

## Committee against Torture

### Concluding observations on the fourth periodic report of Lithuania\*

1. The Committee against Torture considered the fourth periodic report of Lithuania (CAT/C/LTU/4) at its 1854<sup>th</sup> and 1857<sup>th</sup> meetings, held on 17 and 18 November 2021 (CAT/C/SR.1854 and CAT/C/SR.1857), and adopted the following concluding observations at its 1871 meeting (CAT/C/SR.1871).

#### A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure, as this allows for a more focused dialogue between the State party and the Committee.

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's multi-sectoral delegation, and the oral and written responses provided to the questions and concerns raised during the consideration of the periodic report.

#### B. Positive aspects

4. The Committee welcomes the initiatives of the State party to amend its legislation, policies, administrative and institutional measures to give effect to the Convention, including:

(a) Amendments, in 2019, to the Criminal Code, Code of Criminal Procedure and the Code of Execution of Sentences introducing a possibility for life-sentenced prisoners to apply for commutation of their sentence and conditional release;

(b) Amendments, in 2019, to the Law on Mental Health Care, providing legal safeguards concerning involuntary hospitalization and medical treatment of persons with mental and psychosocial disabilities in psychiatric institutions;

(c) Amendments, in 2017, to the Code of Criminal Procedure, the Law on the Bar Association and the Law on Enforcement of Detention extending the rights and procedural guarantees for participants in criminal proceedings not speaking the language of the State party to communicate with their defence counsel and effectively participate in the proceedings in the language they understand; guaranteeing the right of every person to have access to a lawyer from the moment of his detention or before the first questioning; reinforcing guarantees of confidentiality of communications; and, lifting restrictions on telephone calls with their counsels;

(d) Abolishing administrative arrest as a sanction through the adoption, in 2017, of the new Code of Administrative Offenses;

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\* Adopted by the Committee at its seventy-second session (8 November to 3 December 2021).

(e) Amendments, in 2017, to the Law on the Fundamentals of Protection of the Rights of the Child, prohibiting all forms of violence against children, including corporal punishment in all settings;

(f) Amendments, in 2017, to the Law on Seimas Ombudsman, empowering the national preventive mechanism to carry out the national prevention of torture in places of deprivation of liberty in accordance with the Optional Protocol to the Convention, as well as measures resulted in the accreditation of the Seimas Ombudsman as a national human rights institution, fully compliant with the Paris Principles;

(g) Abolishing, as of 2016, the “relaxation rooms” in all “socialization centres” for minors and the closure of the Kaunas and Vilnius Children Socialization Centres;

(h) Amendments, in 2015, to the Code of Criminal Procedure reducing the maximum length of pre-trial detention;

(i) Amendments, in 2015, to the Law on Enforcement of Detention restricting grounds for a provisional transfer of detained persons from a remand prison to a police detention facility.

5. The Committee welcomes the utilization of new technologies to promote human rights education, dissemination of law and rights knowledge, and the electronic surveillance and monitoring for the enforcement of the sentences which result in the reduction of the number of detained persons and increasing use of the non-custodial measures.

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

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

6. In its previous concluding observations (CAT/C/LTU/CO/3, para. 29), the Committee requested the State party to provide follow-up information on the steps it had taken to implement the Committee’s recommendations relating to strengthening legal safeguards for persons deprived of their liberty (para. 10); pre-trial and administrative detention (para. 11); and conditions of detention in police arrest houses (para. 19). While noting with appreciation the replies submitted by the State party on 9 June 2015 under the follow-up procedure (CAT/C/LTU/CO/3/Add.1) and referring to the letter dated 29 August 2016 from the Committee’s Rapporteur for follow-up to concluding observations addressed to the Permanent Representative of the Republic of Lithuania to the United Nations at Geneva, the Committee considers that the recommendations set out in paragraphs 10 and 11 (c) of its previous concluding observations have not yet been fully implemented. Those issues are covered in paragraphs 8 and 9 of the present document.

### **Definition and criminalization of torture**

7. The Committee welcomes the 2019 amendments to the Criminal Code of the State party criminalising torture as a separate offence, not subject to the statute of limitation. The Committee considers the new definition of the offence of torture contained in Article 100 (3) of the Criminal Code to be broadly in line with the provisions of article 1 of the Convention, although it is concerned that it does not explicitly include pain and suffering inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, as required by the Convention. The Committee is also concerned that the Criminal Code fails to ensure appropriate penalties for acts of torture, since it sets the maximum penalty for torture at five years of imprisonment, which is not commensurate with the gravity of this crime (arts. 1 and 4).

**8. The Committee urges the State party to amend the definition of the offence of torture contained in article 100 (3) of the Criminal Code to expressly include acts of torture committed for the purpose or reason specified by the Convention, including for the purpose of intimidating, coercing or obtaining information or a confession from a third person. The State party should also ensure that penalties for torture in its**

**legislation reflect the grave nature of this crime in accordance with article 4, paragraph 2, of the Convention.**

#### **Fundamental legal safeguards**

9. The Committee regrets not having received information on the results of monitoring activities conducted to ensure compliance in practice with fundamental legal safeguards against torture for detainees or indications as to whether sanctions have been imposed in cases of non-compliance. The Committee also remains concerned that the period of remand detention in police detention facilities is not minimal and could last for up to fifteen days, in case of initial detention, and up to seven days, in case of provisional transfer from a remand prison to a police detention facility (arts. 2, 11 and 16).

10. **Recalling its previous recommendations (see CAT/C/LTU/CO/3, paras. 10 and 11 (c)), the Committee recommends the State party to:**

**(a) Ensure that all persons who are arrested or detained are afforded in practice all fundamental safeguards against torture from the very outset of their deprivation of liberty, including the right to be informed of and understand their rights, to prompt access to a lawyer and, if necessary, to free legal aid; the right to notify a member of their family or another appropriate person of their own choice; and the right to have access to a medical examination by an independent doctor and, if possible, a doctor of their choice, in accordance with international standards;**

**(b) Ensure that the duration of detention on remand in police detention facilities is minimal, and that persons remanded in custody are always promptly transferred to a remand prison.**

**(c) Ensure that the return of prisoners to police detention facilities is exceptional and lasts for the shortest possible time.**

#### **Refugee and migrant crisis**

11. The Committee notes the serious and unprecedented challenges the State party is facing in the context of the ongoing refugee and migrant crisis and is concerned at:

(a) The restrictions imposed on the freedom of movement of refugees, asylum-seekers and undocumented migrants, in particular the mandatory prolonged de facto detention of such persons, including families with children and vulnerable persons, in the framework of the border procedure at border crossing points, transit zones and other places adapted for those purposes, without access to procedural safeguards, including legal aid and judicial remedies, to challenge their de facto detention;

(b) The reports on poor reception conditions, such as overcrowding, lack of heating, hot and drinking water, inadequate quality of food, limited access to medical services, lack of privacy, sanitary facilities and hygiene, in accommodation sites for asylum-seekers, refugees and undocumented migrants, including in the Foreigners Registration Centre, State Border Guard Service facilities and ad-hoc accommodation sites;

(c) Reported lack of an adequate mechanism to identify vulnerable individuals, including victims of torture and other ill-treatment, which undermines the timely provision of appropriate accommodation arrangements, support and services to such persons, tailored to their specific needs;

(d) The reports on disproportionate use of force, allegations of torture and ill-treatment by security officials in accommodation sites for refugees, asylum-seekers and undocumented migrants, including in Verebiejai camp, as well as the lack of measures to prevent and respond to gender-based violence in such places;

(e) The lack of information on the asylum procedure, access to legal assistance and interpreters for refugees and asylum-seekers;

(f) The reported incidents of collective expulsion of asylum-seekers by the State party without reviewing their individual situations, including the practice of pushback operations, through which arriving asylum-seekers, including children, were deterred from

the border of the State party and left in the proximity of the border in dire conditions, with no access to asylum procedure, food, water and shelter;

(g) The quality and fairness of factual and legal assessments and interviewing in the framework of the asylum procedure in the State party, which is reportedly suffering from speedy processing focused on denial of asylum rather than objective and fair review of asylum applications;

(h) The amendments to the Law on Legal Status of Aliens, restricting the right of asylum-seekers, in particular those who arrived irregularly or attempting to irregularly cross the border of the State party, to apply for asylum in times of emergency, as well as unreasonably short seven-day period to lodge an appeal against a decision on asylum application, and the absence of an automatic suspensive effect of appeal proceedings before an independent mechanism;

(i) Reported restrictions during the time of emergency on monitoring by the NHRI, NGOs, and journalists the situation of asylum-seekers, refugees and migrants at the border zones of the State party (arts. 2, 3, 12, 13 and 16).

**12. The Committee urges the State party to:**

**(a) Take measures to ensure that detention of asylum-seekers, refugees and undocumented migrants, including in the framework of the border procedure, encompasses requisite safeguards against unlawful or arbitrary detention, and is used only where it is approved by a judicial order as a last resort and, where it is necessary and proportionate, for as short a period as possible, duration of which will be prescribed by law, and in adequate conditions;**

**(b) Refrain from detention of families with children and vulnerable asylum-seekers;**

**(c) Take the measures necessary to ensure appropriate reception conditions in accommodation sites for asylum-seekers and refugees, including appropriate accommodation, adequate and sufficient food, clothes, other non-food items, psychosocial and health-care services, taking into account specific needs of vulnerable persons;**

**(d) Implement alternative reception arrangements in local communities, notably for vulnerable asylum-seekers and refugees and develop further the reception system, based on coordinated contingency planning, to ensure that the accommodation capacity, support and services are sufficient and adjusted to the needs to respond effectively in situations where larger numbers of asylum-seekers and refugees arrive during a short period of time;**

**(e) Conduct a thorough, prompt and independent investigation into all instances of alleged torture and ill-treatment in places of immigration detention and accommodation sites for asylum-seekers, refugees and undocumented migrants;**

**(f) Ensure access to information on asylum procedures and legal aid without discrimination and inform asylum-seekers about decisions on their asylum applications in a language they understand, including in times of emergency;**

**(g) Ensure that all asylum-seekers, including those arriving in irregular manner and in times of emergency, have the right, in law and in practice, to apply for asylum and to remain on the territory pending the outcomes of the asylum procedure;**

**(h) Ensure that asylum requests receive appropriate consideration by the competent authorities and fair treatment is guaranteed at all stages of asylum proceedings, including an opportunity for effective and impartial review by an independent decision mechanism, with an automatic suspensive effect;**

**(i) Ensure unhindered access of the NHRI, NGOs and journalists to the border zones affected by the regime of emergency situation.**

### **National preventive mechanism**

13. The Committee welcomes the designation of the Seimas Ombudsman as the national preventive mechanism under the Optional Protocol to the Convention. However, it is concerned about the shortage of staff of the Human Rights Office of the Seimas Ombudsman assigned to tasks and activities related to the mechanism (art. 2).

**14. The State party should ensure the operational autonomy of the national preventive mechanism and provide it with the necessary earmarked financial and personnel resources for the performance of its work, in accordance with article 18 (1) and (3) of the Optional Protocol.**

### **Conditions of detention**

15. The Committee appreciates the information on the measures taken by the State party to improve conditions of detention in places of deprivation of liberty, in particular in police arrest houses, and to reduce the prison population, including through the introduction of alternatives to detention and a wider application of suspended sentences and conditional release. It also notes with satisfaction the information about the closure of Lukiškės Remand Prison and Kybartai correctional institution, as well as the plans to close Šiauliai Remand Prison. Nevertheless, the Committee is concerned that the conditions of detention in some prison facilities continue to fall short of international standards, including with regard to quality and quantity of food, hygiene, ventilation, access to natural light. The Committee is further concerned at the low staffing levels in prisons as regards both custodial and health-care staff. It is also concerned at reports on excessive use of force by prison staff, including with electric discharge weapons (tasers), large-scale inter-prisoner violence, drug trafficking, spread of HIV and hepatitis C and the lack of timely access to medical treatment for such diseases. Lastly, the Committee is concerned that the integration of life-sentenced prisoners in the general prison population remains minimal (arts. 2, 11 and 16).

**16. The State party should take further necessary steps to ensure that detention conditions are in line with relevant international human rights standards, and, in particular, to:**

**(a) Continue to take steps to improve conditions in all prison facilities with regard to the material conditions of detention, including as regards hygiene, sanitation, ventilation and quality of food, with a view to bringing them into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);**

**(b) Further extend application of non-custodial measures in the penal sanction system as alternatives to detention, in line with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

**(c) Continue to adapt and renovate outdated prison infrastructure in order to reduce the number of cells that can hold large numbers of prisoners, prevent inter-prisoner violence and eradicate the criminal subculture;**

**(d) Strengthen the effectiveness of complaints mechanisms for reporting cases of violence; examine, record and investigate all injuries, suicides and deaths resulting from inter-prisoner or other violence, prosecute those responsible and prevent such incidents from recurring in the future by taking appropriate measures based on dynamic security principles;**

**(e) Strengthen the independent and regular monitoring of all places of deprivation of liberty by the Seimas Ombudsman acting as the national preventive mechanism under the Optional Protocol to the Convention, as well as other independent and impartial mechanisms, including through conducting unannounced visits to places of deprivation of liberty;**

**(f) Further improve the remuneration and working conditions of prison staff, increase the number of custodial and health-care personnel, including psychiatrists,**

**continue to provide training, including on the provisions of the Convention and on prison management and the prevention of inter-prisoner violence;**

**(g) Ensure that the use of electrical discharge weapons (tasers) is strictly compliant with the principles of necessity, subsidiarity, proportionality, advance warning (where feasible) and precaution; and that they are not included as part of the regular equipment of custodial staff in prisons and other places of deprivation of liberty;**

**(h) Reinforce its efforts to combat drug trafficking in prisons; continue to combat the spread of HIV/AIDS and hepatitis and take further steps to provide adequate and timely treatment to infected prisoners, as well as ensure that all prisoners and detainees continue to be offered COVID-19 vaccines;**

**(i) Continue to take further measures to ensure the integration of life-sentenced prisoners into the general prison population.**

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

17. In the light of the information provided by the State party in its periodic report (see CAT/C/LTU/CO/3, paras. 132-136, 145-151 and 177), and in the course of the dialogue with the Committee, the Committee observes the low number of complaints, prosecutions and convictions in cases of excessive use of force by law enforcement officials in places of deprivation of liberty, as well as in relation to military personnel in the armed forces. In this connection, the Committee is concerned that the investigation in such cases can be carried out through internal investigation mechanisms, such as the Immunity Units within the prison and police structures, which are directly subordinate to the head of the relevant institution, as well as through the means of internal investigation within the national defence system, which puts into questions the impartiality and effectiveness of the investigation (arts. 12 and 13).

18. **The State party should:**

**(a) Ensure that all allegations of excessive use of force by law enforcement officials in custody, as well as in the armed forces in relation to military personnel, are investigated promptly, effectively and impartially by mechanisms that are structurally and operationally independent, with no institutional or hierarchical connection between the investigators and the alleged perpetrators; and ensure that perpetrators, if found guilty, are punished in a manner that is commensurate with the gravity of their acts;**

**(b) Ensure that all persons under investigation for having committed acts of torture or ill-treatment are suspended immediately from their duties and remain so throughout the investigation, while ensuring that the principle of presumption of innocence is observed;**

**(c) Provide the Committee with information on the number of cases of excessive use of force by law enforcement and military officials that have been investigated; the number of perpetrators who have been prosecuted for acts of torture and ill-treatment; and the penalties applied to those found guilty.**

#### **Investigation in the context of the involvement in the extraordinary rendition and secret detention programme**

19. Recalling its previous concluding observations (see CAT/C/LTU/CO/3, para. 16), as well as concerns raised by the Human Rights Committee and the Committee on Enforced Disappearances in their respective concluding observations (see CCPR/C/LTU/4, para. 23; CED/C/LTU/CO/1, para. 21), the Committee regrets the lack of significant progress in the investigation of the alleged instances of extraordinary rendition, secret detention, torture and ill-treatment under the CIA extraordinary rendition and secret detention program in the State party, in particular in relation to Mr. Abu Zubaydah and Mr. Mustafa Ahmed al-Hawsawi. The Committee notes that, notwithstanding the findings of the European Court of Human Rights in the case of Abu Zubaydah v. Lithuania and the execution process currently ongoing, no tangible results have been achieved thus far in identifying those responsible and bringing perpetrators to justice (arts. 2, 3, 12-14 and 16).

20. **The Committee urges the State party to complete the investigation within a reasonable time and hold perpetrators to account, ensuring transparency and sufficient degree of public scrutiny of the process, as well as providing appropriate redress and reparation to victims. The Committee requests the State party to provide it with updated information on the findings of the investigation and, if appropriate, sanctions for those responsible.**

### **Training**

21. The Committee appreciates the information provided by the State party on the human rights training programs for members of the police, the State Border Guard officers, prison staff, public prosecutors, judges, as well as the training based on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) provided to medical professionals dealing with detainees. Nonetheless, the Committee regrets that it received no information on specific training programs concerning human rights dimension of the fight against terrorism based on the UN Global Counter-Terrorism Strategy. The Committee is also concerned at the lack of information on the evaluation of the impact of the training programmes on the prevention and absolute prohibition of torture and ill-treatment (art. 10).

22. **The State party should:**

(a) **Further develop mandatory training programmes to ensure that all public officials, in particular law enforcement officials, prison staff, staff dealing with asylum seekers, refugees, and illegal migrants, including medical personnel, have good knowledge of the standards of the Convention and are fully aware that violations will not be tolerated and will be investigated, and that those responsible will be prosecuted and, on conviction, appropriately sanctioned;**

(b) **Ensure that all relevant staff, in particular judicial and medical personnel, are specifically trained to identify and document cases of torture and ill-treatment, as well as to refer such cases to competent investigative authorities, in accordance with the Istanbul Protocol;**

(c) **Ensure that the human rights pillar of the UN Global Counter-Terrorism Strategy is embedded in planning and organising training programmes in the sphere of fight against terrorism;**

(d) **Evaluate the effectiveness and impact of such training on the prevention and absolute prohibition of torture and ill-treatment on the basis of specifically developed methodologies.**

### **Domestic violence**

23. The Committee appreciates the positive steps taken by the State party to address domestic violence, including the abolishing in 2017 of the private prosecution institute; and, the draft amendments to the Law on Protection against Domestic Violence, envisaging application of a protection order against an alleged offender and the provision of assistance to a victim. Nonetheless, the Committee is concerned that domestic violence represents a persistent problem in the State party and is not a separate crime in the Criminal Code. It is also concerned at the lack of detailed data provided, disaggregated by sex, age, type of crime, on the number of complaints, investigations, prosecutions and sentences imposed for acts of domestic violence, as well as on redress provided to victims (arts. 2 and 16).

24. **The State party should adopt additional measures to combat all forms of violence against women, including domestic violence, especially those cases involving actions or omissions by State authorities and other entities which engage the international responsibility of the State party under the Convention. In particular, the Committee recommends that the State party:**

(a) **Define and introduce domestic violence, including sexual violence and marital rape, as a specific criminal offence in its Criminal Code, with appropriate sanctions;**

**(b) Ensure that all allegations of domestic violence, including sexual violence and violence against children, are registered by the police, that all allegations of domestic violence are promptly, impartially and effectively investigated, and that the alleged perpetrators prosecuted and, if convicted, punished appropriately;**

**(c) Ensure that victims of domestic violence benefit from protection and have access to medical and legal services, including counselling, safe and adequately funded shelters, and redress, including rehabilitation;**

**(d) Improve data collection, disaggregated by age, sex, types of crime, on the number of complaints, investigations, convictions and sentences imposed for acts of domestic violence, on the provision of protection measures, including shelters, legal and medical services and redress to victims.**

### **Trafficking in human beings**

25. The Committee values the efforts made by the State party to combat human trafficking, including the amendments to the Criminal Code extending criminal liability for human trafficking; the wide range of training activities provided for the relevant public officials; and the 2020-2022 Inter-institutional Action Plan on Combating Human Trafficking. The Committee, however, regrets that it did not receive sufficient information on the number of cases investigated and sanctions imposed for human trafficking, as well as on concrete measures of protection and support offered to victims (arts. 2 and 16).

26. **The State party should:**

**(a) Continue to take measures to prevent and eradicate human trafficking, including by providing specialized training to public officials on identifying victims, on investigating, prosecuting and sanctioning perpetrators;**

**(b) Promptly, effectively and impartially investigate the crime of human trafficking and related practices; prosecute and punish perpetrators in accordance with the gravity of the crime;**

**(c) Ensure the protection of and provide redress to victims of trafficking, including legal, medical and psychological aid and rehabilitation, as well as adequate shelters and assistance in reporting incidents of trafficking to the police;**

**(d) Provide the Committee with comprehensive disaggregated data on the number of investigations carried out and sentences imposed on perpetrators of human trafficking, and on the provision of protection measures and redress to the victims.**

### **Data collection**

27. The Committee regrets the absence of comprehensive statistical data, disaggregated by age, gender, ethnic or national origin and type of crime, on complaints, investigations, prosecutions and convictions in cases of torture and ill-treatment by law enforcement and prison personnel, or on trafficking and domestic and sexual violence, and on means of redress, including compensation and rehabilitation available to victims (arts. 2, 12-14 and 16).

28. **The State party should compile statistical data relevant to the monitoring of the implementation of the Convention at the national level, including statistics disaggregated by age, gender, ethnic or national origin, refugee status and type of crime, on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, trafficking and domestic and sexual violence, and on means of redress, including compensation and rehabilitation, provided to the victims.**

### **Follow-up procedure**

29. The Committee requests the State party to provide, by 3 December 2022, follow-up information in response to the Committee's recommendations relating to: refugee and migrant crisis, conditions of detention and prompt, thorough and impartial investigations (see paras. 12, 16 and 18 above). In that 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 of the concluding observations.**

**Other issues**

30. The Committee recommends that the State party consider making the declarations envisaged under articles 21 and 22 of the Convention, in order to recognize the competence of the Committee to receive and consider communications.

31. The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about its disseminating activities.

32. The State party is invited to submit its next report, which will be the fifth periodic report, by 3 December 2025. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its fifth periodic report under the article 19 of the Convention.

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