, or by an independent doctor who has been trained to detect cases of torture and ill-treatment in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) (para. 60)

54. The Government takes note of this recommendation and points out that the amended Code of Criminal Procedure constitutes progress with regard to the right of persons held in police custody to undergo a medical examination. Article 251-26 of the Code provides that persons held in police custody are entitled to be examined by a doctor. 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.

55. Article 515-15 of the Code 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 report on the process.

Ensure that all persons in police custody have the right to contact their family or other persons of their choice from the moment they are deprived of their liberty (para. 62)

56. The Government is pleased to inform the Subcommittee that this recommendation is fully implemented, as article 100-1 of the Code of Criminal Procedure guarantees that all persons accused of criminal offences have the right to contact and receive visits from a family member or relative.

Ensure that the maximum duration of police custody does not exceed 72 hours. Any extension of that period should not exceed 48 hours. The total duration of police custody should therefore never exceed 120 hours, and any decision to keep a person in custody for the maximum period must be duly justified by exceptional circumstances, confirmed in writing and recorded in the registers. Consider limiting police custody to a maximum of 48 hours, in accordance with international instruments, including the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (Luanda Guidelines), as part of its ongoing legislative reform (para. 66)

57. This recommendation may be considered during any future review of the Code of Criminal Procedure. However, the Code currently in force strengthens the oversight of police custody. For example:

- The public prosecutor is immediately informed when persons are placed in police custody (art. 252-4) to allow him or her to assess whether the person should be held there (art. 251-26)
- Persons held in police custody must be brought before the presiding judge of the court or a judge designated by the presiding judge for a decision on extension of the custody period (art. 515-15), except in the cases set out in that article
- For minors between the ages of 16 and 18, the initial custody period is limited to 48 hours (art. 516-18)

Take all the necessary measures to ensure that, in practice, all the fundamental legal safeguards set out above are provided to all persons in police custody from the moment they are deprived of their liberty, including the right to legal counsel and the right to be informed of these fundamental safeguards (para. 67)

58. Entities that monitor and inspect places of deprivation of liberty have a mandate to ensure compliance with procedural safeguards, by, for example, checking the information in interview and custody reports and ensuring that registers are properly maintained.

59. To improve access to lawyers, the Legal Aid Fund covers the fees of lawyers, bailiffs and notaries and pays for expert assessments for the beneficiaries of legal aid.

Ensure that the judicial authority responsible for overseeing police custody is independent of the political authorities, so as to fully guarantee its operational independence (para. 69)

60. The Government wishes to remind the Subcommittee that Burkina Faso has a legal system based on the Romano-Germanic model. Therefore, police custody is overseen by the public prosecutor. Nevertheless, before custody is extended, the person being held must be brought before the presiding judge of the *tribunal de grande instance* or the judge designated by the presiding judge, who makes the decision (Code of Criminal Procedure, art. 251-26).

61. The independence of the judiciary is affirmed in article 4 of Organic Act No. 050-2015/CNT on the Status of the Judiciary, as follows: “Judges are independent. Independence means the power, given to judges when they are requested or decide to consider a case, to hand down a decision in strict compliance with the applicable laws and regulations, free from any pressure.” In practice, they are independent of the parties to proceedings and the executive. Moreover, in accordance with article 210-1 (4), the Ministry of Justice cannot give instructions to prosecutors.

Ensure that all detainees are brought before an independent and impartial judge to allow them to challenge the legality of their detention and take effective measures to institute the remedy of habeas corpus (para. 71)

62. The principle applied to detention during investigation procedures in Burkina Faso is that pretrial detention is an exceptional measure (Code of Criminal Procedure, art. 261-79). Accordingly, investigating judges who are considering placing accused persons in pretrial detention conduct a hearing in chambers, first questioning the public prosecutor about the relevant request, if the prosecutor so wishes, and then hearing the observations of the accused person and his or her lawyer, if present. The accused person is allowed to speak last.

63. Following this hearing of the two sides, investigating judges may leave the accused at liberty, place them under court supervision or place them in pretrial detention. They will hand down a reasoned order referring to specific evidence in the case file. The order must mention that the formalities have been observed. The accused person may appeal against the order (Code of Criminal Procedure, art. 261-133).

Take the necessary measures to ensure that consular authorities are notified whenever one of their nationals is taken into custody and that such notifications are recorded in the custody register (para. 73)

64. The Government takes note of this recommendation. In practice, when foreign nationals are detained, steps are taken to inform the consular authorities of the country concerned.

Ensure that police and gendarmerie stations are provided with more detailed registers in which to record medical examinations of new detainees, consultations, transfers for medical treatment and deaths, and that these registers are kept scrupulously up to date and are standardized, in compliance with national and international standards (para. 77)

65. Measures are taken to provide police stations and gendarmeries with standardized and detailed registers to record medical examinations of new detainees, consultations, transfers

for medical treatment and deaths. Training sessions on how to keep registers in compliance with national and international standards are regularly organized for law enforcement officers.

Hold regular training courses for public officials who are authorized to make arrests, in order to raise awareness of the need not to use torture and to remind them forcefully of the absolute prohibition on torture and cruel, inhuman or degrading treatment (para. 81 (a))

66. Training sessions on the absolute prohibition on torture and on respect for human rights are organized regularly for the officials concerned. From 2018 to 2020, 1,077 police officers and gendarmes were given training on the following topics:

- Respect for and protection of human rights
- Human rights and gender
- Human rights and minors in conflict with the law
- International, regional and national instruments on the promotion and protection of women's and girls' rights.

67. These sessions included specific modules on the prohibition of torture and cruel, inhuman or degrading treatment.

Carry out prompt and impartial investigations whenever there are consistent indications that acts of torture or ill-treatment may have been committed (para. 81 (b))

68. Pursuant to article 518-5 of the Code of Criminal Procedure, investigations into allegations of torture or ill-treatment are consistently carried out by the authorities in order to determine responsibility and punish the perpetrators, if there are any.

Prohibit the use of handcuffs as a tool of police violence and the inappropriate or prolonged use of handcuffs (para. 81 (c))

69. Good practices for making arrests and the appropriate use of handcuffs are taught during the initial and ongoing training of the defence and security forces. The human rights training manual used in the country's police academies emphasizes that handcuffs must be used only when necessary and when this is strictly proportionate to the gravity of the offence committed and the behaviour of the arrested person (aggression, danger, threat to the safety of persons or property, refusal to be conveyed, attempt to escape).

70. It also specifies that minors must not be handcuffed unless they are particularly violent or unpredictable.

Organize regular training sessions for law enforcement officers, in accordance with articles 10 and 11 of the Convention against Torture, so as to ensure that they properly understand and effectively implement the provisions of national and international law, including the Nelson Mandela Rules, the Convention and the Optional Protocol (para. 85 (a))

71. The Government has set up initial and ongoing training programmes for law enforcement officers. As part of initial training, modules on human rights have been introduced at police, gendarme and prison guard training academies. A 25-hour module on human rights and civil liberties and a 30-hour module on children's rights are taught at the National Police School. At the Police Academy, a 30-hour module on human rights and civil liberties and a 20-hour module on human rights in the criminal investigation police are taught. A 30-hour module on human rights and prison is included in every course taught at the National Prison Guard School.

72. As part of ongoing training, the Government organizes regular training and awareness-raising sessions for criminal investigation officers on the prohibition of torture and basic principles concerning the use of force and of firearms. The sessions include:

- Awareness-raising for criminal investigation officers on the prohibition of torture

- A specific module on the prevention and punishment of torture, taught as part of continuous training delivered to the security forces (police officers, gendarmes and prison guards)
- Regular, ongoing training for criminal investigation officers on the protection of human rights
- Introductory sessions for the defence and security forces on legal instruments pertaining to the treatment of prisoners
- Capacity-building for the defence and security forces on respect for human rights in law enforcement and criminal investigation
- Capacity-building for the defence and security forces on the Luanda Guidelines and the United Nations basic principles on the protection of all persons from arbitrary detention or imprisonment

73. In 2017 and 2018, training sessions for defence and security forces and medical personnel on the Convention against Torture and the International Convention for the Protection of All Persons from Enforced Disappearance were organized in six regions of the country. These sessions enabled 120 defence and security officers and 40 health-care professionals (doctors, nurses, advanced practice nurses and midwives) to understand their role in implementing these instruments. The relevant provisions of the Convention against Torture and the Optional Protocol thereto, including the recommendations made following the consideration of the initial report of Burkina Faso, were presented to the training participants. With regard to the Istanbul Protocol, the participants were given information on codes of ethics, procedural safeguards for prisoners, the documentation of physical and psychological evidence of torture, in particular through the conduct and interpretation of clinical examinations, and the principles of effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment.

74. Burkina Faso marked the United Nations International Day in Support of Victims of Torture on 26 June 2021. A panel discussion was organized on the State's obligations to prevent torture and support the victims of such degrading practices. The panel members were representatives of the defence and security forces, civil society organizations, prison staff, medical personnel and others actively involved in the promotion and protection of human rights.

75. Defence and security officers have also been trained on human rights and international humanitarian law. The following activities were conducted in 2019 and 2020:

- A meeting for 30 defence and security commanders (senior police, gendarmerie, army and air force officers) to coordinate and exchange good practices on respect for non-derogable rights during special operations to counter terrorism and tackle violent extremism
- Four training and experience-sharing sessions on the incorporation of human rights into judicial proceedings with 100 law enforcement officials (police officers, gendarmes, military personnel and prison guards) attending

Ensure that police stations are allocated enough financial resources to provide their personnel with appropriate premises, with a view to the proper functioning of all units, and to provide the necessary food and health care to detainees (para. 85 (b))

76. The budget of the Ministry of Security increased from CFAF 77,644,839,000 in 2018 to CFAF 104,000,000,000 in 2020. This increase allowed for the construction of appropriate premises for staff and for the renovation and construction of police stations, as indicated in paragraphs 42 et seq. of the present report. In this context, a six-storey building with 540 offices was constructed to accommodate the Directorate General of the National Police.

77. Regarding food and health care for detainees, an annual budget of CFAF 26,440,000 is allocated to the Gendarmerie Staff Headquarters and the Directorate General of the National Police. Efforts are being made to increase this budget.

Improve the conditions of detention in the short-stay prison and correctional facility in Ouagadougou, by ensuring that prisoners have enough cell space and are separated by category (para. 98 (a))

78. Ensuring sufficient space requires action to combat prison overcrowding. In this regard, several mechanisms have been leveraged to reduce overcrowding in the Ouagadougou short-stay prison and correctional facility. These include sentence-adjustment measures (semi-custodial sentences, non-custodial sentences, phased enforcement of sentences, suspended sentences, day release, release on parole, presidential pardons), increased numbers of justice personnel being deployed to speed up the handling of cases, the use of alternatives to imprisonment, limitations on custody periods and the transfer of prisoners by administrative or judicial decision.

79. The number of inmates in the Ouagadougou short-stay prison and correctional facility has fallen considerably thanks to the application of the law on prisons and the Code of Criminal Procedure, which requires judges to observe time limits, and to many other measures. The number of prisoners in this prison fell from 2,364 on 31 December 2018 to 1,870 on 11 November 2019 – a reduction of 494, or 20.9 per cent of the total number of inmates.

80. As part of its response to coronavirus disease (COVID-19), by Decree No. 2020-0252/PRES/PM/MJ of 6 April 2020 on the exceptional remission of sentences, the Government granted total remission of custodial sentences to 1,207 convicted prisoners, of whom 339 were detained in the Ouagadougou short-stay prison and correctional facility.

81. Regarding the separation of different categories of prisoners, juveniles are separated from adults and women from men.

Improve the conditions of detention in the short-stay prison and correctional facility in Ouagadougou, by providing mattresses, bedding and mosquito nets (para. 98 (b))

82. There is no longer any issue with the provision of mattresses, bedding and mosquito nets for women prisoners, who all have these items. The Government and its technical and financial partners are constantly working to issue other prisoners with mosquito nets and mats on a regular basis, although this is not sufficient to cover all needs. Efforts to improve conditions for all prisoners in this regard are ongoing.

Improve the conditions of detention by ensuring that the cells are ventilated and have sufficient natural and artificial light (para. 98 (c))

83. The annex of the Ouagadougou short-stay prison and correctional facility, which had problems with ventilation and lighting, was recently renovated in 2018. All the toilets of this building have been renovated and the pipes have been replaced. The building is adequately ventilated following the installation of additional perforated partitions, while an upgrade to the electricity system has contributed to better lighting.

Improve hygiene and sanitation in the cells and courtyards (para. 98 (d))

84. Since 2018, health and hygiene committees have been set up in every penal institution, including the Ouagadougou short-stay prison and correctional facility. These committees are headed by the prison director and run by specialist staff, namely the health worker, social workers, the prison guard responsible for health and hygiene,² a representative of the prison staff and a representative of the prisoners.

85. The role of the health and hygiene committees is to identify situations that pose a risk to hygiene, sanitation and prisoners' health, and to propose solutions. Their members are responsible for holding training and awareness-raising sessions for prisoners on good health and hygiene practices, including clothing and bodily hygiene, food hygiene and healthy living. The aim of these sessions is to help the prisoners protect their own health and that of other prisoners. For this purpose, the prisoners have been provided with hygiene equipment and

² The prison guard responsible for health and hygiene is a staff member designated to address health and hygiene issues in the penal establishment.

products, such as large bins, wheelbarrows, buckets, mops and bleach. A biodigester and toilets were constructed in the main building of the Ouagadougou short-stay prison and correctional facility in 2018.

86. In 2018, with support from partners, the Government overhauled the drinking water systems in 10 short-stay prisons and correctional facilities, including the one in Ouagadougou. To combat COVID-19, the Government and its partners issued the health and hygiene committees in all prisons with a large batch of hygiene equipment, primarily liquid and solid soap, detergent, bleach, hand-washing equipment and similar items.

Improve the conditions of detention by allowing prisoners to use the toilets at any time of day or night (para. 98 (e))

87. The detention cells in all prisons have inside toilets and there are toilets available in exercise yards to be used during both the day and night. However, efforts to ensure better access to toilets for prisoners are ongoing.

Ensure access to sufficient food of adequate quality, drinking water and the necessary toilet articles, taking into account, in particular, the needs of women and children who are in detention with their mothers (para. 99)

88. In Burkina Faso, all penal institutions, including the Ouagadougou short-stay prison and correctional facility, have a supply of drinking water provided by the National Water and Sanitation Bureau. Prisoners' access to drinking water has improved following the overhaul of the drinking water systems in 10 short-stay prisons and correctional facilities, as mentioned in paragraph 86 of the present report.

89. As regards food, taking the Ouagadougou short-stay prison and correctional facility as an example, the budget increased from CFAF 78 million in 2018 to CFAF 85 million in 2019, which is a rise of 8.87 per cent. With the support of the Directorate of Prison Production and Vocational Training, the Ouagadougou short-stay prison and correctional facility has improved its market garden techniques and thus increased its output. Two thirds of this market garden output is used to improve the nutritional content of the prisoners' food rations. With support from the International Committee of the Red Cross, a modern kitchen has been constructed at the Ouagadougou short-stay prison and correctional facility to facilitate meal preparation.

90. In prisons in general, physically vulnerable inmates (those with illnesses or disabilities and older persons) and convalescent prisoners have a diet adapted to their needs. Despite the various actions undertaken to improve prisoners' diets, major challenges remain. To meet these challenges, an order on the upkeep of prisoners is in the process of adoption. The order gives precise quantitative and qualitative indications of the meals to be served to women prisoners, pregnant and breastfeeding women and infants living with their mothers in detention. The order also specifies the hygiene items, cooking utensils and bed linen that prisoners must receive on a regular basis.

Renovate the dilapidated part of the old building of the Ouagadougou short-stay prison and correctional facility (para. 100)

91. The Government is aware of the state of the old building of the Ouagadougou short-stay prison and correctional facility. It is currently considering how to find a definitive solution to the issues related to its dilapidated state.

Adopt a policy of non-custodial measures and sentence adjustment in order to reduce prison overcrowding, taking into account the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) (para. 101)

92. In accordance with Decree No. 2019-0309/PRES/PM/MJ of 16 April 2019 on the organization of the Ministry of Justice, the Ministry is responsible for implementing the Government's justice policy. To achieve this, its responsibilities include promoting alternatives to imprisonment, producing, implementing, monitoring and assessing the prison programme, putting in place measures to humanize prisons and developing and monitoring penal policy.

93. In recent years, it has taken steps involving the introduction of legislative changes and promotion and awareness-raising among judicial personnel regarding alternatives to imprisonment.

94. Among the legislative changes, the laws adopted by the National Assembly concerning alternatives to imprisonment are:

- Act No. 025-2018/AN of 25 May 2018 on the Criminal Code
- Act No. 040-2019/AN of 29 May 2019 on the Code of Criminal Procedure
- Act No. 010-2017/AN of 10 April 2017 on the Prison System in Burkina Faso

95. For example, article 213-1 of the Criminal Code lists community service among the main sentences a judge may impose for ordinary offences. Article 211-1 provides for suspended and split sentences as alternatives to imprisonment. Split sentences are sentences of imprisonment or fines of which part is served and the other part is suspended.

96. Among its actions to promote and raise awareness of alternatives to imprisonment, on 24 August 2018 in Kaya, the Ministry of Justice organized an awareness-raising workshop for judicial personnel on community service as an alternative to imprisonment. During the workshop, participants were informed of the need to use alternatives to imprisonment. Steps were also taken to persuade various organizations to receive persons sentenced to community service. In addition, three awareness-raising seminars on alternatives to imprisonment were held for 70 persons, including judges, on 20 June 2018 in Koupéla, on 28 June 2018 in Koudougou and 9 July 2018 in Banfora, under the aegis of the appeal courts of Fada Ngourma, Ouagadougou and Bobo-Dioulasso, respectively.

97. Penal guidance notes are an important way for the Ministry of Justice to communicate with stakeholders in the penal system on the need to make the greatest possible use of alternatives to imprisonment, including community service, fines and suspended sentences.

98. Sentence-adjustment measures are defined in legislation and implemented through the activities of sentence enforcement commissions and actions to build capacity among judicial personnel.

99. Regarding legislative measures, article 614-1 of the Code of Criminal Procedure provides that persons sentenced to one or more terms of imprisonment may be released on parole if they have provided sufficient evidence of good behaviour and a serious commitment to social reintegration. Parole is reserved for prisoners who have served at least half their sentence, or two thirds of their sentence for repeat offenders. Persons sentenced to life imprisonment may apply for parole after serving 25 years of their sentence.

100. The presidential right of pardon, provided for in article 54 of the Constitution of 11 June 1991 and made applicable by Act No. 10-2017/AN of 10 April 2017 on the Prison System in Burkina Faso and decree No. 160 of 18 April 1961 regulating the right of pardon, is also a means of reducing prison overcrowding. Such remissions of sentences are granted every year.

101. Sentence enforcement commissions are established in every prison. The members of these commissions meet every month to make decisions on requests for the application of semi-custodial measures, non-custodial measures, placement in vocational training centres and placement in work outside the prison. All these placement measures contribute significantly to reducing prison overcrowding.

102. The capacity-building actions undertaken by the Ministry of Justice consist in organizing training sessions for judicial actors under the aegis of the courts of appeal of Bobo-Dioulasso, Fada Ngourma and Ouagadougou. For example, a training workshop on the execution of prison sentences for those involved in sentence enforcement commissions was held on 13 and 14 June 2018 in Koudougou.

103. A study to identify the challenges in applying alternatives to imprisonment and propose solutions is under way. The Ministry's actions are supported by equally important initiatives carried out by civil society and non-governmental organizations.

Ensure that the provisions of Act No. 010-2017/AN regarding the education, vocational training and social reintegration of prisoners are properly applied, ensure that a continuing education programme is effectively implemented in prisons and facilitate access to vocational training and a library (para. 102)

104. One of the strategic objectives of the sectoral policy on justice and human rights for the period 2018–2027 is to ensure public safety while promoting the social reintegration of prisoners. This objective will be achieved by increasing the proportion of convicted prisoners who are the beneficiaries of at least one social reintegration measure by at least 50 per cent by 2027.

105. The educational offer in prisons consists mainly of literacy courses for prisoners without prior schooling and educational support activities for those whose education was interrupted by imprisonment. In 2018, 112 prisoners, of whom 77 were men, 16 were women, 17 were boys and 2 were girls, regularly attended literacy classes in the Ouagadougou, Bobo-Dioulasso and Fada Ngourma short-stay prisons and correctional facilities. In the Fada Ngourma, Bobo-Dioulasso, Koudougou and Ouagadougou short-stay prisons and correctional facilities, classes were held to help detained students prepare for their school examinations. This enabled 20 students to take their school examinations. In addition, 7 baccalaureate candidates and 13 candidates for the certificate of completion of the first stage of secondary education regularly attended classes during their detention and took the relevant examinations. Four juveniles passed the examination for the certificates of completion of the first stage of secondary education and of primary education. At the beginning of the school year in October 2018, 51 juveniles resumed their school programme.

106. With the support of its partners, the State takes action in the areas of education, vocational training and social reintegration for prisoners. From March 2017 to February 2020, a training and social reintegration project for detainees, carried out in the Baporo, Bobo-Dioulasso, Fada Ngourma, Koudougou, Ouagadougou, Tenkodogo and Ouahigouya prisons, allowed 3,501 prisoners, or 54 per cent of the total number in the country, to take part in education, vocational training and social reintegration activities.

107. As regards vocational training, under the training and social reintegration project for prisoners, 18 production-related workshops were expanded and 3 new ones were established in the prisons of Bobo-Dioulasso, Ouagadougou, Koudougou, Tenkodogo and Ouahigouya. This has resulted in more choice and placement options for detained persons requiring vocational training. Vocational training has been provided to 576 prisoners, in the fields of soap-making, laundry, carpentry, animal husbandry, gardening, welding and agriculture.

108. Social reintegration activities for prisoners include:

- Strengthening the training of professionals working in institutional settings on personalized social support
- Training on post-prison support for professionals working in non-institutional settings
- Extending and consolidating the personalized social support process in the definition and execution of a project for the social and professional reintegration of prisoners
- Reproducing and disseminating the directory of relevant services for post-prison reintegration
- Raising awareness among new stakeholders (civil society organizations and individuals) to strengthen the network of volunteers and update the directory of relevant services and individuals³
- Providing the most vulnerable prisoners with small grants or professional kits at the end of their sentences to facilitate their social and professional reintegration

109. Most prisons have no library. The Ouagadougou short-stay prison and correctional facility, which does have one, is an exception. However, the establishment of prison libraries is a concern for the Government. For this reason, article 168 of the Act on the Prison System in Burkina Faso provides for the establishment of a library in each prison. The

³ Private individuals who play a significant role in supporting prisoners.

implementation of this provision will remedy the lack of libraries in penal establishments. The establishment of the Directorate of Sports, Leisure, Arts and Culture within the Directorate General for the Prison Service and of sports, leisure, arts and culture services in prisons is a demonstration of this intention.

Organize recreational, sporting and cultural activities more frequently and there ensure equitable remuneration for the work of prisoners (para. 103)

110. The Directorate of Sports, Leisure, Arts and Culture has been established as part of the Directorate General for the Prison Service and sports, arts and culture services have been introduced in each prison to meet the need to organize recreational, sporting and cultural activities for prisoners. Sports instructors are recruited and trained to allow for sport to be practised in prisons. In each prison, an exercise (aerobics) programme for all is established and provided for prisoners, separately from activities such as football, table football, checkers and card games, which take place on a continuous basis in all prisons. Prisons are regularly provided with sports, art and leisure equipment, including balls, goal posts and musical instruments.

111. The following actions have been taken to promote sport among prisoners in the Ouagadougou short-stay prison and correctional facility:

- Sporting activities are held twice a week for all prisoners
- A playing field has been constructed in the juvenile section
- Aerobics sessions are organized for the prisoners
- Inter-section competitions are organized
- The prison director's football cup, in which a prisoners' team takes part, is organized

112. The following actions have been taken to promote artistic and cultural activities among prisoners in the Ouagadougou short-stay prison and correctional facility:

- An art room has been constructed for the prisoners to have lessons and exhibit pictures
- Sketching and dance classes are held for the prisoners
- An album by two musicians detained in the Ouagadougou short-stay prison and correctional facility was produced by the art, culture and leisure service, with support from external partners
- Each year, a musical concert for prisoners is held during the "Un vent de liberté" (wind of freedom) festival, which is organized by civil society in cooperation with the administration of the Ouagadougou short-stay prison and correctional facility
- A prison comedy festival is organized by national and international comedians

113. Inmates in the maximum security prison also engage in cultural activities and, three times a week, in sports activities. There are musical and theatre groups directed by a member of prison staff who is also a performer.

114. Prisoners' work is remunerated in accordance with the applicable law. Article 225 of the Act on the Prison System in Burkina Faso provides that prisoners receive 60 per cent of the income derived from their work. The remainder is paid into a special account at the treasury as the prisoners' contribution to their upkeep. However, the sentence enforcement commission may waive the requirement to relinquish 40 per cent of income for prisoners found to be indigent following the conduct of a means test.

115. Pursuant to article 181 of the Act, convicted prisoners are also obliged to carry out prison work as a means of preparing for their reintegration into society. Prison administrators endeavour to implement this provision for the benefit of prisoners involved in prison industries.

Ensure that the judicial authorities (investigating judges, sentence enforcement judges and prosecutors) visit places of detention regularly, with the frequency required by Act No. 010-2017/AN, so as to be able to deal with prisoners' requests (para. 108 (a))

116. In most prisons, the judicial authorities carry out visits as recommended by the law on prisons. The Ministry of Justice carries out awareness-raising actions and follow-up with various stakeholders with a view to strengthening the effectiveness and efficiency of these visits. To this end, circulars are often sent to the judges concerned to remind them of the obligation to regularly visit places of detention in accordance with Act No. 010-2017/AN on the Prison System in Burkina Faso.

Provide prison staff, on a regular basis, with training and with clear and specific instructions reminding them of the absolute prohibition on all forms of torture and ill-treatment (para. 108 (b))

117. The continuous training of prison system personnel is a priority for government action. Accordingly, prison staff have always received training on respect for human rights. Since 2017, particular focus has been placed on the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

118. At general meetings and weekly briefings in prisons, staff are routinely reminded of their duties to strictly respect the human rights of detainees, including the absolute prohibition of torture.

Ensure that there is a properly functioning mechanism whereby any prisoner may submit a confidential complaint to independent oversight bodies, pursuant to Act No. 010-2017/AN (para. 108 (c))

119. Under article 29 of the Act on the Prison System in Burkina Faso, 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 any correspondence exchanged with counsel, the judicial authorities, social workers and ministers of religion is not subject to inspection.

120. In practice, prisoners write to their counsel and to judges without restriction. They regularly receive visits from lawyers and from representatives of human rights movements and associations. Prisoners are regularly received in meetings with the prison director or the director's representative. Some prisoners use this opportunity to complain about guards. They also submit requests to be heard by judges, with whom they can file complaints.

Ensure that such complaints are examined by the visiting mechanisms established (para 108 (d))

121. Prisoners have the opportunity to talk to the judicial authorities during the visits they make. Article 29 (2) of the Act on the Prison System in Burkina Faso allows all prisoners to ask to speak to judges and inspection officials during their visits to the prison, without any staff member present.

Introduce procedures to protect complainants against reprisals (para. 108 (e))

122. Act No. 025-2018/AN on the Criminal Code has a section dedicated to the legal protection of witnesses, whistle-blowers and victims (arts. 335-8 and 335-9). In addition, article 512-6 specifies that the competent authorities must take measures to protect plaintiffs and witnesses from ill-treatment and intimidation. Victims are entitled to redress and to fair and adequate compensation, including the means for the fullest rehabilitation possible. In the event of the death of the victim as a result of an act of torture or related practices, the victim's dependants are entitled to compensation. Notwithstanding any criminal prosecution, the State is obliged to grant reparations to victims.

123. Furthermore, the Code of Criminal Procedure has introduced a protection system for witnesses and victims through its provision that they may give evidence anonymously if

revealing their identity could put them in danger or pose a threat to their families or relatives (art. 261-44).

Ensure that the mechanism independently and impartially investigates all such complaints within a reasonable time frame, in accordance with articles 12 and 13 of the Convention against Torture (para. 108 (f))

124. The authorities responsible for handling complaints, in particular judges and lawyers, work subject to taking an oath of office and exercise their functions independently and impartially. Accordingly, the complaints they receive from prisoners are handled in accordance with these principles, and within a reasonable time frame.

Increase access to legal counsel and legal aid (para. 108 (g))

125. Under article 58 of Act No. 010-2017/AN of 10 April 2017 on the Prison System in Burkina Faso, lawyers who have provided proof of their identity and professional competence may communicate freely with prisoners, either to receive instructions from them or to defend their interests. Since the adoption of the Act, no difficulty in implementing this provision has been reported to the prison service. A meeting room for lawyers has been constructed in the Ouagadougou short-stay prison and correctional facility. This project was funded by the national bar association.

126. The Ministry of Justice carries out activities to provide information to prisoners and raise their awareness of the existence of the Legal Aid Fund and their right to use it. These actions help to strengthen prisoners' right of access to legal counsel and legal aid.

Provide prisons with registers in which to record medical examinations of new prisoners, consultations, transfers for medical treatment and deaths (para. 110 (a))

127. In accordance with article 127 of Act No. 010-2017/AN of 10 April 2017 on the Prison System in Burkina Faso, several types of registers, including those related to medical examinations of new prisoners, consultations, transfers for medical treatment and deaths, are kept in prisons.

128. The Ministry of Justice regularly issues these registers to prisons.

Standardize all registers in accordance with national and international standards (Nelson Mandela Rules, rules 6–10) (para. 110 (b))

129. The registers are filled in correctly and, in addition, management software has been introduced at the Ouagadougou short-stay prison and correctional facility, which allows for proper monitoring of the prisoners' situation.

Ensure that prison authorities use solitary confinement only when strictly necessary, in accordance with the Nelson Mandela Rules (para. 115 (a))

130. Solitary confinement is not used routinely in prisons. It is a measure that is always taken in accordance with the Act on the Prison System in Burkina Faso, which states that the purpose of solitary confinement is to completely separate a prisoner from the rest of the prison population for administrative, health, order or security reasons. Article 39 of the Act specifies that solitary confinement is not a disciplinary sanction and that its duration depends on the reasons for which it was used.

131. The Act also sets out the conditions in which a prisoner may be placed in solitary confinement (arts. 45 and 70). However, the internal regulations for prisons do not stipulate the procedures and arrangements for solitary confinement as the Act provides. This gap will be remedied in an upcoming review of the order on the internal regulations for prisons.

Ensure that any person who is to be placed in solitary confinement is informed immediately and can challenge this decision internally and/or before the courts (para. 115 (b))

132. The complaints mechanism provided for in article 29 of the Act on the Prison System in Burkina Faso, which gives all prisoners the possibility of complaining to the director and

the judicial authorities, applies in cases of solitary confinement. As a reminder, this article provides that all prisoners may submit requests or complaints to the prison director, who will grant them an interview if warranted and that all prisoners may ask to speak to judges and inspection officials during their visits to the prison, without any staff member being present.

Ensure that persons with mental disorders are never subjected to solitary confinement as a disciplinary measure (para. 115 (c))

133. See paragraphs 159 et seq. of the present report.

134. When prisoners have mental disorders, every effort is made to place them in an accredited health centre outside the prison, specifically the Yalgado Ouédraogo hospital.

Ensure that the solitary confinement cells in the Ouagadougou short-stay prison and correctional facility are remodelled in accordance with international standards so as to provide sufficient ventilation and light, as well as access to toilets and drinking water (para. 115 (d))

135. Solitary confinement cells have no special configuration. They are identical to other detention cells. Prisoners in solitary confinement are alone in their cells and have access to drinking water and toilets.

Ensure that teaching and information on the prohibition of torture and ill-treatment are an integral part of the training provided to prison staff (para. 120 (a))

136. A module on human rights and prison, including a section on the prohibition of torture and ill-treatment, is taught at the prison guard academy. In 2020, the teaching staff of the training academies for the security and defence forces, including the prison guard academy, received training on the incorporation of human rights into judicial proceedings, with a module dedicated to the prohibition of torture.

Organize regular training sessions, including for managerial staff, on international standards (the Nelson Mandela Rules, the Convention against Torture and the Optional Protocol) (para. 120 (b))

137. See paragraphs 71 to 75 of the present report.

Introduce an effective policy to combat corruption in prisons (para. 120 (c))

138. The State considers combating corruption in the judicial system, including prisons, an important issue. For this reason, by Order No. 2017-009/MJDHPC/CAB of 7 September 2017, the Ministry of Justice established the Anti-Corruption Committee. It consists of representatives of all the Ministry's stakeholders, including the Directorate General for the Prison Service and the trade unions for prison staff. Its mandate covers the prevention, detection and punishment of corruption. Subcommittees may be established in prisons.

139. Any victim or witness of an act of corruption involving a justice system official or service, including prison guards and other prison staff, may complain to the Anti-Corruption Committee. Complaints and statements may be filed using telephone numbers, email addresses and suggestion boxes placed in courthouses and at the Ministry. In practice, incidents of corruption are reported. The most recent example concerns the suspected extortion of money from prisoners by the former director of the Ziniaré short-stay prison and correctional facility in the Plateau-Central region. He was dismissed and remanded in custody in August 2020.

Ensure access to treatment for all prisoners, including those who are indigent, and consider setting up a social protection system and a universal health insurance scheme (para. 123)

140. Although it is insufficient, a budget is regularly allocated to prisons by the Ministry of Justice to purchase medicines for prisoners. Since 2018, the annual budget for the purchase of medicines has been CFAF 68,312,000. Medicines and medical consumables are purchased through the Purchasing Agency for Generic Essential Medicines.

141. The State granted additional funding of CFAF 50 million for prisoners' health-care expenditure in 2018. In addition, prisons make an active contribution to prisoners' health-care expenditure by purchasing specialist medicines and paying other medical expenses, including supplementary examinations, through prison management committees and funds managed by sentence enforcement commissions.

142. For information on universal health insurance, see paragraphs 153 to 157 of the present report.

Ensure that any coercive measure is used only as a last resort and on the basis of an individualized risk assessment (para. 126)

143. In practice, prisoners undergoing treatment are not routinely handcuffed. They are only handcuffed if they are dangerous, or the risk of escape is very high.

144. In prisons, coercive measures are only used as a last resort and on the basis of an individualized risk assessment. This assessment is performed by the assessment, classification and reclassification committees established in all prisons. The committees' tasks include:

- Establishing and analysing the assessment and classification criteria
- Assessing prisoners' dangerousness or vulnerability
- Classifying and reclassifying prisoners according to their level of dangerousness or vulnerability
- Assigning prisoners to different sections of the prison according to their classification
- Producing a periodic report

Ensure that a system of routine examinations of new prisoners is introduced at the Ouagadougou short-stay prison and correctional facility (para. 128)

145. Medical examinations upon admission take place in the country's prisons. Since 2019, these examinations have been reinforced with the introduction of a medical register for prison admissions designed by the Directorate of Health and Social Welfare and provided to all prisons. This register allows the prison medical staff to collect the full medical and surgical history of newly arrived prisoners and record their health-care needs. It therefore enables improved monitoring of prisoners' state of health and better guidance for the care protocol.

146. Prisoners arriving at the Ouagadougou short-stay prison and correctional facility have routinely undergone a medical examination since the COVID-19 pandemic.

Take particular care to ensure that all requests for consultations are passed on to medical staff (para. 130)

147. Care is taken. Medical staff receive all prisoners' requests without restriction. In addition to the usual system for passing on health complaints (a daily list of ill prisoners is sent to the infirmary by the health focal point), prisoners may report their illness or ask to see medical staff at any time of day. Moreover, the prison nurse is required to visit the detention areas as frequently as possible to find any ill prisoners who were unable to come to the infirmary. During these visits, the nurse also collects prisoners' complaints or requests. The quarterly assessment of all prisoners' nutritional status is a further opportunity to address their other health concerns.

Provide all prisons with an appropriate vehicle for transporting patients (para. 132)

148. The Ouagadougou short-stay prison and correctional facility has had an ambulance since 2017. There is thus no issue with transporting patients from this prison. Other prisons, including the maximum-security prison, do not have an ambulance. However, they have ordinary vehicles that can be used to transport ill prisoners to health centres. If an ambulance is required to transport an ill prisoner, the prison in question requests one from the regional health district.

Improve the nutritional quality of the meals provided to prisoners (para. 135)

149. See paragraphs 88 to 90 of the present report.

Ensure that there is a regular supply of medicines (para. 137)

150. See paragraphs 140 and 141 of the present report.

Make medical staff aware of the preventive value of consistently recording any allegations of violence and any injuries that are observed (para. 139)

151. A register in which prisoners' complaints must be recorded has been issued to the prison health services. However, in general the staff have not been sufficiently well trained on the use of this document. The State is planning to remedy this shortcoming by providing training and awareness-raising for medical staff.

Adopt a differentiated approach to prison health care, education and policy, taking into account the specific vulnerabilities of the prison population (para. 141)

152. Initial and ongoing training is provided to allow medical staff and social workers to incorporate a gender- and vulnerability-based approach into their work. This enables them to adopt sensitive and inclusive approaches towards the most vulnerable prisoners. With this in mind, a protection, advocacy and follow-up service for women prisoners and minors in contact with prison has been established in order to support differentiated approaches to vulnerable categories of prisoners. Women and minors thus receive treatment tailored to their vulnerable position.

Ensure access to treatment for indigent persons and consider expanding the social protection system and establishing a universal health insurance scheme (para. 144)**Ensure access to hospital care, including both accommodation and treatment, for indigent patients (para. 146)**

153. The Government remains convinced that achieving universal health coverage means ensuring that the entire population has access to the preventive, curative, promotion and rehabilitation health-care services they need and that these services are of sufficiently high quality to be effective without their cost causing financial difficulties for the public.

154. Accordingly, in the summary note on the health coverage action and activity priorities of the Ministry of Health, the fair distribution of resources and measures to facilitate fair access to essential treatment and services are highlighted as part of the process of implementing the priorities for universal coverage. The focus is placed on rural areas and the inclusion of specific vulnerable groups such as children, women, persons with disabilities and indigent persons. The main data collection tools take into account the main parameters for measuring fairness, to ensure better follow-up of the relevant indicators.

155. Moreover, all public health-care institutions offering primary care (health and social promotion centres and medical centres) have a budget line for the care of indigent persons. Every hospital has a social and solidarity service. This service, funded by the National Solidarity Fund, covers health-care costs for indigent persons. For 2020, the social service of the Yalgado-Ouédraogo university hospital received CFAF 2.5 million for this purpose.

156. Moreover, joint Order No. AN VIII 0084/FP /SAN-AS/MF/CAPRO of 31 May 1991, on the pricing of fees for health-care professionals and hospital stays in public health-care institutions and hospitals, provides for affordable rates and fee waivers for different categories of persons (pensioners, women, children, persons with disabilities and students). For example, the rate for hospital stays in a category 5 room is CFAF 100, which includes food, accommodation and administrative fees.

157. Lastly, on 25 September 2020, the National Universal Health Insurance Fund officially launched a scheme to provide coverage to indigent persons under the universal health insurance scheme.

Immediately renovate the two isolation rooms of the psychiatric service at Yalgado-Ouédraogo university hospital (para. 148)

158. Following the Subcommittee's visit, the psychiatric service of the Yalgado-Ouédraogo university hospital submitted a statement of requirements for the renovation of the two isolation rooms to the hospital's general administration. Pending the full renovation of the rooms, the defective doors have been replaced by more appropriate ones.

Develop and implement a policy on the use of restraint and isolation, strictly limiting their use to situations where they are necessary as measures of last resort and establishing accompanying safeguards, including the requirement to record their use in an ad hoc register that is checked regularly (para. 153)

159. Article 108 of the Public Health Code provides that the hospitalization of persons with mental illnesses in institutions established for this purpose must be carried out in accordance with ethics, medical conditions and legal provisions protecting human rights.

160. Article 110 of the Code stipulates that when persons with mental disorders pose a threat or danger to themselves, their families or other persons, they may be hospitalized in a psychiatric institution without the consent of their relatives or legal representatives.

161. The regulations on isolation have shortcomings. This is one of the reasons why the Government adopted the draft Public Health Code on 6 August 2020. The draft Code reinforces safeguards for patients by making their hospitalization subject either to their own consent, that of their legal representatives or a legal or administrative order.

162. The application of medical practice based on mental health standards and protocols requires that restraint and isolation are only used when necessary. Following adoption of the draft Code by the legislative branch, a technical committee will be established to draft the implementing legislation on mental health.

As part of the legislative reform that is under way, amend mental health legislation in order to incorporate, in particular, conditions and safeguards relating to involuntary hospitalization (para. 155) Carry out this reform in accordance with international standards (para. 157)

163. The Government has embarked on a review of the Public Health Code, taking into account mental health protection. The conditions and procedures for initiating and ending hospitalization for mental disorders will be stipulated in regulations.

Adopt legal provisions prohibiting the use of any statement obtained through torture as evidence in judicial proceedings and ensure that these provisions are enforced, in accordance with article 15 of the Convention against Torture (para. 161)

164. Article 551-11 of the Code of Criminal Procedure prohibits the use of any statement obtained through torture or related practices as evidence in judicial proceedings, except to establish the liability of the perpetrator of the offence.

Make sure that the Criminal Code and the Code of Criminal Procedure are brought into line with international standards and to guarantee the right of persons in police custody to have access to a lawyer from the moment of arrest, to notify family members or relatives and to have access to a doctor (para. 165)

165. The legislative reforms undertaken in recent years have included new versions of the Criminal Code and the Code of Criminal Procedure, adopted in 2018 and 2019, respectively. The Codes introduce many fundamental legal safeguards.

166. Article 251-12 of the Code of Criminal Procedure provides that lawyers assist their clients from the moment of their arrest during the preliminary investigation or the investigation of a criminal offence whose perpetrator was caught in flagrante delicto, on the premises of the police, the gendarmerie or the government authorities and public services whose officials or agents are responsible for performing the functions of criminal investigation officers, or before the public prosecutor.

167. Article 251-14 of the Code provides that arrested persons must immediately be informed by criminal investigation officer or a staff member supervised by such an officer, in a language they understand of:

- The time at which they are being taken into police custody
- Their right to be assisted by a lawyer
- The name and alleged date and location of the offence they are suspected of committing or attempting
- Their obligation to give an address, the fact that any notification, summons or service delivered to this address will be considered duly delivered to them and the fact that they must inform the court of any change of address in writing

The information provided pursuant to article 251-14 of the Code and the response are recorded in the interview or custody report and signed by the arrested person. If the person refuses to sign, this is also recorded. If these procedural rules are not followed, the proceedings will be considered null and void.

Take all necessary measures to put an end to the activities of “self-defence groups” and to restore order in the areas of the country where these groups operate in order to prevent them from committing further acts of torture and ill-treatment, and ensure that the perpetrators of such acts are brought to justice (para. 167)

168. The lack of security in Burkina Faso, exacerbated by the shortage of State resources, had encouraged the development of local security initiatives in some regions. The goal of those behind the initiatives was to help to combat organized crime. While the actions of these groups have often been welcomed by local populations, who see them as an effective way of combating security problems, the serious violations of fundamental rights and freedoms and of the principles of the rule of law they have sometimes committed are regrettable.

169. To meet this challenge, the Government has taken steps to end the violations observed. A decree determining the conditions for public participation in local policing was adopted in November 2016 to regulate the actions of these local security initiatives and monitor their activities.

170. In addition, training and awareness-raising activities have been conducted with these groups to encourage them to incorporate respect for human rights into their activities and to improve their cooperation with the defence and security forces. Prosecutions have been initiated against persons suspected of cruel, inhuman or degrading treatment. Between 2018 and 30 April 2018, 151 persons from these self-defence groups were prosecuted in the national courts. This resulted in 52 of them being sentenced to fines and/or imprisonment for various offences.

V. Conclusion

171. The implementation of recommendations made following the Subcommittee’s visit, which occurred in a context of ongoing terrorist attacks and the onset of the COVID-19 pandemic, has led to progress at the legislative and institutional levels.

172. The Government is aware that, despite the progress made since the Subcommittee’s visit, there remain major challenges for the humanization of places of detention. To overcome these challenges, it commits to continuing its efforts to improve detention conditions throughout the country.

173. To this end, the Government reiterates its willingness to continue dialogue and cooperation with the Subcommittee in order to continue to implement its recommendations.
