

# OMCT E-Bulletin – May 2015

## 54th session of the UN Committee against Torture

### OMCT Documentary

During its annual reception on April 28, 2015 the OMCT presented its documentary on the engagement of civil society organisations in the reporting process of the UN Committee against Torture.

This documentary highlights the work undertaken by and the multiple stages of engagement of CSOs involved in the State reporting process, as well as how their participation contributes to the success of the CAT.

Watch the documentary [here](#).

In 2014, the OMCT launched an initiative to mobilize and coordinate activities of civil society organisations (CSOs) in relation to the Convention against Torture and its Committee. We facilitate civil society engagement, such as by building coalitions, sharing information, ensuring timely and effective report submissions, advising on advocacy opportunities, and supporting direct access to the Committee against Torture (Committee). Find out more on our [website](#).

During its 54th session (April 20 – May 15 2015), the Committee against Torture considered the State reports submitted by **Colombia, Congo, Luxembourg, New Zealand, Romania, Serbia, Spain, and the Former Yugoslav Republic of Macedonia**. In accordance with Article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee examined the progress made by the respective State parties in giving effect to the Convention and identified problematic areas where compliance must be improved.

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*Nothing can justify **torture** under any circumstances*

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### Follow-up to Concluding Observations

During this session, the Committee held a meeting on the *Follow-up to Articles 19 and 22 and Reprisals*. Jens Modvig, Committee member and Rapporteur on the Follow-up to Concluding Observations, reported that the Committee has set up a working group on follow-up comprised of three Committee members. The aim of this working group is to develop rules and guidelines on

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*Claudio Grossman, CAT Chair, and Gerald Staberock, OMCT Secretary-General*

follow-up that will be presented to the Committee during the July/August session.

In this context, Jens Modvig referred to the Expert Forum on Follow-up organized by the OMCT in February 2015 in which he participated. He stated that the discussions held, as well as the forum report were very insightful and will inform the working group's rules and guidelines.

### **Annual NGO Meeting**

On the occasion of the annual public NGO meeting with the Committee, the OMCT delivered an oral statement about important issues to be considered by the Committee including non-reporting States, follow-up procedure to concluding observations and a new General Comment on Article 3. More information can be found [here](#).

### **Summary of CAT Considerations of State Reports**

#### **Colombia – High levels of violence from the military and demobilized paramilitary groups are met with impunity**

In Colombia, the excessive use of force by law enforcement and military officials is concerning for the Committee. The Committee is particularly alarmed by the military practice where men are massively arrested (through “batidas”) with the aim of recruiting able men that have not served the mandatory military service. In light of the legislative initiative aimed at the expansion of the scope of military jurisdiction, the Committee recommends that serious human rights violations and other abuses committed by military personnel against civilians be excluded from military jurisdiction. The Committee is alarmed by the shortcomings identified in the demobilization process of paramilitary groups and the high rates of impunity. The Committee calls on the State to urgently adopt measures to curb human rights abuses committed against civilians by armed groups emerging after the demobilization process, particularly in Buenaventura, Valle del Cauca Department. Cases of extrajudicial executions, enforced disappearances, and other serious human rights violations should be investigated and perpetrators should face judicial proceedings. Those found guilty should be punished and victims should be provided with adequate reparation. Since 2014, only 7 out of 9,474 known victims of torture were provided with compensation. The Committee is concerned with the poor conditions in detention centers in Colombia. It calls on the State party to urgently reduce overcrowding and improve the precarious medical services. It also recommends the creation of an independent and effective mechanism to receive complaints of torture and ill treatment in detention centers, as well as the establishment of a centralized register for cases of torture and ill treatment. The Committee expresses concern regarding gender-based violence, in particular about the high levels of sexual violence recorded against women and girls, and the low number of convictions in proportion to the high number of complaints. The State must combat violence on the grounds of sexual orientation and gender identity, specifically against homosexuals and transgendered women.

Other issues of concern to the Committee are the absence of adequate safeguards to protect human rights defenders, trade unionists and journalists; the protection of judges and prosecutors against threats and aggressions; and the application of Article 3.

Read more :

- [Alternative Report \(Spanish\)](#) (from the CCCT and the OMCT)
- [Executive Summary of Alternative Report \(English\)](#)
- [Concluding Observations](#)
- [Webcast](#)

## **Congo – Poor prisons conditions and lack of fundamental legal safeguards**

Following the initial report submitted by the Republic of the Congo, which was 10 years overdue, the Committee expresses grave concern over the poor detention conditions prisoners face, including severe overcrowding, deterioration of infrastructure, lack of reintegration mechanisms, lack of equipment and training, violence against inmates, lack of separation between adults and children, under-feeding of inmates, poor hygiene, and lack of medical services and medication. Torture and ill treatment were also reported in many detention centers across the country, especially in police stations. The Committee calls for the improvement and enforcement of legislation granting fundamental legal safeguards, which are lacking in the State, such as the right to receive a medical examination upon arrest and to free legal aid, as well as the right to inform one's relatives upon detention. Concern about the protection of victims of torture, especially after complaints are submitted, was expressed by the Committee as numerous people fear reprisals for speaking out against torture and ill treatment. In the Congo, a climate of impunity reigns and therefore the Committee calls for the reinforcement of measures to investigate, prosecute and punish all allegations of enforced disappearances, torture or ill treatment, and deaths in prison.

Other concerns expressed by the Committee include the absence of legislation to provide victims of torture with redress and rehabilitation; the absence of a current definition of torture in the Congolese Penal Code; the lacking efficiency of the *Commission nationale des droits de l'homme* (CNDH) as an investigative body; the ill treatment of refugees and asylum seekers and the application of the non-refoulement principle; as well as the high level of violence against women. In numerous recommendations, the Committee emphasizes the importance of an increased effort to engage civil society in order to implement the Convention and its different aspects in the Congo.

Read more :

- [Concluding Observations](#)
- [Webcast](#)

## **Luxembourg – Concerns about the protection of asylum seekers**

The Committee positively notes that no case of torture has occurred in Luxembourg since the last periodic review took place. It nevertheless expresses concern about the State party's practice to return people in need of urgent medical treatment to their country of origin. Luxembourg has been specifically urged to ensure that rejected asylum applicants who cannot return to their country of origin due to security concerns are not being pushed into a sphere of illegality. The Committee specifically calls upon Luxembourg to guarantee these individuals access to social benefits and support. The Committee highlights that conditions of detention in Luxembourg must be improved, particularly with regard to the size of detention cells and sanitary conditions. The Committee calls upon Luxembourg to ensure that detained persons also have access to external medical treatment. The Committee expresses concerns about reports of xenophobia and racist acts against foreigners in detention centers. Another major concern is the judicial protection of minors, particularly the possibility to judge minors in front of a normal court and the need to accelerate the opening of the security unit for minors in Dreibern. The Committee requests further information on the effectiveness of training for public officials and recommends the enhancement of training for medical staff. The Committee further raises concerns about the independence of the Prosecutor's Office, which has a high amount of discretion in the decision-making process for investigations and prosecutions of acts of torture. It calls upon Luxembourg to establish an investigative authority that is not linked to the Ministry of Interior and police forces.

Read more:

- [Concluding Observations](#)
- [Webcast](#)

### **New Zealand – Persistence of violence against women and overrepresentation of indigenous peoples in prisons**

The Committee reiterates previous concerns about insufficient incorporation of the Convention in the domestic law of New Zealand. It specifically calls upon New Zealand to strengthen its NPM by increasing both funding and personnel. The Committee especially criticizes the narrow mandate and lacking independence of the Independent Police Conduct Authority. The police force retains the power to initiate investigations, yet the Committee stresses that an independent body should investigate reports of abuses of violence by police officers. The persistence of violence against women, especially Maori women, is also noted with grave concern. Particularly alarming is the high number of cases remaining unreported and the decreasing number of applications for protection orders, despite increasing investigations into family violence. The Committee urges for the elimination of barriers to reporting and applying for protection orders, to ensure investigations of cases of violence against women, and to provide protection to victims. Other matters of concern are overcrowding and the disproportionately high number of indigenous people being incarcerated in New Zealand, with 50% of male and 60% of female inmates being Maori, despite constituting 15% of the state population. To tackle this the Committee calls for the full implementation of the Turning the Tide Prevention Strategy. The Committee criticizes the persistent use of seclusion in mental health facilities and recommends this only as a measure of last resort. The Committee expresses concerns regarding recently introduced bills limiting the protection of asylum seekers by allowing, amongst others, for the detention of ‘mass arrivals groups’ for up to six months. The State party must promote alternatives, such as non-custodial measures. The Committee is further concerned about the lack of investigations into historic claims made by children and young people in state care and by patients in psychiatric hospitals in the 1990s. The Committee is especially concerned that no one was held accountable for the nearly 200 allegations of torture and ill treatment at Lake Alice hospital. Other issues raised include the separate detention of juveniles; the excessive use of Tasers by police officers; the lack of prosecution of human trafficking cases; and insufficient redress and rehabilitation for victims of torture.

Read more:

- [Concluding Observations](#)
- [Webcast](#)

### **Romania – Excessive use of force by law enforcement officials**

Following its second periodic review, delayed by 18 years, the Committee calls upon Romania to guarantee fundamental legal safeguards to detained persons. It strongly criticizes the use of prolonged pre-trial detention, extendable to 180 days and poor material conditions in detention centres. The Committee is particularly alarmed by the excessive use of force by law enforcement officials, for example used to elicit confessions, and the low number of prosecutions for such acts. It recommends the establishment of an independent monitoring body and urges Romania to promptly investigate all allegations of violence. The Committee strongly condemns the persistence of racist hate crimes and negative stereotypes against the Roma community. It stresses the need to combat impunity by taking into account any racist motives in all investigations. The Committee specifically urges Romania to stop the practice of administratively conveying Roma to police stations. Particularly alarming are the poor material conditions and continued overcrowding in prisons,

including problems of under-staffing, including medical and psychiatric staff. The establishment of an independent mechanism to receive complaints of inmates, while also allowing the Ombudsman to visit prisons, is recommended. The access of asylum seekers to a fair asylum procedure in Romania must be guaranteed and the State party should refrain from detaining asylum seekers. Another major concern raised is the extremely poor conditions in mental healthcare facilities, with 2000 deaths being reported from 2011 to 2014. In the context of ensuring explicit consent to placement, the Committee considers the lacking legal capacity of patients and insufficient legal safeguards as particularly problematic. Romania is encouraged to continue investigations into its counter terrorism activities in coordination with the CIA, allegedly operating secret detention facilities, and its involvement with the rendition program. Other issues include the enhancement of training, the introduction of national legislation on rehabilitation and the inadequate funding and independence of the NPM.

Read more:

- [Concluding Observations](#)
- [Webcast](#)

### **Serbia – Statute of limitations for torture encourages culture of impunity**

Following Serbia's second periodic report, a major concern for the Committee is that the Criminal Code maintains a statute of limitations for the crime of torture, which halts the potential for investigations (5-10 years) and the provision of redress and rehabilitation (3 or 5 years). There is a culture of impunity in Serbia, as there are few investigations or prosecutions. In this respect, the Committee calls for the reinforcement of the independence and efficiency of the judicial system. The conditions in prisons are also alarming, with inmates having limited access to healthcare and professional and recreational activities. Overpopulation in prisons remains above 116%, the Committee suggests using alternative measures to reduce overcrowding. Numerous deaths in custody and suicide attempts, as well as inter-prisoner violence must be investigated by the State party, which should be complimented by enhanced video-monitoring and preventative measures. The Committee expresses serious concern over the asylum determination procedure, as in 2014 out of 16,490 people seeking asylum status only 18 cases were assessed and merely 6 were granted refuge or subsidiary protection. The issue of non-refoulement is also emphasized as the 'safe third country' list does not allow for case-by-case asylum procedures. Sufficient protection for human trafficking victims must be encouraged and a new Action Plan for combating trafficking must be adopted without delay. The Committee expresses deep concerns over mental healthcare facilities and the conditions of patients, as they are sometimes detained against their will and face ill treatment, being secluded or restrained for long periods. Alternatives incorporating community-based support are required to enhance the well-being of persons with mental disabilities and to reduce the over-use of such facilities. Concerns over attacks on journalists, human rights defenders and minorities are expressed as well.

Also raised by the Committee are concerns with regard to investigations of crimes under international law, training for state officials under the Convention, the allocation of sufficient resources to the Ombudsman, gender-based and domestic violence, as well as the independence of the judiciary.

Read more :

- [Concluding Observations](#)
- [Webcast](#)

### **Spain – No proper protection for immigrants, refugees and asylum seekers**



The Committee reminds Spain that it must comply with the principle of non-refoulement (Article 3) under all conditions and be vigilant not to expulse, return, or extradite a person when there is reason to believe they may be tortured. The case of Ali Aarrass, who was extradited to Morocco, is specifically highlighted by the Committee. The Committee is seriously concerned about the summary returns that take place from Ceuta and Melilla, known as “hot returns”, where no individual risk assessment takes place, and the Committee calls on the State party to ensure that it evaluates every individual case to guarantee that all persons in need of international protection have access to a fair asylum procedure. The Committee reminds the State that it must adhere to the *aut dedere aut judicare* principle to prosecute persons suspected to have committed a crime in contravention to the Convention, in light of the refusal of extradition requests issued by Argentinian authorities against suspected Francoist criminals. The Committee urges the State party to adopt all necessary measures to ensure that acts of torture, specifically grave human rights violations that occurred during the Civil War and Francoist regime, not be subject to amnesty or a statute of limitations. The Committee reiterates its previous recommendation to the State party to revise its policy on incommunicado detentions with the objective of abolishing it. In addition, the Committee calls on the State to assure that detention centers are equipped with audiovisual recording devices. The Committee urges the State to prohibit isolation longer than 15 days rather than its current practice of a maximum of 42 days. The State must urgently reduce overcrowding in temporary immigrant holding centers and cooperate with NGOs to monitor these centers.

Other issues of concern for the Committee are the definition of torture in the Penal Code; the excessive use of force by law enforcement agents; the lack of proper investigation and the alarming impunity including the concern over pardons granted to police officers convicted of torture; the lack of adequate reparation for victims of torture; and high levels of violence against women.

Read more:

- [Concluding Observations](#)
- [Webcast](#)

### **Former Yugoslav Republic of Macedonia – ‘Wiretapping’ scandal and the lack of trust in the judiciary**

In light of the third periodic report of the FYROM, the Committee expresses concern over the current ‘Wiretapping’ scandal. The involvement of senior officials in human rights abuses, interference with members of the judiciary, and other activities have led the Committee to call for the respect and strengthening of the judiciary’s independence. Particularly alarming is the climate of impunity found within the State party and thus measures must be immediately taken in order to promptly and thoroughly investigate, prosecute and punish acts of torture. The Committee is also alarmed by the poor conditions found in detention facilities, especially in the Skopje and Idrizivo prisons. Overcrowding, inadequate healthcare, illegitimate use of force by guards, and the inadequate training of personnel are highlighted. Violence against minorities, including the LGBTI and Roma communities, is prevalent in the State party. The Committee calls for the immediate and effective implementation of measures to protect these communities from discrimination, attacks, and arbitrary detention. Another main issue in the FYROM is the inhumane treatment of refugees, and asylum seekers in the Gazi Baba detention center. Violence against women is another major concern of the Committee, as there has been an increase in cases of domestic violence and protective measures must be implemented. The Committee is also alarmed by the lack of measures undertaken to investigate and prosecute instances of human trafficking in the State party. New legislature is to be vigorously enforced and international cooperation is to be enhanced. The Ombudsman acting as the National

Preventive Mechanism has only received a ‘B’ rating and must be granted financial independence and further staffing to improve its effectiveness.

Other issues raised include the scope of the definition of torture and the ability to prosecute the crime of torture or other ill treatment; the use of the Amnesty Law for individuals who committed human rights violations; training for all officials; as well as lacking access to and forms of redress and rehabilitation for victims of torture and other ill treatment.

Read more :

- [Joint Shadow Report](#) (English) (from the MHC, OMCT and other national CSOs)
- [Concluding Observations](#)
- [Webcast](#)

### **Adoption of Lists of Issues and LOIPRs**

The Committee adopted **lists of issues** for China, China (Hong Kong), and China (Macau).

The Committee adopted **lists of issues prior to reporting (LOIPRs)** for Bahrain, Belgium, Cameroon, Estonia, Guatemala, Japan, and Yemen.

Together with the UDEFEGUA, the OMCT submitted a report (Spanish) for the development of the LOIPR in relation to Guatemala’s periodic report submission.

### **Next Sessions**

The **55<sup>th</sup> session** of the CAT will take place from **July 27 to August 14, 2015**.

### **Considerations of State Reports:**

- [Iraq](#)
- [Slovakia](#)
- [Switzerland](#)

The deadline for NGOs submissions for the State report reviews is **July 13, 2015**.

The **56<sup>th</sup> session** of the CAT will take place from **November 9 to December 9, 2015**.

### **Consideration of State Reports:**

- [Austria](#)
- [Azerbaijan](#)
- [China](#)
- [China \(Hong Kong\)](#)
- [China \(Macau\)](#)
- [Denmark](#)
- [Jordan](#)
- [Liechtenstein](#)

The deadline for NGO submissions for the State report reviews is **October 26, 2015**.

### **Lists of Issues to be adopted:**

- [France](#)
- [Mongolia](#)
- [Saudi Arabia](#)
- [Tunisia](#)

### **Lists of Issues Prior to reporting to be adopted:**

- [Ghana](#)
- [Kenya](#)
- [Kyrgyzstan](#)
- [Latvia](#)
- [Netherlands](#)
- [Poland](#)
- [Portugal](#)

The deadline for NGO submissions for LOIs or LOIPRs is **June 29, 2015**. If possible, NGOs are encouraged to submit reports by early June.

### **WEBCAST – Live Webcast of the CAT sessions**

During the sessions, the live stream is available at [www.treatybodywebcast.org](http://www.treatybodywebcast.org). Sessions are also archived and can be viewed at a later date.

### **STAY UP-TO-DATE ON THE OMCT ACTIVITIES CONCERNING THE CAT BY FOLLOWING US ON:**



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