



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
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REFERENCE: Follow-up/CAT

8 December 2014

Your Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the initial report of Burkina Faso (CAT/C/BFA/1) by this Committee, at its 51<sup>st</sup> session, held from 28 October to 22 November 2013. At the end of that session, the Committee's concluding observations (CAT/C/BFA/CO/1) were transmitted to your Permanent Mission. In paragraph 31 of those concluding observations, the Committee requested, pursuant to its rules of procedure, that the State party provide, within one year, by 22 November 2014, further information regarding areas of particular concern identified by the Committee in paragraphs 10, 11, 12 and 18 (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's concluding observations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. A Word electronic version of the reply should be sent to the Secretariat of the Committee against Torture ([cat@ohchr.org](mailto:cat@ohchr.org)). Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Burkina Faso on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Your Excellency, the assurances of my highest consideration.

Jens Modvig  
Rapporteur for Follow-up on Concluding Observations  
Committee against Torture

H.E. Mr. Prosper Vokouma  
Ambassador  
Permanent Representative of Burkina Faso  
to the United Nations Office at Geneva

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION**

**Concluding observations of the Committee against Torture  
(Extracts for follow-up of CAT/C/BFA/CO/1)**

**BURKINA FASO**

(...)

**C. Principal subjects of concern and recommendations**

(...)

**Allegations of torture and ill-treatment**

10. The Committee remains gravely concerned by reports that law enforcement officers have perpetrated acts of torture and ill-treatment either while questioning people at police or gendarmerie stations or during operations to quell peaceful demonstrations. The Committee remains concerned by the fact that several such acts have gone unpunished, as in the cases of David Idogo, Dié Kambou, Etienne Da, Moumouni Isaac Zongo and Ousseni Compaore. The Committee is also concerned by the absence of legal provisions establishing that statements or confessions obtained under torture are inadmissible in court, except when such a statement is invoked as evidence against a person accused of torture (arts. 2, 11, 15 and 16).

**The State party should:**

(a) Take immediate and effective action to prevent acts of torture and ill-treatment and put an end to the impunity enjoyed by several of the alleged perpetrators of such acts. In this connection, it should promptly conduct thorough, independent and impartial investigations into all allegations of torture and ill-treatment and prosecute the perpetrators of the aforementioned acts;

(b) Make police and gendarmerie officers aware of the absolute prohibition of torture and of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; and

(c) Ensure that a provision is included in the legislative amendments currently being introduced so that statements made as a result of coercion or torture may not be invoked as evidence in any court proceedings. The State party should make sure that judges are instructed and aware that it is unconstitutional to obtain statements through the use of torture, that such statements are inadmissible and that they have an obligation to initiate an investigation when they receive allegations of acts of torture.

## **Fundamental legal safeguards**

11. The Committee is concerned by the fact that persons in detention are not afforded full and fundamental legal safeguards from the outset of deprivation of liberty, in particular that they are not granted the legal right to the assistance of a lawyer during police investigations, on the grounds that such investigations are secret. The Committee is also concerned about the fact that suspects might not always be afforded the opportunity to contact their relatives or a close family member, on the same grounds. The Committee is also concerned by the fact that a person can be held in police custody for up to 15 days without being presented to a court if he or she is suspected or accused of involvement in organized crime (arts. 2, 11, 12 and 16).

### **The State party should:**

(a) **Take all necessary measures to ensure, in law and in practice, that all persons who are deprived of their liberty are afforded fundamental legal safeguards from the outset of police custody, in the light of the Committee's general comment No. 2 (2008) on the implementation by States parties of article 2, namely:**

- (i) **The right to be informed of the reasons for the arrest in a language that they understand;**
- (ii) **Access to a lawyer from the outset of deprivation of liberty and, if necessary, to legal assistance;**
- (iii) **The opportunity to have a medical examination by an independent physician of their choice;**
- (iv) **The right to contact a family member or close acquaintance; and**
- (v) **The right to be presented before a judge within 48 hours.**

(b) **Expedite the revision of its Code of Criminal Procedure in order to bring it into line with international human rights standards. The State party should provide additional financial and human resources to the judiciary, including resources for the Legal Assistance Fund; and**

(c) **Revise Act No. 017-2009/AN of 5 May 2009 on organized crime with a view to significantly reducing the length of time that suspects are held in police custody and thus prevent any infringement of the fundamental legal safeguards that are accorded to all persons who are deprived of their liberty.**

## **Investigations and prosecutions**

12. The Committee is concerned by the fact that no investigations have been conducted by the State party into many alleged acts of torture and ill-treatment which, in some cases, have reportedly resulted in the deaths of persons in detention. The

Committee is also concerned that no prosecutions have been brought in the cases of the death in detention or fatal shootings of Moumouni Zongo, Romuald Tuina, Ouedraogo Ignace, Ouedraogo Lamine, Halidou Diande, Arnaud Some and Mamadou Bakayoko. The Committee is also concerned by reports of hazing and other forms of ill-treatment being carried out during military training (arts. 12, 13 and 16).

**The State party should:**

(a) **Take appropriate measures to ensure that thorough, independent and impartial investigations are conducted into all reports of alleged torture and ill-treatment by an independent and impartial body, that the perpetrators are prosecuted and, if convicted, are given sentences that are in proportion with the gravity of the offence, and that the victims or their families receive appropriate compensation and redress;**

(b) **Investigate the individual cases mentioned by the Committee and inform the Committee of the outcome of investigations undertaken and of criminal or disciplinary proceedings; and**

(c) **Take steps to prevent hazing of any kind in the army and ensure that all complaints about hazing or deaths of recruits in non-combat situations are investigated promptly and impartially, that the perpetrators are prosecuted and the victims compensated.**

(...)

**Redress**

18. While noting that article 3 of the Code of Criminal Procedure allows for victims to sue for damages in criminal proceedings, the Committee regrets that no redress has been afforded by the courts of the State party to victims of acts of torture or ill-treatment. The Committee also regrets that rehabilitation measures, including medical treatment and social rehabilitation services, have not been established for victims of torture (art. 14).

**The State party should take appropriate measures to ensure that victims of acts of torture and ill-treatment receive full and fair redress and the fullest possible rehabilitation. It should provide detailed information on the follow-up given to such cases involving compensation for victims of torture or ill-treatment.**

**The Committee draws the State party's attention to general comment No. 3 (2012), concerning the implementation of article 14 by States parties, in which the Committee explains and clarifies the content and scope of the obligation of States parties to ensure and provide full redress to victims of torture or ill-treatment.**

(...)

31. The Committee requests the State party to provide, by 22 November 2014, information on the follow-up given to the following recommendations: (a) the introduction or strengthening of legal safeguards for detainees; (b) the prompt instigation of impartial and effective investigations; and (c) the initiation of proceedings against suspects and sentencing of perpetrators of acts of torture or ill-treatment (see paragraphs 10, 11 and 12, above). The Committee furthermore requests the additional information on redress and compensation for victims of torture or ill-treatment mentioned in paragraph 18, above.

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