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Committee against Torture urges France to investigate allegations of ill-treatment by law enforcement officials

Amnesty International calls on France to promptly implement all the recommendations made by the Committee against Torture (the Committee) in its concluding observations following its review of France's implementation of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention) on 14 May 2010.

The Committee stated that it was "particularly concerned" by the persistence of allegations of ill-treatment by law enforcement officials in France and urged the French authorities to ensure that each allegation is followed by a prompt, transparent and independent investigation, and that those responsible receive an adequate sanction.

The Committee called on France to guarantee the independence and integrity of judicial procedures and investigations carried out by independent oversight mechanisms. It said that France should ensure that individuals, including those who allege that they have been subjected to torture or other ill-treatment by police, have direct access to complain to the National Commission on Security Ethics (CNDS); currently complaints may only be referred to the CNDS through a member of Parliament or other intermediary.

While the French authorities informed the Committee that no law enforcement official had been convicted for acts of torture, they did not report on how many complaints and investigations had been carried out. Such information is not readily available to the public. The Committee requested that France provide the data in its next periodic report due on 14 May 2014. It is to be disaggregated by age, sex and ethnic origin. The Committee also requested information on the specific measures taken by France to protect complainants from acts of intimidation and reprisals by law enforcement officials.

During the oral proceedings, which form part of the Committee's review, Committee members raised concerns with French officials about the use of "excessive" restraint techniques by law enforcement officials, and enquired about changes in procedure following the deaths in 1998 and 2007 (respectively) of Mohamed Saoud and Abdelhakim Ajimi following use of what appeared to be the same restraint technique by French police officers. The Committee requested information on the instructions by the National Police Inspectorate (IGPN) on the use of such techniques by law enforcement officials, issued in 2008.

Referring to the absolute prohibition of removing a person to a place where they face a risk of torture or other ill-treatment, the Committee deplored that it had received many allegations that the French authorities removed individuals to countries where they faced such a risk. It also deplored allegations that individuals forcibly returned to their country of origin had been arrested or subjected to ill-treatment upon arrival. The Committee said that France should ensure that no one is expelled to a country where he or she would be at risk of torture.

The Committee also expressed concern that 22 per cent of asylum claims filed in 2009 were assessed under the “accelerated procedure”, in particular because under the law people can be deported even before appeals of decisions denying their claim for international protection are decided (as appeals on such applications do not have suspensive effect). This puts asylum-seekers at risk of being returned to a country where they might be exposed to torture or other ill-treatment. The Committee recommended that France introduce a suspensive right of appeal for asylum-seekers whose claim is assessed under the “accelerated procedure”. The French authorities must inform the Committee of the measures they have taken to implement this recommendation within one year.

The Committee noted that under French law individuals suspected of involvement in terrorism or organized crime are excluded from various measures of protection against torture or other ill-treatment. The Committee expressed concern that for those individuals access to a lawyer is delayed for 72 hours, stressing that it is during the first hours of detention that the risk of torture is highest. The Committee also noted that the compulsory audiovisual recording of interrogations by the police and the judiciary excludes interrogations of individuals suspected of terrorism or organized crime.

The Committee recommended that France take the necessary measures to ensure that individuals placed in police custody have immediate access to a lawyer, and to reduce the use of police custody and its duration. The Committee also called on France to record all interrogations and install CCTV cameras in all police stations.

Other recommendations by the Committee include:

- adding to the penal code a definition of torture which is strictly in line with the definition set out in Article 1 of the Convention, and making torture an imprescriptible offence. Such a provision would thus distinguish between acts of torture committed by, at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity and acts of violence committed by non-State actors and fulfil the necessity of clarity and predictability of offences under criminal law;
- amending the draft bill which adapts French legislation to the requirements of the Rome Statute of the International Criminal Court so as to ensure that all persons present on French territory who are suspected of crimes falling under the Rome Statute (including war crimes and crimes against humanity) can be prosecuted in France (removing the requirement that the individual be habitually resident in France);
- ensuring that the authorities hold hearings on appeals lodged by asylum-seekers who appeal against a decision (on their claim made at the border) refusing them permission to enter France on asylum grounds, that the individuals concerned are able to make an effective presentation of their claim during the hearing, and that they enjoy all essential procedural guarantees including the right to an interpreter and to counsel;
- ensuring that asylum-seekers held in detention centres have adequate time and are afforded all essential procedural guarantees to submit an asylum claim, and that the duration of their detention is not extended unnecessarily;
- taking appropriate measures to ensure that the assessment of applications by asylum-seekers from countries to which the notions of “internal asylum” or “safe countries” apply takes into account the personal circumstances of the asylum-seeker and ensures protection from return to a country where the individual faces a risk of torture or other ill-treatment.

Background

The Committee against Torture, comprised of independent experts, is established and mandated by the United Nations (UN) Convention against Torture to monitor states' implementation of the Convention. France became a party to the Convention on 18 February 1986.

In advance of the Committee's review of France, Amnesty International submitted a briefing highlighting its main concerns regarding France's failure to implement some of its obligations under the Convention against Torture. It is available on <http://www.amnesty.org/en/library/info/EUR21/002/2010/en>

The Concluding Observations of the Committee against Torture are available on <http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.FRA.CO.4-6.pdf>

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