



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

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## Committee against Torture

### List of issues prior to submission of the eighth periodic report of Finland\*

#### Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee’s previous recommendations

##### Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations (CAT/C/FIN/CO/7, para. 34),<sup>1</sup> the Committee requested the State party to provide information on follow-up to the Committee’s recommendations on issues of particular concern, namely on the national preventive mechanism; on the transfer of responsibility for remand prisoners held at police facilities to the administrative branch of the Ministry of Justice; and the separation of juvenile detainees from adults in all places of detention (*ibid.*, paras. 15, 17 (d) and 18). The Committee expresses its appreciation for the State party’s follow-up response on those and other matters contained in its concluding observations and the substantive information provided on 7 December 2017 (see CAT/C/FIN/CO/7/Add.1). The Committee considers that the recommendations included in paragraphs 15, 17 (d) and 18 mentioned above have been partially implemented (see paras. 6, 4 (d) and 5 (b), respectively, of the present document).

##### Articles 1 and 4

2. With reference to the Committee’s previous concluding observations (para. 7) and the follow-up information provided by the State party,<sup>2</sup> please provide updated information on any amendments to the Criminal Code that would ensure that acts of torture are not subject to any statute of limitations.<sup>3</sup> In addition, please explain the concept of “petty war crimes”, which carry a maximum penalty of two years’ imprisonment.

\* Adopted by the Committee at its sixty-eighth session (11 November–6 December 2019).

<sup>1</sup> Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

<sup>2</sup> See CAT/C/FIN/CO/7/Add.1.

<sup>3</sup> *Ibid.*, para. 1.



**Article 2<sup>4</sup>**

3. With reference to the Committee's previous concluding observations (para. 9), please provide updated information on:

(a) Whether any amendments have been made to the Act on the Treatment of Aliens Placed in Detention and on Detention Units<sup>5</sup> so that, in the case of foreigners deprived of their liberty who are not residents of Finland and who do not speak Finnish, diplomatic or consular representatives, family members or any other person of their choice are notified of their custody within the 48-hour time limit following their deprivation of liberty for a criminal offence;<sup>6</sup>

(b) Whether the practice has been introduced of providing routine medical screening for newly arrived detainees, including those being held on remand, in police detention facilities, within 24 hours of their arrival in all such facilities;<sup>7</sup>

(c) Whether improvements in access to routine medical screening and medical care for remand prisoners have been made in Espoo, Imatra, Kuopio, Lahti and Vantaa police detention facilities;

(d) Steps taken to equip all police stations, and places in which pretrial investigations take place, with closed circuit television and audio and video recording equipment, including in respect of children, injured parties and witnesses who cannot be heard in person in court, but whose interviews are to be used as evidence in criminal proceedings.<sup>8</sup>

4. With reference to the Committee's previous concluding observations (para. 17) and the follow-up information provided by the State party, please provide updated information on:

(a) Whether the maximum duration for keeping remand prisoners in police detention facilities has been reduced from 30 to 7 days, in accordance with government proposal 252/2016, and whether there have been effective improvements since the entry into force of such a legislative amendment on 1 January 2019;<sup>9</sup>

(b) Whether sufficient financial, human and infrastructural resources have been allocated to the Criminal Sanctions Agency during the period under review in order to allow it to place remand prisoners in appropriate places of detention;

(c) The current status in Parliament<sup>10</sup> and the implementation of government proposal 252/2016; the introduction of the two new alternatives to remand imprisonment, namely the intensified travel ban and house arrest as an alternative to remand imprisonment;<sup>11</sup> and the use of other alternatives to detention;

(d) Whether responsibility for remand prisoners has been transferred to the administrative branch of the Ministry of Justice, in accordance with the recommendations of a working group, so that a clear distinction can be made between responsibility for custody and responsibility for investigation;

(e) Whether remand prisoners enjoy legal guarantees and a particular status while being held in police detention facilities;

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<sup>4</sup> The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2, the obligation to prevent torture in article 2 is wide-ranging. The obligation to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

<sup>5</sup> CAT/C/FIN/CO/7/Add.1, para. 2.

<sup>6</sup> Ibid., para. 6.

<sup>7</sup> Ibid., paras. 3–4.

<sup>8</sup> Ibid., para. 5.

<sup>9</sup> Ibid., para. 10.

<sup>10</sup> Ibid., para. 15.

<sup>11</sup> Ibid., para. 11.

(f) Whether genuine daily outdoor exercise and involvement in appropriate meaningful activities have been introduced or enhanced during the period under review;

(g) Whether intoxicated persons are placed in detoxification centres under the supervision of qualified staff.

5. With reference to the Committee's previous concluding observations (paras. 18–19) and the follow-up information provided by the State party, please provide updated information on:

(a) The treatment of juvenile prisoners since the issuance of an instruction by the Criminal Sanctions Agency on 13 June 2017;<sup>12</sup>

(b) The separation of juvenile prisoners from adults, in the context of this instruction and of the upcoming legislation announced in the follow-up reply;<sup>13</sup>

(c) Any new measures aimed at not placing juveniles in prisons and remand detention centres.

6. With reference to the Committee's previous concluding observations (para. 15), please provide updated information on steps taken to provide the Parliamentary Ombudsman, serving as the national preventive mechanism, with sufficient financial and human resources to carry out its mandate. Also, please provide information on any consideration that has been given to establishing the national preventive mechanism as a separate entity under the Parliamentary Ombudsman, with budgetary and staffing autonomy.

### Article 3

7. With reference to the Committee's previous concluding observations (para. 13) and the follow-up information provided by the State party, please provide updated information on:

(a) Measures taken to maintain the high quality of refugee status determination procedures in the State party and evaluate all asylum requests on an individual, case-by-case basis, with the availability of legal aid during all stages of the proceedings; also, please indicate whether there has been an increase in the remuneration of private legal counsels working with asylum seekers that is sufficient to cover all the work needed to process cases;

(b) Ensuring that asylum seekers have a right to appeal negative decisions and that appeals to administrative courts against deportation orders have a suspensive effect even when the applicant has filed a new application without raising new grounds or when the asylum application has been dismissed on the basis of the Dublin III Regulation;

(c) Steps taken to ensure that no person is expelled, returned or extradited to a country where there are substantial grounds for believing that he or she would be in danger of being subjected to torture; and steps taken to identify gender-based violence among asylum seekers and recognize it in the refugee status determination process;

(d) The evaluation by the State party of its Developing National Mental Health Policies for Refugees project carried out between 2016 and 2018, any progress made in developing a national model for mental health work<sup>14</sup> with refugees and asylum seekers, including for victims of torture, and whether the model for the recognition and treatment of victims of torture and severe violence developed under the above-mentioned project and the health examination protocols in reception centres resulting from a national development project<sup>15</sup> are used in relation to refugees and asylum seekers;

(e) Any steps taken to promote further alternatives to the detention of asylum seekers and set up a mechanism to monitor and provide statistics regarding persons detained under the Aliens Act, including by decision of the Border Guard; and any steps taken to end the detention of asylum-seeking children and ensure that they receive appropriate attention and assistance;

<sup>12</sup> Ibid., para. 19.

<sup>13</sup> Ibid., para. 20.

<sup>14</sup> Ibid., para. 8.

<sup>15</sup> Ibid., paras. 48–49.

(f) The setting up of a mechanism to monitor and provide statistics on the detention of asylum seekers, refugees and migrants by both the Border Guard and the police; and alternatives to detention, such as “directed residences” (with reporting conditions) and home curfews for children, introduced by a legislative amendment on 1 January 2018.

#### **Articles 5–9**

8. Please provide information on the legislative or other measures taken to implement article 5 of the Convention during the period under review. Please indicate whether acts of torture are considered universal crimes under national law, wherever they occur and whatever the nationality of the perpetrator or the victim.

9. Please inform the Committee of any extradition agreements concluded during the period under review and specify whether the offences referred to in article 4 of the Convention are included therein as extraditable offences.

10. Please indicate whether any mutual judicial assistance treaties or agreements have been entered into during the reporting period with other entities, such as States or international institutions, and whether such treaties or agreements have led, in practice, to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment.

#### **Article 10**

11. With reference to the Committee’s previous concluding observations (paras. 32–33) and the follow-up information provided by the State party, please provide updated information on:

(a) Whether training on the provisions of the Convention and the absolute prohibition of torture has become mandatory for all law enforcement personnel, especially those who come into contact with persons held in police detention facilities;

(b) Whether improvements have been made in the training of personnel in police detention facilities;

(c) Whether, in addition to the above-mentioned model for the recognition and treatment of victims of torture and severe violence and the health examination protocols in reception centres, the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) has been made an essential part of the training of all medical professionals and other public officials involved in work with persons deprived of their liberty;

(d) Whether information on the training of public officials dealing with persons deprived of their liberty is collected in a systematic manner and whether specific methodologies have been developed to assess its effectiveness.

#### **Article 11**

12. With reference to the Committee’s previous concluding observations (para. 21) and the follow-up information provided by the State party, please provide updated information on equipping prison facilities with appropriate sanitary equipment. Also, please indicate whether the 45 cells without toilets in Hämeenlinna prison<sup>16</sup> continue to be in use and if the construction of the new Hämeenlinna prison for female offenders has been advanced so that no more cells without toilets are in use in Finland.

13. With reference to the Committee’s previous concluding observations (paras. 24–25) and the follow-up information provided by the State party,<sup>17</sup> please indicate whether the practice of handcuffing persons deprived of their liberty during the entire duration of their transfer from one location to another has ceased. Also, please provide updated information on the use of restraint beds in police stations.

14. With reference to the Committee’s previous concluding observations (paras. 26–27), please provide updated information on:

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<sup>16</sup> Ibid., para. 21.

<sup>17</sup> Ibid., para. 26.

(a) Whether there has been any revision, during the period under review, of regulations concerning electric discharge weapons (tasers) with a view to establishing a high threshold for their use, by ensuring that they are used exclusively in extreme situations, only by trained law enforcement personnel and never against children or pregnant women or in closed environments;

(b) Whether there have been any modifications to the regulations concerning the use of the FN303 model of compressed air riot weapons during demonstrations;

(c) The results of any investigation conducted in relation to the death in police custody, in January 2019, of a man born in 1988 after police had used an electric discharge weapon against him.

15. Whether medical screenings of new prisoners are sufficient to effectively identify persons at risk of committing suicide and persons who have experienced torture.

### Articles 12–13

16. With reference to the Committee’s previous concluding observations (paras. 22–23) and the follow-up information provided by the State party, please provide updated information on:

(a) The current status of the legislation that was being prepared by the Ministry of Social Affairs and Health concerning the strengthening of the right of self-determination<sup>18</sup> of persons with mental and psychosocial disabilities placed in psychiatric hospitals and social institutions and the conditions for restrictions on that right;

(b) Whether persons with mental and psychosocial disabilities placed in psychiatric hospitals and social institutions are systematically being made aware of the fact that they can have access to legal remedies, even if they do not have a legal representative or a family member or other close person involved in their care;

(c) The outcome of the submission by the Government of the proposed legislation to Parliament with a view to preventing situations arising that necessitate the use of restrictive measures on clients and patients in psychiatric hospitals and social institutions.<sup>19</sup>

### Article 15

17. With reference to the Committee’s previous concluding observations (para. 11) and the follow-up information provided by the State party, please provide updated information on any amendments to the Code of Judicial Procedure that would explicitly prohibit the admissibility in judicial proceedings of evidence obtained through ill-treatment that is less severe than torture based on the general provisions of subsection 2, section 25, chapter 17, of the Code and whether those particular provisions of subsection 2 have been repealed.<sup>20</sup>

### Article 16

18. With reference to the Committee’s previous concluding observations (para. 29) and the follow-up information provided by the State party, please provide updated information on:

(a) The experience of the State party so far with its action plan (2018–2021) to implement the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) and the work of the administrative committee set up to promote and monitor its implementation and whether it has been properly funded;<sup>21</sup> and the views and recommendations of the Group of Experts on Action against Violence against Women and Domestic Violence that were published in September 2019;

<sup>18</sup> Ibid., para. 25.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid., para. 7.

<sup>21</sup> Ibid., para. 27.

(b) Whether an independent complaints mechanism has been established for victims of domestic violence; whether there have been improvements in the registration and the length of pretrial investigation of cases of domestic violence, especially with regard to immigrant women, and in the provision of services to them; and how the State party intends to deal with the reported recent rise in honour-based crimes;

(c) Any enhancement in the provision of access to medical and legal services and counselling to victims of domestic and sexual violence and the issuance of restraining orders since the ratification of the Istanbul Convention by the State party in 2015;

(d) Whether persons whose applications for restraining orders have been refused still have to pay more than 250 euros, which places an undue financial burden on victims;

(e) The extent to which mediation, which may only result in an apology, continues to be used in cases of domestic violence and violence against women, and any consideration given to ending its use in favour of criminal proceedings;

(f) Any amendments to the Criminal Code, despite the proposed unfamiliar approach to constructing legislation on the basis of express consent,<sup>22</sup> that would revise the definition of rape to include lack of consent rather than the degree of physical violence used or threatened by the perpetrator in cases of rape, thereby bringing it into line with international standards;

(g) The State funding allocated to shelters for victims of violence, the number of new shelters for victims of domestic and sexual violence built during the period under review, the number of shelters planned to be built and the experience so far with “off-site shelters”, such as the ones in Oulu and Kainuu, and whether the State party plans to build additional “off-site shelters”.<sup>23</sup> Also, please indicate if more sexual assault centres will be built in addition to the ones in Helsinki, Turku and Tampere;

(h) Any consideration given to introducing forced marriage as a distinct criminal offence in the Criminal Code, as well as legislation enabling the annulment of such marriages.

19. With reference to the Committee’s previous concluding observations (para. 33) and the follow-up information provided by the State party, please provide updated information on:

(a) The results of the Anti-Trafficking Action Plan for the years 2016–2017 relating to the development of governmental anti-trafficking coordination and the establishment of a national referral mechanism;<sup>24</sup>

(b) Whether steps have been taken to prevent the return of trafficked persons to their countries of origin if there are substantial grounds to believe that they would be in danger of being subjected to torture;

(c) Improvements in the coordination structure for action against human trafficking, including the provision of increased assistance in reporting incidents of trafficking; increased training to the police and other public officials on the provisions of the Act on the Reception of Persons Seeking International Protection and on the Identification of and Assistance to Victims of Human Trafficking and its implementation, in identifying victims of trafficking, including streamlining the different legal processes regarding their identification; and any increase in funding available to the official assistance system;

(d) Whether victims of trafficking are provided with free legal, medical and psychological aid.

20. Please provide information on any amendments to legislation with a view to providing greater protection to institutionalized or hospitalized individuals from sexual violence resulting from the abuse of a position of authority, which is reportedly defined as sexual violence rather than rape and therefore carries a lesser sentence. Also, please indicate whether health-care staff have a statutory obligation to report mistreatment.

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<sup>22</sup> Ibid., para. 33.

<sup>23</sup> Ibid., para. 35.

<sup>24</sup> Ibid., para. 41.

21. Please provide information on steps taken by the State party to reduce the reported use of violence by 40 per cent of parents against their children for disciplinary purposes and the possibility for children who have experienced violence to promptly receive mental health and other support services.

22. Please provide information on any envisaged legislation and specific measures taken to limit the reported frequent use of restrictive measures in institutions for the care of elderly persons, which do not exist in legislation, and to prevent the mistreatment of the elderly.

### **Other issues**

23. Please provide updated information on the measures taken by the State party to respond to threats of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State party has ensured that those measures are compatible with all its obligations under international law, especially the Convention. Furthermore, please indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subjected to anti-terrorism measures; and whether there have been complaints of the non-observance of international standards in applying measures to combat terrorism and, if so, what the outcome was.

24. Please elaborate on the recently amended definitions of terrorist crimes in the Criminal Code and the criminalization of ancillary offences involving conduct that is removed from the principal (“terrorist”) offence and provide information on the implementation of the Government’s report published in May 2019 on observations and recommendations for local cooperation on the referral mechanism regarding persons of concern in local multi-stakeholder collaboration on preventing violent radicalization.

### **General information on the other measures and developments relating to the implementation of the Convention in the State party**

25. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the State party’s report to implement the provisions of the Convention or the Committee’s recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party considers relevant.

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