

**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/FRA/CO/4-6)

FRANCE

(...)

C. Main subjects of concern and recommendations

(...)

Non-refoulement

14. While taking note of the information provided to the Committee by the State party to the effect that the relevant numbers have fallen since 2008, the Committee remains concerned at reports that 22 per cent of asylum applications submitted in 2009 were dealt with under the so-called priority procedure, which does not allow for an appeal with suspensive effect against an initial rejection by the French Office for the Protection of Refugees and Stateless Persons (OFPRA). An applicant may therefore be returned to a country where he is at risk of torture before the National Court on the Right of Asylum can hear his request for protection. In the absence of statistics concerning petitions lodged against removal orders on grounds of risk of torture, or for annulments of removal orders by the administrative court under article 3, the Committee is not convinced that the priority procedure offers adequate safeguards against removal where there is a risk of torture (art. 3).

The Committee recommends that the State party introduce an appeal with suspensive effect for asylum applications conducted under the priority procedure. It also recommends that situations covered by article 3 of the Convention be submitted to a thorough risk assessment, notably by ensuring appropriate training for judges regarding the risks of torture in receiving countries and by automatically holding individual interviews in order to assess the personal risk to applicants.

(...)

21. The Committee remains particularly concerned about the persistent allegations that it has received regarding ill-treatment by law enforcement officers of detainees and other persons in their charge (art. 16).

The State party should take steps to ensure that all allegations of ill-treatment at the hands of law enforcement officers are promptly

investigated in the course of transparent and independent inquiries, and that the perpetrators receive appropriate punishment.

The Committee would also appreciate information about the Note apparently circulated by the Office of the Inspector-General of the National Police in October 2008 concerning the methods used by law enforcement agencies to restrain suspects or persons against whom removal orders have been issued, which have already resulted in cases of death by asphyxiation (Mohamed Saoud in 1998 and Abdelhakim Ajimi in 2007).

Provisions concerning the custody and treatment of arrested, detained and imprisoned persons

(...)

Prison conditions and criminal policy

24. The Committee welcomes the creation of the post of Inspector-General of places of deprivation of liberty by the Act of 30 October 2007, as well as the steps taken by the State party to address the critical problem of prison overcrowding, notably by building new prison facilities, including in its overseas territories. The Committee also takes note of the State party's research into the possibility of wider use of alternative non-custodial measures. However, the Committee is still seriously concerned about the level of prison overcrowding, which, despite significant improvements in certain establishments, remains alarming, especially in the overseas territories. While acknowledging the information provided by the State party in relation to the Ministry of Justice Action Plan of June 2009, the Committee is also concerned about the reported suicide rate, as well as about the frequency of violent incidents among detainees (arts. 11 and 16).

In addition to the necessary enlargement of the prison infrastructure undertaken by the State party, and in the light of the abundant recent criminal legislation aimed at introducing stricter penalties and reducing recidivism, with as a direct corollary increased use of custodial sentences, the Committee invites the State party to carry out a major review of the effects of its recent criminal policy on prison overcrowding, in the light of articles 11 and 16.

In particular, the Committee recommends that the State party aim for wider use of non-custodial measures as an alternative to the prison sentences handed down at present. The Committee further recommends that the State party provide details about specific action taken regularly to implement the recommendations issued by the Inspector-General of places of deprivation of liberty following visits, including in the case of detainees suffering from psychiatric disorders.

(...)

Body searches

28. The Committee takes note of the information submitted by the State party to the effect that the current search procedure under the Prisons Act of 24 November 2009 is more restrictive than the previous one. In the light of two judgements of the European Court of Human Rights (in *Khider v. France* and *Frérot v. France*), the Committee nevertheless remains concerned at the intrusive and humiliating nature of body searches, especially internal. The Committee is further concerned that the procedure regulating the frequency and methods of searches in prisons and detention centres is determined by the prison authorities themselves. Furthermore, the Committee is concerned at the lack of information available regarding the follow-up to *Khider v. France* and *Frérot v. France*, particularly at the lack of indicators allowing an assessment to be made of any future risk of a violation of article 16 occurring as a result of body searches (art. 16).

The Committee recommends that the State party exercise strict supervision of body search procedures, especially full and internal searches, by ensuring that the methods used are the least intrusive and the most respectful of the physical integrity of persons, and in all cases in compliance with the terms of the Convention. The Committee further recommends the implementation of the electronic detection methods announced by the State party, and the widespread use of such mechanisms, in order to eliminate the practice of body searches altogether.

(...)

Use of conducted energy devices during detention

30. The Committee is particularly concerned by the State party's announcement of its decision to test conducted energy devices (tasers) in places of detention. The Committee notes that the Council of State, in a decision of 2 September 2009, repealed the decree of 22 September 2008 authorizing the use of tasers by municipal police officers. The Committee further notes a lack of detailed information on their use, the status of persons who have already used them, and specific precautions, such as training and supervision of staff concerned (arts. 2 and 16)

Reiterating its concern that the use of these weapons may cause severe pain, constituting a form of torture, and in some cases may even lead to death, the Committee would welcome up-to-date information from the State party on the use of this weapon in places of detention.

(...)

Human trafficking

36. The Committee is concerned at the lack of information provided by the State party regarding the problems of human trafficking and sexual exploitation. The Committee has not yet been adequately informed regarding the prevalence of these

practices, nor regarding the measures taken by the State party to combat the trafficking of women and children on its territory (arts. 2 and 16).

The Committee recommends that the State party adopt a national plan aimed at combating the trafficking of women and children in all its forms, which would include both measures of criminal justice concerning the prosecution of traffickers and measures for the protection and rehabilitation of victims. The Committee recommends to that end that the State party strengthen its international cooperation with the countries of origin, trafficking and transit, and see to the allocation of sufficient resources for policies and programmes in this area. The Committee also recommends that the State party keep it informed of developments in this respect.

(...)

42. The Committee requests the State party to provide, within one year, information on its implementation of the Committee's recommendations contained in paragraphs 14, 21, 24, 28, 30 and 36 above.

(...)
