



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

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Committee against Torture

Concluding observations on the fourth to sixth periodic reports of Paraguay*

Addendum

Additional information provided by Paraguay in respect of the concluding observations**

[15 July 2013]

1. With regard to the Committee's recommendation in paragraph 18 (b) of its concluding observations, to the effect that the State party "[a]dopt appropriate measures to ensure that all complaints of torture and ill-treatment are promptly and impartially investigated by an independent body", the Public Prosecution Service, in strict compliance with the provisions of the inter-institutional treaties, conventions and agreements signed and ratified by Paraguay, decided to set up a special unit to deal with human rights offences. Attorney-General's resolution No. 52/11 of 13 January 2011 thus provided for the creation of the Special Unit on Human Rights Offences, which has sole competence in criminal offences related to human rights, and is required to carry out the relevant investigations and, if sufficient evidence is gathered, to prosecute the case before the courts of the State. Thus Paraguay has adopted an institutional policy that renders the prosecution of human rights offences effective.

2. The Special Unit on Human Rights Offences is responsible for dealing with the following offences: enforced disappearance (Criminal Code, art. 236), inflicting bodily injury in the exercise of official duties (Criminal Code, art. 307), use of force to obtain statements (Criminal Code, art. 308), torture (Criminal Code, art. 309 as amended by Act No. 4614/12), persecution of innocent people (Criminal Code, art. 310), wrongful imprisonment (Criminal Code, art. 311), violation of the confidentiality of mail and telecommunications (Criminal Code, art. 317), genocide (Criminal Code, art. 319) and war crimes (Criminal Code, art. 320).

* Adopted by the Committee at its forty-seventh session (31 October to 25 November 2011).

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited.

3. In addition, universal human rights standards form part of national law, are binding and enforceable in national and international courts and have been recognized by the State through the Constitution, laws and legislative decisions.
4. In this context, article 5 of the Constitution, relating to torture and other offences, provides that: "Nobody shall be subject to torture or cruel, inhuman or degrading punishment or treatment. Genocide and torture, and enforced disappearance of persons, abduction and politically motivated homicide shall not be subject to the statute of limitations".
5. The Public Prosecution Service, as the body responsible for public prosecutions, is structured so as to provide specific responses, with specific actions aimed at pursuing crimes of this nature and all related crimes, in order to appropriately sanction lawbreakers.
6. Additionally, since January 2012 the Public Prosecution Service has had a Human Rights Directorate, which reports to the Attorney-General. It was established by Attorney-General's resolution No. 132 of 24 January 2012, which made changes to the structure of the Public Prosecution Service to take account of the fact that the Service is not exempt from the human rights that are enshrined in the Constitution and observed worldwide, in accordance with the relevant international instruments that have been ratified by Paraguay.
7. The work of the Human Rights Directorate of the Attorney-General's Office involves monitoring, investigating and consulting, and reporting and disseminating information to, and coordinating with, other bodies, both governmental and non-governmental, in a joint effort to promote human rights. In this regard the Directorate is a fundamental link in the chain because it is there that most victims submit their complaints, especially persons deprived of their liberty, who have drawn up their complaints during the Directorate's visits to detention centres; and because, in coordination with the prosecution units, it is responsible for investigating human rights violations.
8. Through the Human Rights Directorate, the Public Prosecution Service carries out visits to the country's prisons with the aim of safeguarding the rights of persons deprived of their liberty and making it easier for them to submit complaints for any offences against them. All complaints received have been referred to the Directorate for Criminal Complaints of the Public Prosecution Service and passed on to the special units on human rights offences so that the relevant investigations can begin.
9. Regarding the Committee's recommendation in paragraph 18 (d) of its concluding observations, to the effect that Paraguay should "ensure that the Public Prosecution Service conducts, of its own motion, investigations and, if appropriate, institutes criminal proceedings whenever there are reasonable grounds to believe that acts of torture have been committed", according to the provisions of article 18 of the Code of Criminal Procedure: "The Public Prosecution Service shall be obliged to exercise the public right of action in respect of criminal offences that come to its attention, provided that there is sufficient factual evidence of their existence".
10. Paraguayan legal precedent indicates that, according to the law, the public prosecution of cases is, as previously mentioned, public, official, obligatory and non-retroactive. Therefore, the specific State body responsible for criminal prosecutions should act without prompting whenever it becomes aware of an incident that appears to constitute an offence, and set in motion the procedures that will make it possible to reach a final decision; it may not use its discretion to decide when or in which cases to act and has no power to discontinue a case at will. This is known as mandatory jurisdiction or the principle of procedural legality.
11. Thus, the Public Prosecution Service carries out investigations of its own motion or based on complaints made to Public Prosecution Service criminal complaints offices, free

of charge and without the need for a lawyer, or to the Directorate for Human Rights or during visits to places of deprivation of liberty.

12. As part of strategic action 1 of the Institutional Strategic Plan, on access to justice, the Public Prosecution Service aims to establish links that will make it more accessible to citizens. It aims to do this in a sensitive and proactive manner, taking account of citizens' requests and providing immediate responses to their needs and demands through the implementation of effective tools that allow all citizens to fully exercise their rights, and guaranteeing support and protection for victims and witnesses.

13. With regard to the information requested by the Committee on the measures that might be adopted to prevent, combat and eradicate human trafficking, mentioned in paragraph 23 of the concluding observations, the Public Prosecution Service's Special Unit on Human Trafficking and the Sexual Exploitation of Children and Adolescents reports that it has the premises and equipment needed to tackle human trafficking. Furthermore, provision has been made for the creation of a multidisciplinary technical directorate with three departments — a psychology, a social and a legal department — to help victims through the legal procedures and with treatment, inclusion of training modules in the in-service training programme of the Public Prosecution Service training centre; training for all staff in the Prosecution Unit, as well as officials from areas and regions identified as having the most victims; international meetings and bilateral cooperation agreements with the authorities in countries of destination for Paraguayan victims in the region; international agreements on support for victims of human trafficking; approval of externally-financed cooperation projects to strengthen the Special Unit on Human Trafficking; preparation of a Public Prosecution Service plan to combat human trafficking; coordination with the Inter-Agency Board Subcommittee on Legislation on the Comprehensive Act on Trafficking in Persons; drafting and adoption at the regional level of a protocol for investigations; designation of a prosecutor from the Unit as human trafficking contact point for the Ibero-American Legal Assistance Network (IberRed).

14. The activities of the Special Unit on Human Trafficking and the Sexual Exploitation of Children and Adolescents include the following: approval by the Chamber of Senators of the Comprehensive Act on Trafficking in Persons; rescue of victims and assistance from the relevant bodies, notably of 20 Paraguayan women who were rescued in the city of Florianópolis, Brazil; training for public prosecutors in Argentina, Ecuador and Uruguay on all aspects of human trafficking; international legal assistance in investigations with Argentina, Brazil, Chile and Spain; and emotional support and assistance for victims, working with the Ministry for Women and the National Secretariat for Children and Adolescents.

15. A total of 57 cases came in between November 2011 and October 2012. Four sentences in the Public Prosecution Service's favour were handed down.

16. The Public Prosecution Service Special Unit on Human Trafficking and the Sexual Exploitation of Children and Adolescents has rescued 21 Paraguayan women from Brazil and Spain. Psychologists treated a total of 24 victims of sexual exploitation and 76 victims of human trafficking, according to the report prepared by the Unit.
