



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

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Committee against Torture

Concluding observations on the seventh periodic report of Austria*

1. The Committee considered the seventh periodic report of Austria¹ at its 2074th and 2077th meetings,² held on 16 and 17 April 2024, and adopted the present concluding observations at its 2096th meeting, held on 1 May 2024.

A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure and submitting its periodic report thereunder, as this improves the cooperation between the State party and the Committee and focuses the examination of the report and the dialogue with the delegation.

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the delegation of the State party and the responses provided to the questions and concerns raised during the consideration of the periodic report.

B. Positive aspects

4. The Committee welcomes the ratification by the State party of the Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29), of the International Labour Organization, on 12 September 2019.

5. The Committee also welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, including the adoption of:

- (a) The Act on Aligning Criminal Law with European Union Law, in 2020, which extends the on-call legal services provided to indigent persons in police custody;
- (b) The Protection against Violence Act, in 2019;
- (c) The Basic Training Regulation, in 2017, aimed at ensuring that all levels of training for law enforcement officials are grounded in human rights;
- (d) The amendment to the Code of Criminal Procedure, in 2016, aimed at enhancing the rights of highly vulnerable victims in criminal proceedings.

6. The Committee further welcomes the State party's initiatives to amend its policies and procedures in areas of relevance to the Convention and to ensure greater protection of human rights, in particular:

- (a) The adoption, in 2022, of the National Action Plan on Disability (2022–2030);

* Adopted by the Committee at its seventy-ninth session (15 April–10 May 2024).

¹ CAT/C/AUT/7.

² See CAT/C/SR.2074 and CAT/C/SR.2077.



(b) The adoption, in 2021, of the National Action Plan on Combating Human Trafficking (2021–2023);

(c) The establishment, in 2017, of the National Network for Extremism Prevention and Deradicalization, and the adoption, in 2020, of the Austrian Strategy for Extremism Prevention and Deradicalization;

(d) The establishment, in 2016, of the National Referral Mechanism on Identifying and Working with Potential Victims of Child Trafficking.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations, the Committee requested the State party to provide information on the implementation of the Committee's recommendations on the presence of a lawyer during police questioning, the establishment of independent mechanisms to investigate allegations of torture and ill-treatment by law enforcement officials, the use of detention pending deportation, the use of electrical discharge weapons in prison settings, and prompt, thorough and impartial investigations of all allegations of acts of torture or ill-treatment.³ In the light of the information received from the State party on follow-up to those concluding observations, on 9 December 2016,⁴ the information contained in the State party's seventh periodic report and the additional information provided by the delegation during the dialogue, the Committee is of the view that the recommendation set out in paragraph 9 (a) has been implemented, that the recommendation contained in paragraph 37 has been partially implemented and that the recommendations included in paragraphs 9 (b), 23 and 31 have not yet been implemented. Those issues are covered in paragraphs 15, 31, 35 and 41 of the present concluding observations.

Legal status of the Convention

8. While taking note of the federal structure in the State party and the efforts made to strengthen coordination of the implementation of the Convention, in particular at the Land and municipal levels, the Committee is concerned that, in areas under the exclusive responsibility of the Länder, the Convention is not applied consistently. The Committee notes that the federal Government is primarily responsible for ensuring the implementation of the Convention and providing leadership to the governments of the Länder in that context. While noting the information provided by the delegation during the dialogue that the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), the Charter of Fundamental Rights of the European Union, several provisions of the International Convention on the Elimination of All Forms of Racial Discrimination and the essential content of the Convention on the Rights of the Child have been implemented as directly applicable constitutional law in the State party and that all other human rights treaties are implemented through legislation, the Committee is concerned that the Convention has not yet been fully incorporated into the domestic legal order. The Committee regrets the lack of information on how potential conflicts between domestic law and the Convention are resolved (art. 2).

9. In view of the federal Government's primary responsibility for the implementation of the Convention, the State party should strengthen its institutional mechanisms for coordination between the federal State and the Länder to ensure the effective and consistent implementation of the Convention across all jurisdictions. The State party should intensify its efforts to incorporate the Convention into its domestic legislation to ensure that all rights protected thereunder are given full effect in domestic law. Moreover, the State party should ensure that domestic law is interpreted and applied in conformity with its obligations under the Convention.

³ CAT/C/AUT/CO/6, paras. 9 (a) and (b), 23, 31 and 37.

⁴ CAT/C/AUT/CO/6/Add.1.

Definition and criminalization of torture

10. While considering the definition of the offence of torture enshrined in section 312a of the Criminal Code to be broadly in line with the provisions of article 1 of the Convention, and taking note of the explanation provided by the State party concerning the appropriateness of the penalties prescribed for the offence of torture compared with those for other offences under the Criminal Code, the Committee remains concerned that section 312a (1) of the Criminal Code prescribes 1 to 10 years' imprisonment for the basic offence of torture and considers that the minimum sentence of 1 year's imprisonment does not constitute an appropriate penalty that takes into account the grave nature of the crime (arts. 1, 2 and 4).

11. The Committee encourages the State party to consider amending section 312a (1) of the Criminal Code to ensure that all acts of torture are punishable by appropriate penalties that take into account their grave nature, as set out in article 4 (2) of the Convention.

Statute of limitations

12. The Committee is concerned about the absence of provisions in the Criminal Code establishing that the crime of torture is not subject to a statute of limitations.

13. The State party should ensure that the crime of torture is not subject to any statute of limitations in order to preclude any risk of impunity in relation to the investigation of acts of torture and the prosecution and punishment of perpetrators.

Fundamental legal safeguards

14. While taking into account the procedural safeguards set forth in domestic legislation and the revised internal instruction of the Federal Ministry of the Interior on executive and operational matters, criminal investigation and on-call legal services, which imposes an obligation on the police to delay questioning to allow a suspect's lawyer to arrive at the place of interrogation, the Committee is concerned about reports that, in practice, the presence of a lawyer during police questioning, free of charge, is still not available to all detained adults who cannot afford to pay for a lawyer themselves (art. 2).

15. The State party should ensure that all fundamental legal safeguards are guaranteed, in practice, for all detained persons from the outset of their deprivation of liberty, in particular the right to be assisted by a lawyer, including before and during the interrogation stages, and, if applicable, to be provided with free legal aid. The State party should continue to provide adequate and regular training for those involved in detention activities on legal safeguards and to monitor compliance and penalize any failure on the part of officials to comply.

Austrian Ombudsman Board

16. While noting with appreciation that the Austrian Ombudsman Board was granted A status by the Global Alliance of National Human Rights Institutions Subcommittee on Accreditation in 2022, the Committee notes reports that the selection and appointment of Board members by the three main political parties in the Parliament are not sufficiently inclusive and transparent and do not allow for formal public consultation with and the meaningful participation of civil society (art. 2 (1)).

17. The State party should consider reviewing the procedure for the selection and appointment of members of the Austrian Ombudsman Board to ensure the full transparency and political independence of the Board.

Monitoring of detention facilities

18. While welcoming the work carried out by the Austrian Ombudsman Board, along with its independent expert commissions, as the national preventive mechanism under the Optional Protocol to the Convention, the Committee is concerned about reports regarding the lack of systematic measures taken by the State party to ensure the effective implementation of the Board's recommendations (arts. 2, 11 and 16).

19. **The State party should take all measures necessary to ensure effective follow-up to and implementation of the recommendations made by the Austrian Ombudsman Board as part of its monitoring activities, in accordance with the guidelines on national preventive mechanisms adopted by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁵ The State party should encourage enhanced cooperation between the national preventive mechanism and civil society organizations, including through the Human Rights Advisory Council.**

Asylum and non-refoulement

20. While noting with satisfaction the efforts made by the State party to respond to the large influx of asylum-seekers and migrants in an irregular situation arriving in its territory, the Committee is concerned about reports that the State party has acted in breach of the principle of non-refoulement in some instances during the period under review. In particular, the Committee is concerned about:

(a) The absence of a formal national mechanism to identify vulnerable asylum-seekers, such as victims of torture, trafficking and gender-based violence, upon arrival at reception centres, record any evidence to support their claims and provide them with support services;

(b) The shortage of staff at the Federal Office for Immigration and Asylum, which results in an inability to process speedily the increasing number of asylum applications;

(c) The fact that, according to decision No. G 328/2022 of 14 December 2023 of the Constitutional Court of Austria, the legal assistance and representation provided by the Federal Agency for Reception and Support Services to asylum-seekers are not sufficiently independent;⁶

(d) The lack of access to legal counsel during first instance procedures;

(e) The fact that legal guardians are appointed only after an unaccompanied or separated asylum-seeking child between 14 and 18 years of age has been assigned to a reception facility operated by one of the Länder, and that the transfer to the facility may take time due to age-assessment processes;

(f) Reports of poor living conditions in some transit reception facilities for asylum-seekers, including overcrowding and limited access to medical care and adequate sanitary facilities;

(g) The fact that, according to the Asylum Act (2005), the federal Government is authorized to adopt an emergency decree in the case of an influx of asylum-seekers and that, as a result, special procedures, such as a fast-track asylum procedure at the borders, may be introduced to maintain public order, which may prevent individuals seeking international protection from accessing a fair and efficient asylum procedure;

(h) The fact that the Federal Office for Immigration and Asylum may deny the suspensive effect of an appeal brought by persons from countries that are considered safe, and that the Federal Administrative Court has only one week in which to review such denial of suspensive effect (art. 3).⁷

21. **The State party should:**

(a) **Ensure that no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that the individual concerned would be in danger of being subjected to torture;**

(b) **Ensure that all asylum-seekers and other persons in need of international protection who arrive or attempt to arrive in the State party, regardless of their legal**

⁵ CAT/OP/12/5, paras. 13 and 38.

⁶ See

<https://caselaw.euaa.europa.eu/pages/viewcaselaw.aspx?CaseLawID=3917&returnurl=/pages/searchresults.aspx>.

⁷ CED/C/AUT/CO/1, paras. 20 and 21; and CRC/C/AUT/CO/5-6, paras. 39 and 40.

status and mode of arrival, have access to fair and efficient refugee status determination procedures and non-refoulement determinations;

(c) Establish and apply a formal national mechanism to identify, as early as possible, all victims of torture, trafficking and gender-based violence among asylum-seekers and other persons in need of international protection and provide them with priority access to the refugee determination procedure and access to treatment for health conditions requiring urgent treatment;

(d) Strengthen the capacity of the Federal Office for Immigration and Asylum to process refugee claims of asylum-seekers in the country;

(e) Consider revising the Federal Agency for Reception and Support Services Establishment Act and the Federal Office for Immigration and Asylum Procedural Act to guarantee the full independence of the legal assistance and representation provided by the Federal Agency for Reception and Support Services to asylum-seekers, in accordance with decision No. G 328/2022 of 14 December 2023 of the Constitutional Court of Austria;

(f) Ensure access to qualified and independent legal aid and representation for asylum-seekers during the entire asylum procedure;

(g) Ensure that all unaccompanied or separated asylum-seeking children are systematically, and without undue delay, appointed a guardian trained in child counselling, from the outset and throughout their entire stay in the State party;

(h) Take the measures necessary to ensure appropriate reception conditions in transit reception facilities for asylum-seekers, as well as the use of foster care for unaccompanied or separated asylum-seeking children;

(i) Consider repealing the provision of the Asylum Act (2005) that would allow for the introduction of an emergency decree that may curtail access to a fair and efficient asylum procedure;

(j) Ensure the suspensive effect of appeals against a decision on expulsion, return, surrender or extradition.

Diplomatic assurances

22. The Committee is concerned about the alleged reliance of the State party on diplomatic assurances to justify the return or extradition of asylum-seekers to countries where there are substantial grounds for believing that they would be in danger of being subjected to torture or other cruel, inhuman or degrading treatment or punishment. The Committee recalls that, as indicated in paragraph 20 of its general comment No. 4 (2017) on the implementation of article 3 in the context of article 22, diplomatic assurances should not be used as a loophole to undermine the principle of non-refoulement as set out in article 3 of the Convention (art. 3).

23. The State party should refrain from seeking and accepting diplomatic assurances, in the context of both extradition and deportation, from States where there are substantial grounds for believing that a person would be at risk of torture or ill-treatment upon return. It should thoroughly assess the situation of each individual case, including the overall situation with regard to torture in the country of return or extradition. The State party should ensure that any deportation or extradition undertaken on the basis of diplomatic assurances is accompanied by continued and extensive monitoring of the person's situation in the receiving country.

Conditions of detention

24. While expressing appreciation for the State party's efforts to avoid overcrowding in prisons, including through the construction of new correctional facilities and the use of alternative non-custodial measures, and to improve mental health services for prisoners, the Committee remains concerned about reports that staff shortages are still a problem in many places of detention, which has led to situations in which detainees, in particular pretrial detainees, are locked up for long periods with very limited access to recreational and educational activities to foster their rehabilitation. It is concerned about reports of inadequate

health-care services, in particular mental health services, provided to detainees with intellectual and/or psychosocial disabilities, which are due to shortcomings in health-care staffing levels and in the provision of adequate training and have resulted in cases of neglect. It is also concerned about the practice of involving prison officers in the performance of health-care duties, which may constitute a breach of medical confidentiality and compromise perceptions of the professional independence of prison health-care staff. Moreover, the Committee is concerned about the continued and, in some cases, prolonged use of solitary confinement for both adult and juvenile detainees (arts. 2, 11 and 16).

25. The State party should:

(a) **Continue its efforts to improve conditions in all places of deprivation of liberty and prevent the overcrowding of penitentiary institutions and other detention facilities, including through the broader application of non-custodial measures. In this regard, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(b) **Increase the number of trained and qualified prison staff, including medical staff;**

(c) **Improve the provision of gender- and age-specific and culturally appropriate medical services, including mental health services, to all persons deprived of their liberty, in particular those with intellectual and/or psychosocial disabilities;**

(d) **Guarantee the privacy and confidentiality of prisoners' medical information, in particular by ensuring that health-care duties are carried out by qualified health professionals and that prison officers are not present during medical examinations of inmates, save at the request of the medical doctor;**

(e) **Adopt practical measures to remedy the lack of meaningful recreational and educational activities to foster the rehabilitation of detainees, in particular pretrial detainees;**

(f) **Ensure that solitary confinement is used only in exceptional cases, as a last resort, for as short a time as possible (and in no case for more than 15 consecutive days for adults), subject to independent review and only pursuant to authorization by a competent authority, in accordance with rule 45 (1) of the Nelson Mandela Rules. The State party should ensure that instances of solitary confinement are properly registered and documented. The Committee wishes to draw the State party's attention to rule 45 (2) of the Nelson Mandela Rules, under which solitary confinement should be prohibited in the case of prisoners with intellectual and/or psychosocial or physical disabilities when their conditions would be exacerbated by such a measure. In addition, rule 43 (3) of the Nelson Mandela Rules provides that disciplinary sanctions or restrictive measures must not include the prohibition of family contact and that the means of family contact may be restricted only for a limited time period and as strictly required for the maintenance of security and order.**

Deaths in custody

26. While taking note of the information provided by the State party regarding care programmes for persons deprived of their liberty who have drug or substance use disorders and suicide prevention programmes, the Committee is concerned about the recent increase in the number of suicides and other sudden deaths in Austrian prisons, reportedly as a result of a lack of adequate medical assistance and treatment, in particular for persons with mental health problems (arts. 2, 11 and 16).

27. The State party should:

(a) **Ensure that all deaths in custody are promptly, effectively and impartially investigated by an independent entity, including by means of independent forensic examinations, in line with the Minnesota Protocol on the Investigation of Potentially**

Unlawful Death, and, where appropriate, apply the corresponding sanctions and provide fair and adequate compensation to the families;

(b) **Ensure that prisons are allocated the human and material resources necessary to provide inmates with adequate health care, including mental health care, in accordance with rules 24 to 35 of the Nelson Mandela Rules, assess and evaluate existing programmes for the prevention, detection and treatment of chronic, degenerative and infectious diseases in prisons and reassess the effectiveness of strategies for the prevention of suicide and self-harm;**

(c) **Compile detailed information on cases of death in all places of detention and their causes and the outcomes of the investigations into the deaths.**

Juvenile justice

28. While noting the various measures taken by the State party to improve the situation of children in conflict with the law, the Committee remains concerned about reports indicating shortcomings in the State party's juvenile justice system. In particular, it is concerned about reports that children in detention are sometimes restrained in ways that are potentially dangerous and held in solitary confinement. The Committee is also concerned that alternatives to the pretrial detention of juveniles are not sufficiently applied in practice (arts. 2, 11 and 16).

29. **The State party should bring its juvenile justice system fully into line with the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules). In particular, it should:**

(a) **Continue to promote non-judicial measures, such as diversion and mediation, for children accused of criminal offences and, wherever possible, non-custodial sentences, such as probation or community service;**

(b) **Ensure that detention conditions for children comply with international standards, in particular by ensuring that force, including physical restraints, is used only as a last resort and when strictly necessary and proportionate, by immediately ending the practice of solitary confinement and by promptly investigating all cases of abuse and ill-treatment and adequately sanctioning the perpetrators;**

(c) **Ensure that pretrial detention is applied only as a last resort, when determined to be strictly necessary and proportionate in the light of the individual's circumstances, and for as short a period as possible, and that such detention is reviewed on a regular basis with a view to its withdrawal.**

Detention pending deportation

30. While welcoming the application of an "open door" regime for detention pending deportation, the Committee is concerned about reports of poor material conditions of detention in some facilities and the lack of access to adequate health services, including mental health services, due to chronic understaffing. The Committee is also concerned about reports of individuals with mental health issues being placed for prolonged periods in so-called security cells, where they are reportedly deprived of meaningful human contact and have very limited access to the outdoors (arts. 2, 11 and 16).

31. **The State party should take the measures necessary:**

(a) **To ensure that detention pending deportation is applied only as a last resort, when determined to be strictly necessary and proportionate in the light of the individual's circumstances and for as short a period as possible, and to intensify its efforts to expand the application of non-custodial measures;**

(b) **To improve living conditions in detention deportation centres, for cases in which it is necessary and proportionate that a person be detained, including by guaranteeing access to adequate social, educational and mental and physical health services;**

(c) **To ensure that detention in so-called security cells is used only in exceptional cases, as a last resort and for as short a time as possible, and to immediately end the practice of detaining individuals with mental health issues in security cells when their conditions would be exacerbated by such measures.**

Forensic psychiatric facilities

32. While noting the measures taken by the State party to improve the situation of persons with disabilities detained in forensic psychiatric facilities, including the ban on the use of psychiatric intensive care beds (net beds) and other cage-like beds, the Committee is concerned about legislation that allows for involuntary detention and compulsory treatment on the basis of impairment, including Act No. 155/1990 of 1 March 1990 on the Involuntary Placement of Mentally Ill Persons in Hospitals. The Committee is also concerned about the legal permissibility and continued and, in some cases, prolonged use of solitary confinement, seclusion, physical and chemical restraints and other restrictive practices in respect of persons with disabilities, in particular persons with intellectual and/or psychosocial disabilities, including children with disabilities, in places of detention (arts. 2, 11 and 16).⁸

33. **The State party should:**

(a) **Consider reviewing any legislation, including Act No. 155/1990, that allows for deprivation of liberty on the basis of impairment and forced medical interventions on persons with disabilities, in particular persons with intellectual and/or psychosocial disabilities;**

(b) **Prohibit the use of solitary confinement for persons with psychosocial and/or intellectual disabilities, including children, when their conditions would be exacerbated by such measures, and ensure that instruments of restraint and force are used in accordance with the law, under appropriate supervision, for the shortest time possible and only when strictly necessary and proportionate;**

(c) **Conduct prompt, impartial and thorough investigations into all allegations of ill-treatment in health-care institutions, both public and private, prosecute persons suspected of ill-treatment and, if they are found guilty, ensure that they are punished according to the gravity of their acts and provide effective remedies and redress to the victims;**

(d) **Provide regular training to all medical and non-medical staff, including security personnel, on standards and methods of care for persons with disabilities, in particular persons with intellectual and/or psychosocial disabilities;**

(e) **Ensure that forensic psychiatric facilities are adequately monitored and that effective safeguards are in place to prevent any torture or ill-treatment of persons in such facilities.**

Investigation of allegations of ill-treatment and prosecution and punishment of perpetrators

34. While taking note of the internal instruction of the Federal Ministry of Justice on the handling of allegations of ill-treatment by law enforcement officers and prison officers, the Committee is concerned that, despite the relatively high number of allegations of ill-treatment of detainees by public officials, the number of prosecutions and convictions resulting from such allegations remains low. In that regard, it regrets that the State party has not provided comprehensive information on the number of cases that have resulted in investigations and prosecutions of or disciplinary action against officials or on the penalties and disciplinary measures imposed upon persons convicted of acts of ill-treatment during the period under review. While noting the establishment of the new Investigation and Complaints Office for Allegations of Police Ill-Treatment, the Committee is concerned that, despite the legal safeguards in place and the creation of an independent advisory board responsible for monitoring its activities, the Office is formally placed under the authority of the Federal Ministry of the Interior. Furthermore, the Committee regrets the absence of information on

⁸ CRPD/C/AUT/CO/2-3 and CRPD/C/AUT/CO/2-3/Corr.1, paras. 35–38.

whether public officials under criminal or disciplinary investigation for allegedly having committed a crime of torture or ill-treatment are immediately suspended from their duties and remain so throughout the corresponding investigation (arts. 2, 12, 13 and 16).

35. The State party should:

(a) **Ensure that all complaints of torture and ill-treatment are investigated in a prompt and impartial manner by an independent body and that there is no institutional or hierarchical relationship between that body's investigators and the suspected perpetrators of such acts;**

(b) **Ensure that the authorities open an investigation ex officio whenever there are reasonable grounds for believing that an act of torture or ill-treatment has been committed;**

(c) **Ensure that, in cases of torture or ill-treatment, suspected perpetrators are immediately suspended from duty for the duration of the investigation, in particular when there is a risk that they might otherwise be in a position to repeat the alleged act, take reprisals against the alleged victim or obstruct the investigation;**

(d) **Ensure that the suspected perpetrators of acts of torture and ill-treatment and the superior officers responsible for ordering or tolerating the acts are duly tried and, if found guilty, punished in a manner commensurate with the gravity of their acts, and that victims are provided with effective remedies;**

(e) **Compile and publish statistics on the number of investigations and prosecutions carried out, convictions handed down and penalties imposed in cases of torture or ill-treatment.**

Universal jurisdiction

36. While noting that the Criminal Code of Austria enables the State party to establish universal jurisdiction over the crime of torture, the Committee regrets the lack of information on the extent to which the State party has exercised in practice its universal jurisdiction over perpetrators of torture present in its territory, in compliance with article 5 of the Convention (art. 5).

37. The State party should take all steps necessary to effectively exercise universal jurisdiction over persons allegedly responsible for acts of torture who are present in its territory, if any, if it does not extradite them to another country, in accordance with article 8 of the Convention. The State party should provide information to the Committee on instances in which the Convention has been invoked in judicial decisions regarding extradition and universal jurisdiction, in compliance with article 5 of the Convention.

Treaty of 1982 between Austria and Liechtenstein

38. The Committee takes note of the bilateral treaty of 1982 between Austria and Liechtenstein on the accommodation of prisoners, according to which nationals of Liechtenstein serve their sentences in Austria. While noting the application of Austrian law to such detainees, the Committee is concerned that the treaty does not contain any express safeguards for the prevention of torture and other forms of ill-treatment. Furthermore, the Committee is concerned about the lack of information on any procedures or mechanisms in place to ensure that the rights of nationals of Liechtenstein detained in Austria are upheld with respect to the implementation of the treaty (arts. 2, 5, 12, 13 and 14).

39. The State party should review the arrangements under the bilateral treaty of 1982 on the accommodation of prisoners to ensure that they include safeguards necessary for the prevention of torture and other forms of ill-treatment and to establish effective procedures and mechanisms to ensure that the rights of nationals of Liechtenstein detained in Austria under the Convention are guaranteed. The State party should ensure that nationals of Liechtenstein detained in Austria have the right to complain to an independent body regarding torture and ill-treatment by prison

officers, have their complaints promptly, impartially and thoroughly investigated and receive adequate redress if their complaints of torture or ill-treatment are well founded.

Electrical discharge weapons

40. While appreciating the information provided by the State party on the strict regulations governing the use of electrical discharge weapons (Tasers) and the related training for law enforcement officials, the Committee remains concerned about the continued use, albeit rare, of these weapons in prison settings. It regrets the absence of information on incidents relating to the potential misuse of such devices by law enforcement officials and on the outcomes of any investigations into those cases. The Committee is of the view that electrical discharge weapons (Tasers) should not form part of the regular equipment of custodial staff in prisons or any other place of deprivation of liberty (arts. 2, 12, 13 and 16).

41. **The State party should take all measures necessary to effectively ensure that the use of electrical discharge weapons (Tasers) is strictly compliant with the principles of necessity, subsidiarity, proportionality, advance warning (where feasible) and precaution and that they are used exclusively in extreme and limited situations, in which there is a real and immediate threat to life or risk of serious injury, as a substitute for lethal weapons and by trained law enforcement personnel only. It should ensure that all allegations of the excessive or inappropriate use of such weapons are promptly, impartially and thoroughly investigated.**

Intersex persons

42. While expressing appreciation for the assurances provided by the delegation that surgical interventions on intersex children are carried out only when necessary, following medical and psychological opinions, the Committee is concerned about reports of cases of unnecessary and irreversible surgery and other medical treatment with lifelong consequences, including severe pain and suffering, to which intersex children have been subjected before they have reached an age at which they are able to provide their free, prior and informed consent (arts. 2 and 16).⁹

43. **The State party should:**

(a) **Consider adopting legislative provisions that explicitly prohibit the performance of non-urgent and non-essential medical or surgical treatment on intersex children before they are of sufficient age or maturity to make their own decisions and provide their free, prior and informed consent;**

(b) **Ensure independent oversight of decision-making to ensure that medical treatments for children with intersex traits who are unable to consent are necessary, urgent and the least invasive option;**

(c) **Provide redress, including appropriate compensation and rehabilitation, to victims of non-urgent and non-essential treatment, and ensure that all intersex children and adolescents and their families receive professional counselling services and psychological and social support.**

Counter-terrorism measures

44. While acknowledging the State party's need to adopt measures to respond to the risk of terrorism, including by implementing the Austrian Strategy for Extremism Prevention and Deradicalization, the Committee is concerned that the State party's counter-terrorism legislation, in particular the amendments made to the Counter-Terrorism Act, which introduced "religiously motivated extremist association" as a basis for criminalization and provided for the implementation of a new electronic surveillance system for individuals on conditional release, still provides for potentially excessive restrictions on the rights of persons suspected or accused of involvement in terrorist acts, including the rights to liberty and

⁹ See also [CRPD/C/AUT/CO/2-3](#) and [CRPD/C/AUT/CO/2-3/Corr.1](#), paras. 39 and 40; [CRC/C/AUT/CO/5-6](#), para. 27 (a) and (b); and [CEDAW/C/AUT/CO/9](#) and [CEDAW/C/AUT/CO/9/Corr.1](#), paras. 34 (h) and 35 (h).

security of person and to due process and a fair trial.¹⁰ The Committee regrets the lack of information on persons convicted under counter-terrorism legislation, the legal safeguards and remedies available to persons subjected to counter-terrorism measures in law and in practice, and whether there have been complaints of the non-observance of international standards in this regard and, if there have, the outcomes of those complaints (arts. 2, 11, 12 and 16).

45. The State party should take all measures necessary to ensure that its counter-terrorism and national security legislation, policies and practices are fully in line with the Convention and that adequate and effective legal safeguards against torture and ill-treatment and arbitrary detention are in place. Furthermore, the State party should carry out prompt, impartial and effective investigations into all allegations of human rights violations, including acts of torture and ill-treatment, committed in the context of counter-terrorism operations, prosecute and punish those responsible and ensure that victims have access to effective remedies and full reparation.

Gender-based violence

46. While noting the various measures taken by the State party to address gender-based violence, including the adoption of the Protection against Violence Act, the creation of the Interministerial Working Group on the Protection of Women against Violence and the adoption of guidelines regarding criminal prosecution in the field of domestic violence, the Committee is concerned about reports regarding:

(a) The persistently high level of violence against women and girls, including femicides, in the State party;

(b) The underreporting of violence against women and the low prosecution and conviction rates, resulting in impunity for perpetrators (arts. 2 and 16).

47. In the light of recommendations made by the Committee on the Elimination of Discrimination against Women,¹¹ the State party should:

(a) **Ensure that all cases of gender-based violence against women, in particular those involving actions or omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately and that the victims receive redress, including adequate compensation;**

(b) **Take the measures necessary to encourage and facilitate the lodging of complaints by victims and to address effectively the barriers that may prevent women from reporting acts of violence against them;**

(c) **Consider further strengthening the provision of financial support to and cooperation with non-governmental organizations providing shelter and rehabilitation to women who are victims of gender-based violence.**

Training

48. The Committee acknowledges the efforts made by the State party to develop and implement educational and training modules on human rights, including on the Convention and on the absolute prohibition of torture, for law enforcement officers, prison staff, judges, prosecutors and immigration officers. However, it regrets the lack of training on the content of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), as revised. The Committee also regrets the limited information on the provision of regular and specific training for the staff of intelligence agencies, forensic doctors and relevant medical personnel, as well as on mechanisms for evaluating the effectiveness of training programmes (art. 10).

¹⁰ See communication AUT 2/2021, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26590>.

¹¹ [CEDAW/C/AUT/CO/9](#) and [CEDAW/C/AUT/CO/9/Corr.1](#), para. 23.

49. **The State party should:**

(a) **Further develop mandatory initial and in-service training programmes to ensure that all public officials, in particular law enforcement officers, prison staff, immigration officers and medical staff employed in prisons and psychiatric institutions, are well acquainted with the provisions of the Convention, in particular the absolute prohibition of torture, and that they are fully aware that violations will not be tolerated and will be investigated and that those responsible will be prosecuted and, if convicted, appropriately punished;**

(b) **Ensure that all relevant staff, in particular judges, prosecutors and members of medical personnel, including forensic experts, are specifically trained to identify and document cases of torture and ill-treatment, as well as to refer such cases to the competent investigative authorities, in accordance with the Istanbul Protocol, as revised;**

(c) **Develop and apply a methodology for assessing the effectiveness of educational and training programmes in reducing the number of cases of torture and ill-treatment and in ensuring the identification, documentation and investigation of such acts and the prosecution of those responsible.**

Follow-up procedure

50. **The Committee requests the State party to provide, by 10 May 2025, information on follow-up to the Committee's recommendations on the monitoring of detention facilities, conditions of detention and the treaty of 1982 between Austria and Liechtenstein (see paras. 19, 25 (a) and 39 above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, the remaining recommendations in the present concluding observations.**

Other issues

51. **The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about its dissemination activities.**

52. **The Committee requests the State party to submit its next periodic report, which will be its eighth, by 10 May 2028. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its eighth periodic report under article 19 of the Convention.**
