

**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/AUT/CO/6)*

**AUSTRIA**

(...)

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

(...)

**Pending follow-up issues from the previous reporting cycle**

9. While noting with appreciation the information provided by the State party under the follow-up procedure, the Committee regrets that:

(a) The new internal instruction issued by the Federal Ministry of the Interior on 20 September 2012 does not address the concerns previously raised by this Committee with respect to the fact that there is no obligation on the part of the police to delay questioning to allow the suspect's lawyer to arrive at the place of interrogation (arts. 2 and 11);

(b) The State party has not yet established a fully independent body or mechanism to investigate allegations of torture and ill-treatment by law enforcement officials (arts. 12 and 13).

**10. The Committee reiterates its previous recommendations (see CAT/C/AUT/CO/4-5, paras. 9 and 19) urging the State party to:**

**(a) Amend the above-mentioned internal instruction to avoid situations that would deprive detainees of the effective exercise of their right to defence at a critical stage in the proceedings and expose them to the risk of torture or ill-treatment;**

**(b) Ensure that all complaints of torture or ill-treatment are promptly investigated in an impartial manner by an independent body, that there is no institutional or hierarchical relationship between the body's investigators and suspected perpetrators of such acts and that the suspected perpetrators are duly tried and, if found guilty, punished in a manner that is commensurate with the gravity of their acts.**

(...)

### **Detention pending deportation**

22. While noting the decrease in the numbers of asylum seekers detained, and the duration of their detention, the Committee considers that detention pending deportation should be further reduced and only applied as an exceptional measure (arts. 11 and 16).

**23. The State party should ensure that asylum seekers are held in detention only as a last resort and, if this becomes necessary, that they are held for as short a time as possible and that use is made of alternatives to detention whenever feasible.**

(...)

### **Electrical discharge weapons**

30. While appreciating the information provided by the State party on the strict regulations governing the use of electrical discharge weapons (tasers) by law enforcement officers, the Committee remains concerned about the use of such weapons in prison settings (arts. 11 and 16).

**31. The Committee is of the view that the use of electrical discharge weapons should be strictly subject to the principles of necessity and proportionality and should be inadmissible in prisons, as part of the equipment of custodial staff in prisons, or any other place of deprivation of liberty.**

(...)

### **Prompt, thorough and impartial investigations**

36. In the light of the information provided by the State party in its periodic report (see CAT/C/AUT/6, paras. 108-109 and 115), the Committee is concerned about the discrepancy between the high number of allegations of torture, ill-treatment and other police misconduct and the extremely low number of prosecutions and convictions for such allegations, as well as the notable absence of disciplinary sanctions handed down during the period under review. It is also concerned about the delegation's statement that, when no signs of injuries are visible, the investigation procedure is to be suspended. Furthermore, the Committee regrets the lack of information provided on whether the aggravating circumstances outlined in section 33 of the Criminal Code, including racism and xenophobia, have been invoked in the determination of sanctions for cases of torture and ill-treatment during the period under review (arts. 4, 12 and 13).

**37. The Committee urges the State party to ensure that all instances and allegations of torture and ill-treatment are investigated promptly, effectively and impartially – independently of the existence of visible signs of torture – and that the perpetrators are prosecuted and convicted in accordance with the gravity of their acts, as required in article 4 of the Convention.**

(...)

### **Follow-up procedure**

46. **The Committee requests the State party to provide, by 9 December 2016, information on follow-up to the Committee's recommendations relating to the following: the presence of a lawyer during police questioning; the establishment of independent mechanisms to investigate allegations of torture and ill-treatment by law enforcement officials; the use of detention pending deportation; prompt, thorough and impartial investigations of all allegations of acts of torture or ill-treatment; and the use of electrical discharge weapons in prison settings (paras. 9 (a) and (b), 23, 31 and 37). In the same context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.**

(...)

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