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REFERENCE: Follow-up/CAT

29 August 2016

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 the Republic of the Congo (CAT/C/COG/1) by this Committee, at its 54<sup>th</sup> session, held from 20 April to 15 May 2015. At the end of that session, the Committee's concluding observations (CAT/C/COG/CO/1) were transmitted to your Permanent Mission. In paragraph 23 of those concluding observations, the Committee requested, pursuant to its rules of procedure, that the State party provide, within one year, by 15 May 2016, further information regarding areas of particular concern identified by the Committee in paragraphs 8, 9, 10 and 13(d) (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 (see, doc. CAT/C/55/3).

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). 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 the Republic of the Congo 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.

Abdelwahab Hani  
Rapporteur for Follow-up on Concluding Observations  
Committee against Torture

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**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/COG/CO/1)*

**CONGO**

(...)

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

(...)

**Definition and criminalization of torture**

8. Although article 9, paragraph 4, of the Constitution prohibits torture, the Committee notes with regret that there are no legislative or regulatory provisions that incorporate a definition of torture and other cruel, inhuman or degrading treatment. The Committee welcomes the information provided by the delegation indicating that seven codes, including the Criminal Code and the Code of Criminal Procedure, are currently being reformed and that this should lead to the creation of a specific offence of torture that takes into account the definition of torture provided for by the Convention. It further notes that the reform process is due to be completed in December 2015, with support from experts recruited as part of the Project of Activities to Strengthen the Rule of Law and Associations. While noting that a law on the prevention and punishment of torture is currently being drafted, the Committee regrets the lack of information on the time frames involved and the content of this bill (arts. 1 and 4).

**The Committee recommends that the State party take the necessary measures to incorporate into the Criminal Code a specific definition of torture covering all the elements of the definition contained in article 1 of the Convention. It should also include therein provisions that criminalize and penalize acts of torture and other cruel, inhuman or degrading treatment or punishment and that establish penalties which are commensurate with the gravity of such acts. It further recommends that the State party take steps to include in the Criminal Code a provision on the non-applicability of statutory limitations to the crime of torture.**

**The Committee encourages the State party to fully involve civil society organizations in the ongoing legislative reform process.**

**The Committee invites the State party to expedite the ongoing legislative reform process and to take the necessary steps to promulgate and adopt, as soon as possible, the new Criminal Code and Code of Criminal Procedure and the law on the prevention and punishment of torture.**



## **The National Human Rights Commission**

9. The Committee notes that in 2013, in the context of the universal periodic review, the State party accepted the recommendations to reinforce the mandate and capacities of the National Human Rights Commission, which still does not meet the criteria for A status accreditation under the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). Although the delegation indicated that some progress had been made in implementing the criteria provided for under the Paris Principles, the information provided does not enable the Committee to assess the progress achieved in relation to the selection process, the composition of the Commission's membership, the way it operates and its financial autonomy and independence. The Committee further notes that the Commission is empowered to conduct investigations into acts of torture either directly or at the request of individuals and to make recommendations to the courts but without being able to refer cases directly to them (art. 2, para. 1).

**The State party should, without delay, take the necessary steps to:**

- (a) Ensure that the National Human Rights Commission is in full compliance with the Paris Principles and that it has sufficient financial resources to operate;**
- (b) Guarantee the Commission's institutional independence and ability to operate independently;**
- (c) Empower the Commission to refer a matter to the courts in cases where an investigation by it has identified sufficient evidence of acts of torture.**

## **Allegations of torture and ill-treatment**

10. The Committee is deeply concerned about the numerous allegations of acts of torture and ill-treatment committed in most of the country's places of detention, in particular in police stations, at the Directorate-General of National Security (DGST) and in gendarmeries. These acts are allegedly committed for the purpose of obtaining a confession by, in particular, law enforcement officials in the course of interrogations during police custody and preliminary investigations (arts. 2, 11, 12 and 13).

**The State party should immediately take effective measures to investigate all acts of torture, to prosecute and punish those responsible and to ensure that torture is not used. It should unambiguously reaffirm the absolute prohibition of torture and publicly condemn its practice. It should make clear in the bill currently being drafted that anyone ordering, committing or otherwise complicit or acquiescent in such acts will be held personally responsible before the law and will be subject to criminal prosecution and appropriate penalties.**

(...)

## Conditions of detention

13. The Committee shares the alarming assessment of detention conditions provided by the State party itself, especially regarding the dilapidation of facilities, prison overcrowding, the lack of a social reintegration system in most prisons, the prison system's insufficient infrastructure and the lack of training of prison officials. These issues are compounded by reports from non-governmental organizations (NGOs) of violence, including sexual violence; the non-segregation of adults from minors and of remand prisoners from convicted prisoners; and inhuman and degrading living conditions, such as undernourishment, inadequate hygiene, bedding issues and the virtual lack of health-care services and of access to medication. The Committee has received allegations of corruption involving certain judges, prison officials and gendarmes to whom detainees reportedly pay money in exchange for their release or better detention conditions. The Committee notes the State party's efforts to refurbish the short-stay prisons in Brazzaville, Pointe Noire and Dolisie with the financial assistance of the European Development Fund and to build prisons in Brazzaville, Pointe Noire and Owando as well as other parts of the country, although the construction schedule and completion dates for these projects have not been specified. The Committee finds regrettable the lack of information on the legal and regulatory framework governing the rights of detainees, disciplinary sanctions, monitoring regulations and the segregation of remand prisoners from convicted prisoners and of minors from adults (arts. 2, 11 and 16).

### **The State party should, as a matter of urgency:**

(...)

**(d) Provide prisons with appropriate resources to eliminate undernourishment;**

(...)

### **Follow-up procedure**

23. The Committee requests the State party to provide, by 15 May 2016, follow-up information in response to the Committee's recommendations contained in paragraph 8 concerning the definition and criminalization of torture, paragraph 9 concerning the National Human Rights Commission, paragraph 10 concerning allegations of torture and ill-treatment and paragraph 13 concerning conditions of detention, especially subparagraph (d) on the resources to eliminate undernourishment.

(...)