



## International Covenant on Civil and Political Rights

Distr.: General  
30 April 2013  
English  
Original: French

---

### Human Rights Committee

#### Report of the Special Rapporteur for follow-up on concluding observations of the Human Rights Committee (107th session, 11–28 March 2013)

The following report sets out the information received by the Special Rapporteur for follow-up on concluding observations between the 106th and 107th sessions pursuant to the Human Rights Committee's rules of procedure, and the analyses and decisions adopted by the Committee during its 107th session. All the available information concerning the follow-up procedure used by the Committee since its eighty-seventh session, held in July 2006, is outlined in the table appended to this report.

---

##### *Assessment criteria*

---

##### Reply/action satisfactory

A Response largely satisfactory

##### Reply/action partially satisfactory

B1 Substantive action taken, but additional information required

B2 Initial action taken, but additional information and measures required

##### Reply/action not satisfactory

C1 Response received but actions taken do not implement the recommendation

C2 Response received but not relevant to the recommendations

##### No cooperation with the Committee

D1 No response received within the deadline, or no reply to a specific question in the report

D2 No response received after reminder(s)

##### The measures taken are contrary to the Committee's recommendations

E The response indicates that the measures taken are contrary to the Committee's recommendations

---

## Ninety-sixth session (July 2009)

Tanzania

<b>COB</b>	CCPR/C/TZA/CO/4, 28 July 2009
<b>Follow-up paragraphs:</b>	11, 16, 20
<b>First State party's reply</b>	Due 28 July 2010 – Received 9 Oct. 2012
<b>Action taken by the Committee:</b>	Reminders in Dec. and April 2011. Meetings requested in Feb. and Oct. 2012. No reply received.

**NGO information:** Tanganyika Law Society – CCPR Centre: 16 January 2012

*Paragraph 11: The State party should adopt effective and concrete measures to combat female genital mutilation vigorously, in particular in those regions where the practice remains widespread, and ensure that the perpetrators are brought to justice. It should also amend its legislation with a view to criminalizing female genital mutilation regarding women above the age of 18.*

### Summary of State party's reply:

FGM upon anyone under the age of 18 is punishable by imprisonment (5 to 15 years) and a fine (US\$ 200). Female genital mutilation of women above 18 is not criminalized, but adult women can pursue the perpetrator of FGM for assault or grievous bodily harm. In December 2010 one mutilator was sentenced to 10 years' imprisonment for performing FGM on 86 girls.

Trainings are organized for local leaders, local community councillors and parliamentarians, religious organizations and the media. Persons who used to promote the practice of FGM have participated. Awareness campaigns are carried out (example: "Say no to Violence" and the annual FGM Day).

Gender desks in police stations and a National Multi Sectoral Committee on Violence against Women were established. A National Gender Based Violence Committee was created in Zanzibar. A National Plan of Action on the Eradication of Violence against Women (2001–2015) was adopted, together with the "Tanzania Chapter" (part of the Eastern Africa Network on the elimination of FGM).

### NGO information:

No change since 2008. Fearing criminal prosecution, perpetrators now mutilate infants during their first months. The practice has increased in some regions (example: Mara). Hardly any of the perpetrators have been prosecuted, even when their practice is known.

### Committee's evaluation:

[C1] The recommendation has not been implemented. Measures remain necessary to:

- Criminalize FGM of adult women
- Ensure that the perpetrators of FGM are brought to justice (only one case is referred to in the report)
- Reinforce activities in those regions where FGM remains widespread.

---

Tanzania

---

**Paragraph 16:** *The State party should take measures towards the abolition of corporal punishment as a lawful sanction. It should also promote non-violent forms of discipline as alternatives to corporal punishment within the educational system and carry out public information campaigns about its harmful impact.*

**Summary of State party's reply:**

Corporal punishment is part of the national penal system. It is not applicable to persons who are older than fifty five years. The procedure is strictly controlled. The sentence has not been administered for more than one decade.

Caning is administered in schools for acts of gross indiscipline. Is viewed as a legitimate form of punishment. Alternative punishments such as guidance and counselling are encouraged by the Education Policy.

Corporal punishment is prohibited in alternative care settings. At home, parents and guardians are advised not to administer corporal punishment. The Law Reform Commission conducted a study on the use of corporal punishment. Its recommendations have been submitted to the Government. The United Nations Children's Fund (UNICEF) is overseeing a pilot project monitoring selected schools that do not practice caning.

In Zanzibar, corporal punishment is prohibited by law. A unit called "Alternative forms of Discipline" holds awareness campaigns. A pilot scheme is run by Save the Children in 20 schools.

**NGO information:**

Corporal punishment is still permitted and widely practiced in the school system. National legislation still permits the use of corporal punishment by law enforcement agents.

**Committee's evaluation:**

[B2] Additional measures remain necessary to prohibit formally the application of corporal punishment as a judicial punishment, at home, and within the education system.

**Paragraph 20:** *The State party should comply with article 11 of the Covenant by amending its legislation providing for imprisonment for the failure to pay a debt.*

**Summary of State party's reply:**

The Civil Procedure Code provides for civil imprisonment for the failure to pay a debt. The Law Reform Commission is currently reviewing the civil justice system legislation. Will probably take into account the principles of Article 11 of the Covenant.

**NGO information:** Nothing has changed.

**Committee's evaluation:**

[C1] Recommendation not implemented. Information remains necessary on the progress realized by the Law Reform Commission to ensure the compatibility of its legislation with article 11 of the Covenant.

**Recommended action:** A letter should be sent reflecting the analysis of the Committee. The requested information should be included in the next periodic report.

**Next periodic report:** 1 August 2013

---

## Ninety-eighth session (March 2010)

Colombia

<b>COB</b>	CCPR/C/COL/CO/6, 23 March 2010
<b>Follow-up paragraphs:</b>	9, 14, 16
<b>First reply:</b>	Due 23 March 2011 – Received 8 August 2011.
<b>Committee’s evaluation:</b>	Additional information required on paragraphs 9 [C1], 14 [B2 and D1] and 16 [B2].
<b>Second reply:</b>	Reply to the Committee’s letter of 30 April 2012, received on 27 August 2012.

### Other sources of information:

United Nations: Special Procedures and Office of the High Commissioner for Human Rights.

*Paragraph 9: The State party must comply with its obligations under the Covenant and other international instruments, including the Rome Statute of the International Criminal Court, and investigate and punish serious violations of human rights and international humanitarian law with appropriate penalties which take into account their grave nature.*

### Follow-up question:

- The Committee is still concerned about the limited results of Act No. 975, about impunity, about the difficulties in implementing Act No. 1424, and the risks it has introduced in terms of access by victims to justice, truth and reparation.
- Information is required on the measures taken to ensure that the reforms under way address the causes of impunity and deal with them adequately.

### Summary of State party’s reply:

The human rights violations committed during the Colombian armed conflict are irreparable. The reparation afforded under Act No. 1448 of 2011 must seek to be consistent, rather than to “restore victims to a situation similar to that which obtained before the violation or offence”.

### Programmes of reparation implemented:

(i) Act No. 1448: mechanisms for assistance, attention reparation and protection for victims. Decree No. 4800 (2011) determines the necessary procedures for victims to have access to these mechanisms. The effective application of the Act depends, however, on the allocation of sufficient funds and on the level of participation of victims, which has been undermined by the continuation of the armed conflict, insecurity and the shortage of lawyers in the Ombudsman’s Office.

(ii) Mechanisms to provide access to the courts: efforts to reach reconciliation agreements require a degree of flexibility in implementing the principles on the role of the judiciary. For example: the shortening of the custodial sentence in the case of Act No. 975. In March 2012, some 33,407 victims had participated in procedures under the Justice and Peace Act and investigations had been carried out into 322,370 incidents.

---

*Colombia*


---

Multiple activities need to be taken into account in order to evaluate the application of Act No. 975, and not simply the number of decisions taken. An overview of these activities is given in the report.

Act No. 1424 of 2010 introduces a “non-judicial truth mechanism” the purpose of which is to complement and contribute to the judicial investigations. The State provides in annex a list of 124 persons prosecuted under the Justice and Peace Act.

**Committee’s evaluation:**

[B2] Updated information should be provided in the next periodic report on: (1) the results obtained pursuant to the reforms of Act No. 975 and (2) the coordination mechanisms introduced to avoid duplication of the interventions undertaken and to guarantee their efficacy.

*Paragraph 14: The State party should take effective measures to discontinue any directive of the Ministry of Defence that can lead to serious violations of human rights, such as extrajudicial executions, and fully comply with its obligation to ensure that serious human rights violations are impartially investigated by the regular justice system and that those responsible are punished. The Committee underlines the responsibility of the High Council of the Judiciary when it comes to resolving conflicts of jurisdiction. The Committee also emphasizes the importance of ensuring that such crimes remain clearly and effectively outside the jurisdiction of military courts.*

The State party should guarantee the safety of witnesses and relatives in this type of case.

The State party should put into effect the recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions after his mission to Colombia in 2009 (A/HRC/14/24/Add.2).

**Follow-up question:**

- The Committee expresses its concern about the project to establish a presumption of competence for the military courts in cases involving members of the armed forces and the police. Information is required on the measures taken to avert such a retrograde step.
- No information has been provided on the measures taken to guarantee the safety of witnesses and relatives in this type of case.

**Summary of State party’s reply:**

The mode of operation of the military criminal courts has been determined by the national situation of armed internal conflict. Its purpose is to enable the armed forces to operate in conformity with the Constitution. The following elements are introduced:

- (1) Definition of clear criteria for establishing the competence of the military criminal courts or of the ordinary courts.
- (2) Creation of a technical coordinating commission with representatives of both branches of the courts, which is charged with intervening in case of doubt over the competence of the military criminal courts.
- (3) Constitutional recognition for the “military criminal investigation police”.

---

*Colombia*


---

- (4) Creation of a public fund for the technical and specialized defence of the members of the forces of law and order.
- (5) Development of reforms by way of statutory law, to ensure their continuity.
- (6) Creation of special criminal police courts and adoption of a police code.
- (7) Introduction of a specific and independent career path for the members of the “military criminal police”.

**Note by the secretariat:**

The constitutional reform of military criminal justice was adopted on 27 December 2012.

**Information from the United Nations:**

In 2012, the Special Procedures mandate holders of the United Nations and of the Office of the United Nations High Commissioner for Human Rights made public declarations in which they called for the revision or withdrawal of the reform of the military criminal law. After the adoption of the reform on 27 December 2012, the representatives of OHCHR and of the European Union in Colombia publicly expressed their concern.

**Committee’s evaluation:**

[E] The measures taken are contrary to the recommendations made by the Committee: the reform of the military criminal law adopted on 27 December 2012 calls into question the progress made by the Government towards guaranteeing that violations of human rights by the forces of law and order are subject to an investigation in conformity with the principles of a fair trial and ensuring that the responsibility of the perpetrators is established. The field of action of the military criminal courts must be strictly limited to military action by serving personnel.

[D1] No information has yet been provided on the measures taken to guarantee the safety of witnesses and the relatives of victims.

***Paragraph 16: The State party should create robust controls and oversight systems for its intelligence service and establish a national mechanism to purge intelligence files, in consultation with victims and relevant organizations and in coordination with the Procurator-General. The State should investigate, try and punish with appropriate penalties the persons responsible for those crimes.***

**Follow-up question:**

- The Committee is still concerned about the persistence of cases of illegal surveillance brought to its attention.
- Additional information is required on the measures taken to regulate the military intelligence services and on the implementation of the project to purge the intelligence files.

**Summary of State party’s reply:**

The investigations initiated against Department of National Security officials concerning illegal wiretaps and surveillance have advanced. Some officials have already been punished.

The Procurator-General is overseeing the project to purge the intelligence files, which have been sealed by a specialist and are currently being transported and put into storage.

---

*Colombia*

---

The files will then be classified, put into order and purged. The procedure is following the recommendations made by the special rapporteurs on freedom of expression of the United Nations, the Organization of American States and the Organization for Economic Cooperation and Development.

**Committee's evaluation:**

[B2] There is still a need for action in respect of (i) progress in storing and purging the files and (ii) progress in all the investigations started against former officials of the Department of National Security (to be provided in the next periodic report).

**Recommended action:** Letter to reflect the Committee's analysis, requesting that the information sought be included in the next periodic report.

**Next periodic report:** 1 April 2014

---

## Ninety-ninth session (July 2010)

---

*Mexico*

---

<b>COB</b>	CCPR/C/MEX/CO/5, 23 March 2010
<b>Follow-up paragraphs:</b>	8, 9, 15, 20
<b>First reply:</b>	Due 23 March 2011 – Received 21 March 2011.
<b>Committee's evaluation:</b>	Additional information is required in respect of paragraphs 15 and 20. Information on paragraphs 8 and 9 needs to be updated in the next periodic report.
<b>Second reply:</b>	Reply to the letter from the Committee dated 20 September 2011, received on 30 July 2012.
<b>NGO report:</b>	Ligue des droits de l'homme and CCPR Centre, January 2012.

*Paragraph 15: In the light of the 2005 decision of the Supreme Court regarding the unconstitutionality of "arraigo penal" and its classification as arbitrary detention by the Working Group on Arbitrary Detention, the State party should take all necessary measures to remove "arraigo" detention from legislation and practice at both federal and state levels.*

**Follow-up question:**

Additional information is required on the following: the number of cases in which *arraigo* has been applied in the last five years; the crimes for which it has been applied and its duration; the measures taken to guarantee respect for the rights of the defence; the conditions under which the judge responsible for monitoring *arraigo* may intervene.

**Summary of State party's reply:**

The judge may order *arraigo* only when the evidence brought forward by the prosecutor makes it possible to establish with a high degree of certainty that the suspect has committed the offence. Only information directly gathered by the police has probative value.

---

*Mexico*

---

Monitoring of *arraigo* is the responsibility of the federal prosecutor and of the National Human Rights Commission. The judge may, at any time, either on his or her own initiative or at the request of the detainee in question, visit the place of detention to ensure that the fundamental rights of the detainee are being respected.

If the grounds for the *arraigo* order still obtain, the federal prosecutor may ask the federal courts to grant an extension up to a maximum of 80 days. Detainees may also apply for the suspension of the measure or enter an appeal for an action of *amparo*. The authorities have 10 days to take a decision. Nonetheless, this may prolong the legal process.

**Committee's evaluation:**

[C1] The recommendation has not been implemented. The Committee reiterates it.

*Paragraph 20: The State party should guarantee the right of journalist and human rights defenders to freedom of expression in the conduct of their activities. It should also:*

*(a) Take immediate steps to provide effective protection to journalists and human rights defenders whose lives and security are under threat due to their professional activities, including by the timely adoption of the bill on crimes committed against freedom of expression exercised through the practice of journalism;*

*(b) Ensure the prompt, effective, and impartial investigation of threats, violent attacks and assassinations perpetrated against journalists and human rights defenders and, where appropriate, prosecute and institute proceedings against the perpetrators of such acts;*

*(c) Provide the Committee with detailed information on all cases of criminal prosecutions relating to threats, violent attacks and assassinations perpetrated against journalists and human rights defenders in the State party in its next periodic report;*

*(d) Take steps to decriminalize defamation in all states.*

**Follow-up question:**

Additional information is required on the following: measures designed to offer effective protection for journalists and human rights defenders; the progress made towards the adoption of the bill on crimes committed against freedom of expression.

**Summary of State party's reply:**

(1) The Special Prosecutor's Office for Crimes against Freedom of Expression (*Fiscalía Especial para la Atención de Delitos Cometidos en Contra de la Libertad de Expresión*) was created in July 2010.

(2) A new special prosecutor was appointed in February 2012 and reforms have been adopted (which are described in the report).

(3) The Consultative Committee that predated the adoption of the 2011 Act held nine meetings at which it assessed seven applications for protection measures and developed protocols for risk assessment and concerning the obligations of beneficiaries. From January 2011 to June 2012, the Attorney-General's Office requested protective measures in 108 cases on behalf of journalists, victims' families and media centres. Information is provided on the proceedings and the decisions adopted.



---

Mexico

---

(4) Steps to decriminalize defamation: the status of provisions in criminal law at the state level dealing with the offences of defamation, slander and other “offences against honour” is described: it has been decriminalized in 16 states; it is still a crime in 15 states; 2 states have amended their legislation without decriminalizing it.

**Committee’s evaluation:**

[B2] Measures are still required (i) to ensure the implementation of the laws adopted and measures taken by the Prosecution Service and (ii) to guarantee decriminalization of defamation in all federal states.

**Recommended action:** Letter reflecting the Committee’s analysis and requesting additional information in the next periodic report.

**Next periodic report:** 30 March 2014

---

## 100th session (October 2010)

---

Belgium

---

<b>COB</b>	CCPR/C/BEL/CO/5, 26 October 2010
<b>Follow-up paragraphs:</b>	14, 17, 21
<b>First reply:</b>	Due 26 October 2011 – Received 18 November 2011.
<b>Committee’s evaluation:</b>	The procedure has been completed in respect of the investigations into the incidents of 29 September and 1 October 2010. Additional information is required on the other recommendations.
<b>Second reply:</b>	Reply to the Committee’s letter of 29 April 2012, received on 20 July 2012.
<b>NGO report:</b>	Ligue des droits de l’homme and CCPR Centre, January 2012.

*Paragraph 14: The State party should take all the necessary steps to guarantee that when the members of the police use force they act in conformity with the United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials and to ensure that arrests are carried out in strict adherence to the provisions of the Covenant. The State party should, in the event of complaints of alleged mistreatment, systematically undertake investigations and prosecute and punish those responsible in a manner commensurate with the acts in question. The State party should inform the Committee of the action taken in respect of the complaints lodged following the demonstrations that were held from 29 September to 1 October 2010.*

**Follow-up question:**

No mention is made of any new measure. Additional information is required on measures taken to (i) improve the situation as regards the use of force by the police, (ii) guarantee systematic investigations into complaints alleging ill-treatment and (iii) prosecute and punish the perpetrators.

---

Belgium

---

**Summary of State party's reply:**

The "new" measures consist of continuing to train officers on how to deal with incidents in conformity with international principles. Statistics on procedures before the courts are annexed to the report.

In conformity with the Act of 18 July 1991, Committee P supervises the processing of complaints and their outcome. It carries out monitoring investigations of the police in 30 precincts and supervises the application of circular CP3. There is no overall evaluation of the system for dealing with complaints against members of the police.

**NGO information:**

Since October 2010, Belgium has taken no action to ensure that police officers act in conformity with the United Nations Basic Principles on the Use of Force and to ensure that arrests are made in conformity with the provisions of the Covenant. Cases of extreme brutality by the law enforcement forces are still being reported (see examples).

Monitoring of the police forces has not been reinforced. It only takes place in case of complaints, which are often not pursued (see examples).

**Committee's evaluation:**

[B1] Information is required on (i) the outcome of the investigations being conducted by P Committee in 30 police precincts and (ii) the procedures introduced to ensure the transparency and autonomy of the system for dealing with complaints against members of the police force.

*Paragraph 17: The State party should take all the necessary steps to guarantee access to legal counsel within the first few hours after a person is deprived of his or her liberty, whether by being placed under judicial or administrative arrest or by being taken into police custody, and to guarantee the right of access to a doctor on a systematic basis.*

**Follow-up question:**

Additional information is still required on the measures taken to implement the legislation on access to a lawyer and to a doctor within the first few hours of deprivation of liberty.

**Summary of State party's reply:**

The implementation of the Salduz Act (2011) is accompanied by permanent evaluation by the criminal policy service of the Public Federal Justice Service. Since the Act came into force, it has submitted three reports (<http://www.dsb-spc.be/web/>). The final report is due at the end of January 2013. A review of the system of free legal assistance is under way. A text explaining the Act is annexed to the report.

**NGO information:**

The Act of 20 July 2011 is not in conformity with the case law of the European Court of Human Rights. Essential rights are not ensured (access to the case file before questioning, the assistance of a lawyer from the time of the first hearing, access to legal assistance). A reform of the 2011 Act is still necessary.

**Committee's evaluation:**

[B1] Additional information is required on (i) the measures adopted to implement the conclusions and recommendations of the criminal policy service of the Public Federal

---

*Belgium*

---

Justice Service, principally as regards the necessary infrastructure and human resources, (ii) the control mechanisms planned after the submission of the final report of the Public Federal Justice Service in January 2013 and (iii) the measures taken to ensure the implementation of the 2011 Act (“*Salduz v. Turkey*”).

**Paragraph 21:** *The State party should ensure that the relevant oversight bodies monitor the deportation of foreign nationals more closely and should ensure those bodies’ independence and objectivity.*

**Follow-up question:**

Information is required on the measures taken to maintain the level of control over expulsions when the European Commission project expires in 2013.

**Summary of State party’s reply:**

The application for an extension of the grant from the European Fund until June 2015 is being completed. Renewal of the protocol should not pose any problems.

The Inspectorate-General of the Federal and Local Police (AIG) has been confirmed as the body responsible for supervising forced returns (Act of January 2012). Its competence should be expanded to encompass the procedure of forced returns.

The number of checks carried out by the Inspectorate-General of the Police is still increasing. The number of complaints filed remains fairly stable (AIG: 6 from 2006 to 2012; Committee P: 6 complaints in 2010 and 4 in 2011).

**NGO information:**

A bill provides for the introduction of supervision by a body that should be wholly independent from the police force. AIG, which is currently responsible for supervision, should not be appointed. Cases of extreme brutality during expulsions continue to be reported.

**Committee’s evaluation:**

[B2] Additional information is required on the outcome of the submission of the project to extend until June 2015 the grant from the European Fund. The Committee also considers it necessary for the State party to establish a body responsible for monitoring forced expulsions that is wholly independent from the police force and requests that information be transmitted to it on the measures taken in that regard.

**Recommended action:** Letter reflecting the Committee’s analysis and requesting the inclusion of additional information in the next periodic report.

**Next periodic report:** 30 October 2015

---

*Hungary*

---

<b>COB</b>	CCPR/C/HUN/CO/5, 29 October 2010
<b>Follow-up paragraphs:</b>	6, 15, 18
<b>First reply:</b>	Due 26 October 2011 – Received 15 August 2012, after a reminder was sent on 30 April 2012.
<b>NGO report:</b>	Hungarian Liberties Union and CCPR Centre, January 2012.

---

Hungary

---

**Paragraph 6:** *The State party should review the provisions of Act LXIII on the Protection of Personal Data and Public Access to Data of Public Interest to ensure that it is in line with the Covenant, particularly article 17, as expounded by the Committee in its general comment No. 16. The State party should ensure that the protection afforded to personal data should not hinder the legitimate collection of data that would facilitate the monitoring and evaluation of programmes that have a bearing on the implementation of the Covenant.*

**Summary of State party's reply:**

Act No. CXII of 2011 on Informational Self-Determination and Freedom of Information abrogated, with effect from 1 January 2012, Act No. LXIII. Henceforth, personal data concerning racial or national origin constitute special data, which can be processed only if the person concerned gives permission in writing, and in the specific circumstances set forth in the report. No personal data concerning racial or national origin are collected by the authorities. Data reflecting the impact on redistribution of interventions for the integration of the Roma population are however necessary. A project provides for the collection of ethnic data on the basis of voluntary self-evaluation.

**NGO information:**

The tension between the need for proper information on discrimination against ethnic minorities and the right to privacy is widely recognized in Hungary; however, it has not yet been resolved.

**Committee's evaluation:**

[B1] Information is required on (i) the implementation of Act No. CXII of 2011, and in particular on the evaluation of programmes with an impact on the implementation of the Covenant and (ii) the measures taken to ensure that the system used to collect data on ethnicity (to evaluate the redistribution of interventions for the integration of the Roma) is compatible with the principles of the Covenant.

**Paragraph 15:** *The State party should strengthen its efforts to improve the living conditions and treatment of asylum seekers and refugees and ensure that they are treated with human dignity. Asylum seekers and refugees should never be held in penal conditions. The State party should fully comply with the principle of non-refoulement and ensure that all persons in need of international protection receive appropriate and fair treatment at all stages, and that decisions on expulsion, return or extradition are dealt with expeditiously and follow the due process of the law.*

**Summary of State party's reply:**

The detention of aliens may be ordered only on the grounds set out in the 2007 Act on the Admission and Rights of Residence of Third-Country Nationals (2007).

If the reason for ordering detention is the risk of absconding or obstructing the enforcement of the deportation or transfer, the authorities are required to consider alternatives to detention.

Each detention order is preceded by an individual case assessment. Unaccompanied minors may not be placed in detention but are held in a specialized institution.

---

*Hungary*


---

The legality of the implementation of a detention order is assessed every two weeks by the prosecutor's office. The maximum duration of detention is 72 hours, which may however be extended by the competent court. The right of detainees to legal representation is guaranteed. A review of the conditions under which aliens may be detained is scheduled for the autumn of 2012.

Prison facilities that fail to meet the standards set by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment were closed down in 2010. Currently, 8 guarded facilities with an overall capacity of 635 persons operate in the country.

The police, in collaboration with UNHCR, the International Organization for Migration (IOM) and NGOs, ensure that the living conditions of aliens held in guarded accommodation are adequate. The services available are specified. An action plan, which was completed in March 2012, will help the police to continue its efforts to improve the conditions of detention for aliens.

Aliens placed in detention may file a complaint with the prosecutor or the Parliamentary Commissioner against the measures taken against them.

Refugees or asylum seekers may be placed in detention only within the framework of criminal proceedings. Asylum seekers are accommodated in reception centres. They have the same rights as Hungarian citizens, as well as special benefits, which are described in the report.

As regards the refoulement of Somali and Afghan asylum seekers, Hungarian regulations on extradition procedure (the Act of 1996) are in conformity with international standards. Persons entitled to temporary protection, to a residence permit or who have applied for refugee status may not be extradited to the country from which they have fled.

A tripartite border-monitoring agreement, signed in 2007 between the Hungarian police, UNHCR and the Hungarian Helsinki Committee allows the Committee to ascertain how the police apply the principle of non-refoulement and to publish an annual report. Hungary is not aware of any cases of refoulement of asylum seekers to Ukraine while asylum procedure was under way.

**NGO information:** No information on this point.

**Committee's evaluation:**

[B2] There is still a need for action in respect of the following points:

- (i) The review of the conditions of detention of aliens, scheduled for the autumn of 2012;
- (ii) The measures taken under the March 2012 action plan to help the police to improve the conditions of detention of aliens;
- (iii) The countries identified as "safe" by the act on asylum.

[D1] No information has been provided on the cases of unlawful expulsion of Afghan and Somali asylum seekers.

**Paragraph 18: *The State party should adopt specific measures to raise awareness in order to promote tolerance and diversity in society and ensure that judges, magistrates, prosecutors and all law enforcement officials are trained to be able to detect hate and racially motivated crimes. The State party should ensure that members or associates of the current or former Magyar Gárda are investigated,***

---

Hungary

---

*prosecuted, and if convicted, punished with appropriate sanctions. Furthermore, the State party should remove impediments to the adoption and implementation of legislation combating hate speech that complies with the Covenant.*

**Summary of State party's reply:**

In May 2011, the legislation on violence against ethnic communities was amended. Penalties apply to behaviour that creates a climate of fear. Members of parliament are not protected by immunity.

Measures to raise awareness: 2012 was declared Raoul Wallenberg Year. Activities to help combat prejudice, racism, anti-gypsy sentiment and the rejection of democracy are recognized by the award of annual prizes.

Allegations of racial profiling by the police: no personal data concerning racial or national origin are collected by the authorities. Consequently, the police use no methods of racial profiling. Complaints against any checks that violate fundamental rights may be lodged with the body that took the disputed decision, with the Independent Police Complaints Board or with the police chief commissioner. Decisions taken by the police chief commissioner are subject to judicial review. Under the STEPSS programme, (Strategies for Effective Police Stop and Search), police officers and civilians have examined the conditions and effectiveness of identity checks and whether they affect certain social groups.

The police have taken firm measures to end the racist anti-Roma demonstrations, which are increasingly virulent. The investigations launched by the police into the racially-motivated Roma homicide cases committed in 2008–2009 have been successfully completed and the perpetrators prosecuted.

The far-right "Magyar Gárda" organization has been prohibited in a final judgement, which also ordered it to be disbanded. Its uniform and symbols are also banned. Police have been assigned to the communities that were attacked. An ad hoc parliamentary commission has been set up to investigate the incidents that took place in the village of Gyöngyöspata. A report submitted in May 2012 concluded that the Government had taken the measures necessary.

The reforms of the Criminal Code that were adopted in 2011 reinforce the penalties against openly antisocial individuals whose behaviour is motivated by a person's actual or perceived membership of a national, ethnic, racial or religious group, disability or sexual identity or orientation.

Initiatives to improve the situation of the Roma minority: cooperation between the Organization for Security and Cooperation in Europe (OSCE) and the Hungarian Ministry of the Interior; cooperation with the Roma local governments and Roma civil organizations; raising representation of Roma people in the law enforcement authorities (training programmes and scholarships); public-service employment programme for the long-term unemployed and persons living in extreme poverty; training officials about racism, communication with minorities and tolerance.

**NGO information:**

There are serious deficiencies in the application of laws in Hungary when it comes to hate crimes. There is still no protocol for due classification and effective investigation of hate crimes. There is still no monitoring system for incidents that may constitute racial violence, and there is still no special training for law enforcement officers in this field.

---

*Hungary*

---

In spite of the efforts made, the leaders and the members of paramilitary groups have not been duly investigated and convicted. The charges never reflect the seriousness of the acts.

**Committee's evaluation:**

**[B2]** Information is required on the following points:

- (i) The training provided for judges, magistrates and prosecutors;
- (ii) The main conclusions of the STEPSS programme concerning the methods and effectiveness of identity checks and the extent to which they affect certain social groups;
- (iii) The number of complaints lodged and decisions taken in respect of "openly antisocial behaviour motivated by a person's actual or perceived membership of a particular group".

**[D1]** No information is provided on the investigations, prosecution and punishment of members of the Magyar Gárda.

**Recommended action:** Letter reflecting the Committee's analysis.

**Next periodic report:** 29 October 2014

---

**101st session (March 2011)**

---

*Serbia*

---

<b>COB</b>	CCPR/C/SRB/CO/2, adopted 29 March 2011
<b>Follow-up paragraphs:</b>	12, 17, 22
<b>First State party's reply:</b>	Due 29 March 2012 – Received 25 July 2012
<b>NGO information:</b>	Belgrade Center for Human Rights, May 2012.

*Paragraph 12: The State party should urgently take action to establish the exact circumstances that led to the burial of hundreds of people in Batajnica region, and to ensure that all individuals responsible are prosecuted and adequately sanctioned under the criminal law. The State party should also ensure that relatives of the victims are provided with adequate compensation.*

**Summary of State party's reply:**

The Office of the War Crimes Prosecutor has prioritized the investigation of the Batajnica events. Over 80 witnesses have been interviewed. Albanian witnesses gave statements to the prosecutor and investigating judge, but none agreed to repeat their statements in court. The investigations of all war crimes committed in Kosovo are ongoing.

**NGO information:**

The Office of the Prosecutor has faced serious setbacks during the trial because only a few witnesses have agreed to testify in court. Investigation is complicated by the interconnected nature between the crimes committed in Suva Reka and the mass grave and corpses found in Batajnica. The Belgrade Higher Court's War Crimes Department convicted Chief of Police Radojko Repanovic to 20 years prison, concluding that he

---

Serbia

---

had ordered the killing of civilians and the loading of the bodies into a truck. On 12 October 2010, the Belgrade Appellate Court ruled that the grounds for his conviction were unclear and quashed the verdict.

**Committee's evaluation:**

[B2] Additional information remains necessary on the measures taken (i) to expedite the investigations and (ii) to encourage witnesses to testify in court; and on the reasons of Belgrade Appellate Court's ruling to quash the verdict against Radojko Repanovic.

[D1] No information is provided on the compensations awarded to the relatives of the victims.

*Paragraph 17: The State party should ensure strict observance of the independence of the judiciary. It should also ensure that judges who were not re-elected in the 2009 process are given access to a full legal review of the process. The State Party should also consider undertaking comprehensive legal and other reforms to make the functioning of its courts and general administration of justice more efficient.*

**Summary of State party's reply:**

In December 2010, new amendments to the Law on Judges were enacted, prescribing the review of decisions for the appointment of unelected judges by members of the High Judicial Council.

In May 2011, the High Judicial Council established criteria to evaluate the competence and qualifications of judges. In June 2011, it started to review the appointments. Its decisions are public and unelected judges have a right to appeal to the Constitutional Court.

A new network of courts has been established since January 2010 to improve access to justice. The 2011 Law on Public Notaries gives more power to public notaries to officialise documents, reducing the workload of courts.

To promote speedy trials, court presidents are responsible to ensure the timely work of the court. Individual complainants can bring their case to the president of the Supreme Court of Cassation and the High Judicial Council in cases of obstruction of justice.

According to the 2012 law on Civil Procedure, judges must set a timeframe for the end of trial at the beginning of each procedure. Cases can only be prolonged to gather more evidence and if the judge is prevented from attending the hearing. In January 2012, a new provision of the Code of Criminal Procedure was enacted to speed up prosecutorial investigations of organized crime and war crime cases.

**NGO information:**

Laws were passed to improve the administration of justice, through which the government has acknowledged shortcomings in its procedures and recognized that every individual appointment needed to be re-examined. Mechanisms are also necessary to ensure the transparency of High Judicial decisions and adequate appeal procedures for their speedy review.

**Committee's evaluation:**

[B2] Additional action is required to enhance the independence of the judiciary, including with regard to the large power retained by the High Judicial Court over the appointment of judges. On the procedures to facilitate speedy trials, additional information is necessary on the guarantees in place to protect the access to justice of all parties to a case.



---

Serbia

---

**Paragraph 22:** *The State party should strengthen its efforts to eradicate stereotypes and widespread abuse against Roma by, among others, conducting more awareness-raising campaigns to promote tolerance and respect for diversity. The State party should also adopt measures to promote access by Roma to various opportunities and services at all levels, including, if necessary, through appropriate temporary special measures.*

**Summary of State party's reply:**

Awareness-raising campaigns have been developed promoting tolerance and respect for diversity (TV programs; organization of a Roma day). 5 million RSD have been granted to projects for the promotion of human rights, including Roma rights.

Six of the 87 existing political parties advocate for the interests of the Roma national minority, thereby promoting their political access.

To improve access to housing for the Roma, the Ministry of Environment plans to finance 10 informal settlements in 8 municipalities. Construction has not yet begun. In 2012, the Government adopted the National Strategy of Social Housing and the Action Plan for its implementation.

A new law on Permanent and Temporary Residence was adopted ensuring all citizens access to a registered residence. When living in informal settlements, persons can register their address with the Social Welfare Centre to access social benefits.

Administrative fees for birth registration were abolished in July 2010.

Vocational education and trainings were introduced to improve access to education for members of the Roma community. Special temporary measures have been implemented since 2003 to improve the Roma community's access to education (no information is provided on these measures).

**NGO information:**

Access of the Roma to education and health services has improved. However, hardly any tangible progress is observed the fields of employment and housing.

Procedures for the referral of Roma children to schools for children with developmental difficulties were revised to promote equal education for all. The effect of this revision is still unknown.

**Committee's evaluation:**

[B2] Additional actions remain necessary (i) to improve the access of the Roma to employment and housing, (ii) to eradicate negative stereotypes on the Roma population and (iii) to ensure the integration of Roma children in mainstream education.

**Recommended action:** A letter should be sent reflecting the analysis of the Committee.

**Next periodic report:** 1 April 2015

---

---

Togo

---

<b>COB</b>	CCPR/C/TGO/CO/4, adopted on 28 March 2011
<b>Follow-up paragraphs:</b>	10, 15, 16
<b>First reply:</b>	Due 28 March 2012 – Received 17 April 2012
<b>Action taken by the Committee:</b>	Follow-up letter sent on 31 July 2012.  Meeting between the Special Rapporteur and the Ambassador of the Permanent Mission on 18 October 2012.
<b>Second reply:</b>	October 2012.

*Paragraph 10: With a view to combating the impunity that persists in Togo, the State party should continue its efforts to bring the work of the Truth, Justice and Reconciliation Commission to an early conclusion. Independent and impartial investigations must also be conducted in order to shed light on the human rights violations committed in 2005 and prosecute those responsible. In this connection, the Committee emphasizes that the establishment of a transitional system of justice cannot serve to dispense with the criminal prosecution of serious human rights violations.*

**Follow-up question:**

Information is required on the measures taken to ensure the implementation of the recommendations made by the Truth, Justice and Reconciliation Commission.

No information has been provided regarding the investigations carried out into the cases of human rights violations committed in 2005. The Committee therefore reiterates its recommendation.

**Summary of State party's reply:**

Implementation of the recommendations of the Truth, Justice and Reconciliation Commission is going ahead: information is provided on the relevant activities.

In the wake of the investigation conducted by the United Nations fact-finding mission and that carried out by the independent special commission of inquiry into the acts of violence and vandalism that took place in April 2005, the Togolese authorities set up the Truth, Justice and Reconciliation Commission to investigate those acts, as well as those committed between 1958 and 2005.

**Committee's evaluation:**

[B2] Information is required on the decisions taken in respect of the human rights violations committed in 2005 and on their implementation.

*Paragraph 15: The State party should adopt criminal legislation defining torture on the basis of international standards and legislation criminalizing and penalizing acts of torture with penalties commensurate with their gravity. The State party should ensure that any act of torture or cruel, inhuman or degrading treatment is prosecuted and penalized in a manner commensurate with its gravity.*

**Follow-up question:**

Updated information is required on the following: (i) the progress made towards the adoption of the bills to amend the Criminal Code and the Code of Criminal Procedure, (ii) the content of the provisions relating to torture and (iii) the measures taken to

---

*Togo*

---

guarantee the prosecution and proper punishment of acts of torture or inhuman and degrading treatment.

**Summary of State party's reply:**

The bills on the Criminal Code and the Code of Criminal Procedure were submitted to the cabinet office for examination and adoption by the Cabinet in April 2012. The definition and punishment of torture is in conformity with the provisions of the Convention against Torture.

**Committee's evaluation:**

[B2] Additional information is still required on (i) the content of the provisions of the Criminal Code relating to torture and (ii) the progress made towards the adoption of the bills by the Government.

*Paragraph 16: The State party should take steps to investigate all allegations of torture and ill-treatment and all deaths in detention. Such investigations should be conducted expeditiously in order to bring the perpetrators to justice and provide effective compensation to victims.*

**Follow-up question:**

Additional action is still required to implement the recommendations of the National Human Rights Commission, together with information on the allegations concerning the falsification of its report.

**Summary of State party's reply:**

The Government has implemented most of the recommendations made by the National Human Rights Commission (examples are provided).

**Committee's evaluation:**

[B1] Additional information will be required when measures have been adopted to continue the implementation of the recommendations of the National Human Rights Commission.

**Recommended action:** Letter reflecting the Committee's analysis.

**Next periodic report:** 1 April 2015

---

**102nd session (July 2011)***Kazakhstan*

---

**COB** CCPR/C/KAZ/CO/1, adopted on 26 July 2011

**Follow-up paragraphs:** 7, 21, 25, 26

**First reply:** Due 26 July 2012 – Received 27 July 2012

**Action taken by the Committee:** 25 March 2013: Meeting between the Special Rapporteur and the Permanent Mission.

**NGO report:**

20 November 2012: Kazakhstan International Bureau for Human Rights and Rule of Law; International Foundation for Protection of Freedom of Speech "Adil Soz";

---

Kazakhstan

---

Almaty Helsinki Committee; Children Foundation of Kazakhstan; Committee of Public Defence; Public Association Feminist League; CCPR Centre.

*Paragraph 7: The State party should strengthen its efforts to ensure that the Commissioner for Human Rights enjoys full independence. In this regard, the State party should also provide it with adequate financial and human resources in line with the Paris Principles (General Assembly resolution 48/134, annex). The Committee further recommends that the Commissioner for Human Rights apply for accreditation to the Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. Finally, when establishing the National Preventive Mechanism as provided for under the Optional Protocol to the Convention against Torture, the State party should ensure that it does not compromise, but rather improves the execution of its core functions as a National Human Rights Institution in line with the Paris Principles.*

**Summary of State party's reply:**

The bill which was submitted to Parliament in March 2012 strengthens the powers of the Commissioner for Human Rights and his or her role as the national mechanism to prevent torture. Accreditation of this institution is one of the measures to be implemented in 2013.

Additional information provided at the 25 March 2013 meeting: the institution was accredited with B status. Participation by the institution in the mechanisms of the Human Rights Council could help it to acquire A status, but such an outcome is not solely dependent on the will of the Commissioner for Human Rights. The strengthening of the Commissioner's powers when acting as national preventive mechanism must be accompanied by the necessary institutional capacity-building.

**NGO information:**

The most recent version of the bill on the national preventive mechanism provides for the strengthening of the Commissioner for Human Rights, particularly as regards human and financial resources. Contrary to the requirements of the Optional Protocol to the Convention against Torture, no provision is made for an inspection mechanism. No information is available on the application for accreditation of the Office of the Commissioner.

**Committee's evaluation:**

[B2] Measures are still required for the adoption of the bill to establish the national preventive mechanism and for the provision of the material and human resources necessary to allow the Commissioner for Human Rights to perform the related functions.

*Paragraph 21: The State party should take steps to safeguard, in law and practice, the independence of the judiciary and its role as the sole administrator of justice, and guarantee the competence, independence and tenure of judges. The State party should, in particular, take measures to eradicate all forms of interference with the judiciary and ensure prompt, thorough, independent and impartial investigations into all allegations of interference, including by way of corruption, and prosecute and punish perpetrators, including judges who may be complicit. The State party should review the powers of the Office of the Procurator-General to ensure that the office does not interfere with the independence of the judiciary.*

---

Kazakhstan

---

**Summary of State party's reply:**

The Committee's observations on this point are incorrect. Measures are constantly being implemented to guarantee the independence of the judicial system:

- (i) The transfer of the function of running the activities of the judicial system to a special body established for that purpose answering to the Supreme Court. Issues relating to staffing are currently the responsibility of the Higher Council of the Judiciary, thus guaranteeing the independence of judges.
- (ii) The procedure for selecting judges is based on a qualifying examination and on the principle of non-discrimination. The final decision on the appointment of a judge of the Supreme Court is taken by the Senate.
- (iii) The report describes the activities of the Supreme Court to investigate and prevent cases of corruption within the judicial system.
- (iv) The Procurator-General exercises his power to suspend the decision of a court in only 0.005 per cent of cases, concerning issues such as unlawful evictions or unfounded demands for payment.

Additional information provided on 25 March 2013: the law on the Supreme Council of the Judiciary and the constitutional law were adopted in February 2012. They strengthen the powers of the Council, training activities for judges and the powers of the local courts, and reinforce judicial independence and immunity.

**NGO information:**

There has been no progress since the 2011 Constitutional Act on the Judicial System and the Status of Judges.

**Committee's evaluation:**

[B2] Additional measures remain necessary to strengthen the independence of the judiciary and its role as the sole administrator of justice, and to ensure that judges are competent, independent and enjoy security of tenure. The Committee reiterates its recommendation and remains concerned by the information received relating to the dismissal of 400 judges in the past two years.

*Paragraph 25: The State party should ensure that journalists, human rights defenders and individuals are able to freely exercise the right to freedom of expression in accordance with the Covenant. In this regard, the State party should review its legislation on defamation and insults to ensure that it fully complies with the provisions of the Covenant. Furthermore, the State party should desist from using its law on defamation solely for purposes of harassing or intimidating individuals, journalists and human rights defenders. In this regard, any restrictions on the exercise of freedom of expression should comply with the strict requirements of article 19, paragraph 3, of the Covenant.*

**Summary of State party's reply:**

The Act of 21 January 2011 classifies defamation and insults in the section relating to offences against the person in order to protect the honour and dignity of all from illegal actions. The penalty of 6 months' imprisonment for public defamation has been abrogated. Other reforms adopted to strengthen freedom of expression are mentioned.

---

Kazakhstan

---

**NGO information:**

The current trend is to prosecute journalists, human rights defenders and political activists for incitement to hatred during public events. Examples are provided.

**Committee's evaluation:**

[C1] No amendment has been adopted. The Committee reiterates its recommendation.

*Paragraph 26: The State party should re-examine its regulations, policy and practice, and ensure that all individuals under its jurisdiction fully enjoy their rights under article 21 of the Covenant. It should ensure that the exercise of this right is subjected to restrictions which comply with the strict requirements of article 21 of the Covenant.*

**Summary of State party's reply:**

Administrative liability for the organization of public events is governed by article 373 of the Code of Administrative Offences. Such acts accounted for merely 0.1 per cent of administrative offences prosecuted between January and June 2011. Restrictions on the right to hold meetings, demonstrations, strikes or other public events have been introduced in the interests of national security, public order, health and the rights and freedoms of others. In 2011, more than 232 protest events were held, 50 per cent of which were unauthorized. Administrative action was taken against 227 persons who actively participated in the protests.

No additional information was provided on 25 March 2013.

**NGO information:**

The reform of the law of 1995 on freedom of assembly has yet to be adopted. Permits are often refused. People who participate in unauthorized assemblies or demonstrations are arrested by the police. They have to pay a fine or are imprisoned for 2 weeks. The police also practise "preventive" arrests of persons who intend to take part in a demonstration. Only public associations may apply for authorization to organize public meetings. The recommendation by local authorities to specify a place remote from the town centre where peaceful demonstrations are authorized is still considered to be legally binding.

**Committee's evaluation:**

[C1] No measure has been adopted. The Committee reiterates its recommendation.

**Recommended action:** Letter reflecting the Committee's analysis. The additional information requested should be included in the next periodic report.

**Next periodic report:** 29 July 2014

---

## 103rd session (October–November 2011)

---

Norway

---

<b>COB</b>	CCPR/C/NOR/CO/6, adopted 18 November 2011
<b>Follow-up paragraphs:</b>	5, 10, 12
<b>First State party's reply:</b>	Due 18 November 2012 – Received 3 December 2012

---

Norway

---

**NGO information:** Norwegian NGO-forum for Human Rights, 20 December 2012

*Paragraph 5: The State party should ensure that the current restructuring of the national human rights institution effectively transform it, with the view to conferring on it a broad mandate in human rights matters. In this regard, the State party should ensure that the new institution will be fully compliant with the Paris Principles.*

**Summary of State party's reply:**

In 2011, the ICC's Sub-Committee on Accreditation downgraded the Centre to a B status and gave the State party one year to provide documentation on the reforms instituted to comply with the Paris Principles. The University of Oslo terminated its relationship with the Centre. The Ministry of Foreign Affairs now provides support to the Centre to ensure its full functioning. An inter-ministerial working group was established to evaluate the reforms needed. One possibility is to create a new national institution. In March 2011, the Ministry of Foreign Affairs conducted an external review of the Centre. Concluded that several key reforms are needed.

**NGO information:**

The inter-ministerial working group recommended the appointment of the Parliamentary Ombudsman as the national human rights institution. NGOs have objected to this proposal. The Parliamentary Ombudsman and the Prison Supervisory Board are not adequate bodies to ensure neutral and effective monitoring of prisons and detainees. A new autonomous and independent body should be established through a process ensuring the participation of NGOs.

**Committee's evaluation:**

[B2] Additional information remain necessary on (i) the decision made by the inter-ministerial group on the shape of the new national human rights institution and (ii) the precise mandate, objectives, activities, and monitoring mechanisms of the new institution.

*Paragraph 10: The State party should take concrete steps to put an end to the unjustified use of coercive force and restraint of psychiatric patients. In this regard, the State party should ensure that any decision to use coercive force and restraint should be made after a thorough and professional medical assessment that determines the amount of coercive force or restraint to be applied to a patient. Furthermore, the State party should strengthen its monitoring and reporting system of mental health-care institutions so as to prevent abuses.*

**Summary of State party's reply:**

Measures have been taken to promote voluntariness in mental health service under the 1999–2008 Plan for Mental Health. Have not led to a significant decrease in the extent of coercion used. A report to Parliament will be submitted by the end of 2012 on how to reduce coercion in mental health care. More hospitals are introducing user-managed hospitalization programs that have reduced coercive hospitalization by more than 50 percent. New strategies have been adopted at national and regional levels (information in the report).

---

 Norway
 

---

**NGO information:**

In 2012, the Directorate of Health gave 7 million NOK (US\$ 1,255,000) to NGOs and mental health services to implement projects to reduce the use of coercive measures. Data is lacking on the use of restraints, seclusion and electroconvulsive treatment in mental health institutions.

**Committee's evaluation:**

[B2] Additional action is required (i) to reduce the use of force against mental health patients and (ii) to strengthen the monitoring and reporting system in mental health care institutions. Data is required on the use of coercive force, including electroconvulsive treatment, in the mental health care system.

*Paragraph 12: The State party should strictly limit the pretrial detention of juveniles and, to the extent possible, adopt alternative measures to pretrial detention.*

**Summary of State party's reply:**

Under the January 2012 Law, pre-trial detention of children is permitted only in cases of "unconditional necessity". Children must be brought before a judge no later than the day after arrest.

**NGO information:**

The Ministry of Justice did not support the proposal for an absolute ban on the use of juvenile preventive detention. New legislation should be enforced, defining specific and strict criteria for its application. Concern remain that children almost always serve their sentence with adults. Only one juvenile detention centre with four cells is available.

**Committee's evaluation:**

[B2] Additional information is required on (i) the precise criteria for "unconditional necessity" of pretrial detention of children and (ii) the measures taken to ensure that children are systematically held separately from adults.

**Recommended action:** A letter should be sent reflecting the analysis of the Committee.

**Next periodic report:** 2 November 2016

---



---

 Jamaica
 

---

**COB** CCPR/C/JAM/CO/3, adopted 17 November 2011

**Follow-up paragraphs:** 8, 16, 23

**First State party's reply:** Due 17 November 2011 – Received 19 November 2012

**NGO information:**

7 December 2012: Jamaica Forum for Lesbians, All-sexuals and Gays (on para. 8); 4 February 2013: Jamaicans for Justice and Jamaica FLAG.

*Paragraph 8: The State party should amend its laws with a view to prohibiting discrimination on the basis of sex, sexual orientation and gender identity. The State*



---

Jamaica

---

*party should also decriminalize sexual relations between consenting adults of the same sex, in order to bring its legislation into line with the Covenant and put an end to prejudices and the social stigmatization of homosexuality. In this regard, the State party should send a clear message that it does not tolerate any form of harassment, discrimination or violence against persons for their sexual orientation, and should ensure that individuals, who incite violence against homosexuals, are investigated, prosecuted and properly sanctioned.*

**Summary of State party's reply:**

All citizens have the right to equality before the law and to freedom from discrimination. The Jamaica Constabulary Force (JCF) adopted a Diversity Policy in August 2011. Guides members of the police in their professional dealings with persons of minority groups, including LGBT. A culture of non-violence is also promoted through the Anti-Bullying Initiative developed in schools and communities.

**NGO information:**

Strong negative attitudes towards homosexuality are still prevalent. The Government recently announced that the review of the buggery law is not a priority, and little effort is made to foster tolerance and non-violence.

From January to November 2012, J-Flag received 39 reports of discrimination, harassment and violence related to the sexual orientation or gender identity of the victims. Significant barriers prevent LGBT persons from seeking redress.

Trainings have been organized and homophobic crimes can be reported to a network of trained police officers. The police have provided security at all public demonstrations against homophobia and discrimination. Difficulties remain with some members of the police.

**Committee's evaluation:**

[C1] The recommendation has not been implemented: State party's legislation has not been amended to prohibit discrimination on the basis of sex, sexual orientation and gender identity; sexual relations between consenting adults of the same sex have not been decriminalized; no information is provided on the way the Anti-Bullying initiative is supported by the State party and on the measures taken to ensure that individuals who incite violence against homosexuals are investigated, prosecuted and properly sanctioned.

*Paragraph 16: The State party should closely monitor allegations of extrajudicial killings and ensure that all such allegations are investigated in a prompt and effective manner with a view to eradicating such crimes, bringing perpetrators to justice and hence fighting impunity and providing effective remedies to victims. In this regard, the State party should ensure the Independent Commission of Investigations (INDECOM) is adequately resourced to be able to carry out independent and effective investigations into alleged cases of extrajudicial killings and assaults by law enforcement personnel.*

**Summary of State party's reply:**

The INDECOM was established in 2010 to ensure the prompt and effective investigation of extra judicial killings. Its budget and human resources have substantially increased (data provided). Fiscal constraints remain a major obstacle. Funds for trainings and technical material will be provided by the UK Department for International Development for a three year period from June 2012.

---

*Jamaica*


---

The Government continues to take measures to ensure the extradition and prosecution of police officers implicated in extrajudicial killings and who have fled the country. A former police officer was found guilty for the murder of the 14 year old girl in October 2008. The Use of Force Policy continues to guide the Jamaica Constabulary Force in its interaction with the public.

**NGO information:**

Civilians are still killed by law enforcement agents, and impunity prevails. There were about 199 cases of extrajudicial killings for the year 2012.

**Committee's evaluation:**

**[B2]** Additional measures remain necessary to encourage the presentation of claims by the victims of extra judicial killings and to promote the investigation and sanction of these cases.

**[D1]** The State party does not provide information on the remedies provided to victims of extra judicial killings.

*Paragraph 23: The State party should, as a matter of urgency, adopt effective measures against overcrowding in detention centres and ensure conditions of detention that respect the dignity of prisoners, in accordance with article 10 of the Covenant. The State party should put in place a system to segregate accused persons from convicted persons and minors from other prisoners. The State party should, in particular, take steps to ensure that the Standard Minimum Rules for the Treatment of Prisoners are respected. Furthermore, the State party should consider the wider application of alternative non-custodial sentences in order to alleviate the problem of overcrowding in prisons.*

**Summary of State party's reply:**

Every effort is made to prevent overcrowding: transfers of inmates and opening of a low risk hostel for males. Options are analysed to build new prisons, but are limited by the present severe economic and financial conditions.

The system already includes the principle of separation of accused persons from convicted persons. Some facilities are being renovated to ensure that girls and women do not share common space. Boys are housed at the Metcalf Street remand centre.

Greater efforts are made to have children matters heard in Resident Magistrate Court in camera if the children's court is not in session. Efforts are made to implement the National Plan of Action on Child Justice (2010–2014), despite the lack of resources.

The Government continues to sensitizing the judiciary on alternative to imprisonment and non-custodial sentences. A review of parole system was conducted in 2011.

**NGO information:**

Conditions in correctional facilities are deplorable. There is little action to find alternative to imprisonment especially for children. Minors are kept in police lockups and in adult prisons.

---

*Jamaica*

---

**Committee's evaluation:**

[B2] Additional information remains necessary on (i) the proportion of detained girls who still have to share a common space with women and (ii) the measures taken to implement the National Plan of Action on Child Justice (2010–2014); (iii) the proportion of cases in which non-custodial sentences have been applied, and (iv) the results of the 2011 review of parole system.

**Recommended action:** A letter should be sent reflecting the analysis of the Committee.

**Next periodic report:** 2 November 2014.

---