



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

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## Committee against Torture

### List of issues prior to submission of the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland\*

#### Specific information on the implementation of articles 1-16 of the Convention, including with regard to the Committee's previous recommendations

##### Follow-up questions from the previous reporting cycle

1. In its previous concluding observations (see CAT/C/GBR/CO/5, para. 38),<sup>1</sup> the Committee requested the United Kingdom of Great Britain and Northern Ireland to provide further information regarding areas of particular concern identified by the Committee in paragraphs 15 (inquiries into allegations of torture overseas), 19 (transfer of detainees to Afghanistan), 20 (deportations to Sri Lanka), 21 (case of Shaker Aamer) and 23 (transitional justice in Northern Ireland). Noting that a reply concerning the information sought by the Committee was provided on 30 May 2014 (CAT/C/GBR/CO/5/Add.1), the Committee expresses appreciation for the State party's responses on those matters and the substantive information provided. In view of that information, the Committee still considers that the recommendations included in paragraphs 15, 19 and 23 have not yet been implemented (see paras. 33, 14 and 35, respectively, of the present document).

##### Articles 1 and 4

2. With reference to the Committee's previous concluding observations (para. 7), please provide detailed information on the measures taken to incorporate all the provisions of the Convention into the State party's legislation, including the adoption of a definition of torture in domestic criminal law that is consistent with article 1 of the Convention.<sup>2</sup> Please indicate the measures adopted by the State party to ensure that torture or complicity in

\* Adopted by the Committee at its fifty-seventh session (18 April-13 May 2016).

<sup>1</sup> Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

<sup>2</sup> See also CCPR/C/GBR/CO/7, para. 18.



torture are subject to appropriate penalties commensurate with the seriousness of the crime, in accordance with article 4 of the Convention.<sup>3</sup>

#### **Article 2<sup>4</sup>**

3. With reference to the Committee's previous recommendations (para. 8), please provide information on the consultation process on the repeal of the Human Rights Act 1998 and the adoption of a revised Bill of Rights. Please outline the likely impacts of the proposed changes to the legal framework on the human rights protections set out in the Convention, including the extent of their jurisdiction.<sup>5</sup> What progress has been made with regard to the adoption of a Bill of Rights for Northern Ireland?

4. In the light of the previous concluding observations (para. 9), please provide updated information on any changes in the State party's position on the extraterritorial application of the Convention.<sup>6</sup>

5. Please provide detailed information on the measures taken to repeal section 134 (4) and (5) of the Criminal Justice Act 1988, which provides for the defence of "lawful authority, justification or excuse" to a charge of official intentional infliction of severe pain or suffering and the defence of conduct that is permitted under foreign law, even if unlawful under the State party's law.<sup>7</sup>

6. Please outline the recent legal aid reforms and their impact on access to justice and effective remedies.<sup>8</sup>

7. In its previous concluding observations (para. 11), the Committee expressed concern at ambiguities in the Consolidated Guidance to Intelligence Officers and Service Personnel on the Detention and Interviewing of Detainee Overseas, and on the Passing and Receipt of Intelligence Relating to Detainees. The Committee noted in particular the possibility of seeking assurances in situations where actions of foreign security and intelligence services pose a serious risk of torture or other ill-treatment to "effectively mitigate that risk to below the threshold of a serious risk". Please provide information on the measures taken to reword the Consolidated Guidance in order to avoid any ambiguity or potential misinterpretations.

8. With regard to the Committee's previous concluding observations (para. 12), please provide information on the steps taken to ensure that all measures used to restrict or limit fair trial guarantees on national security grounds, including the use of closed material procedures, are fully compliant with the provisions of the Convention. Please comment on reports that the use of closed material procedures is increasing in Northern Ireland, and that the reporting requirements do not ensure that enough information will be provided so that the public can be adequately informed about the occasions when closed material procedures are sought and why declarations are made or not made.

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<sup>3</sup> See CAT/C/GBR/CO/5, para. 17.

<sup>4</sup> The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

<sup>5</sup> See also CCPR/C/GBR/CO/7, para. 5.

<sup>6</sup> See also CAT/C/GBR/Q/5/Add.1, para. 4.5.

<sup>7</sup> See CAT/C/GBR/CO/5, para. 10. See also CAT/C/CR/33/3, para. 4 (a) (ii), and CCPR/C/GBR/CO/7, para. 18.

<sup>8</sup> See CCPR/C/GBR/CO/7, para. 22, and A/HRC/29/27/Add.2, para. 49.

9. According to the information received by the Committee, in July 2015 the House of Lords approved the Justice and Security (Northern Ireland) Act 2007, extending provision for non-jury trials within the 2007 Act for a further two years, until August 2017, and providing that non-jury trials in Northern Ireland will be the subject of public consultations before the temporary rules are extended again in 2017.<sup>9</sup> Please clarify whether the State party is planning to seek a further extension of the provisions.

10. Further to the Committee's previous concluding observations (para. 14), please indicate whether the State party has ended the practice of seconding individuals working in places of deprivation of liberty to the national preventive mechanism bodies. Please provide information on the material, human and budgetary resources allocated for the effective functioning of those bodies.

11. Please provide updated information on the legislative, administrative and other measures taken to eliminate all forms of violence against women,<sup>10</sup> including domestic violence,<sup>11</sup> sexual harassment, gender-based bullying in the education system and female genital mutilation.<sup>12</sup> Please also provide updated information on the protection and support services available to victims of gender-based violence in the State party. Please include statistical data, disaggregated by the age and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences handed down in cases of gender-based violence since the consideration of the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland in May 2013.

12. Please provide updated information, disaggregated by the age, sex and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions and sentences imposed in cases of human trafficking since the consideration of the State party's previous periodic report. Please also provide information on:

(a) Any new legislation or measures that have been adopted to prevent, combat and criminalize trafficking in persons, including the Modern Slavery Act 2015 and the Human Trafficking and Exploitation (Scotland) Act 2015;<sup>13</sup>

(b) The measures adopted to ensure that victims of human trafficking have access to effective remedies and reparation. Please comment on reports pointing out shortcomings in the Modern Slavery Act, such as a lack of detail in provisions to identify and provide support to victims, gaps in criminal legislation and weaknesses in the powers of the Anti-Slavery Commissioner and the resources available to him;

(c) The signature of agreements with countries concerned to prevent and combat human trafficking.

### Article 3

13. Please provide information about the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please include information, disaggregated by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of the previous periodic report. Please provide details on the grounds on which they were sent back, including the list of countries to which individuals were returned. Please provide updated information on the type of

<sup>9</sup> See CAT/C/GBR/CO/5, para. 13.

<sup>10</sup> See A/HRC/29/27/Add.2.

<sup>11</sup> See CEDAW/C/GBR/CO/7, paras. 34-35, and CCPR/C/GBR/CO/7, para. 13.

<sup>12</sup> See CEDAW/C/GBR/CO/7, paras. 36-37.

<sup>13</sup> See CCPR/C/GBR/CO/7, para. 3 (a) and (c), and CEDAW/C/GBR/CO/7, paras. 38-39.

appeal mechanisms that exist, any appeals that have been made and the outcome of those appeals.<sup>14</sup>

14. With reference to the Committee's previous concluding observations (para. 18), please indicate the number of refoulements, extraditions and expulsions carried out by the State party during the reporting period on the basis of the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances in which the State party has offered such diplomatic assurances or guarantees. What are the minimum contents of any such assurances or guarantees, whether given or received, and what measures have been taken in such cases with regard to subsequent monitoring?<sup>15</sup>

15. Please provide information on the legislative and other measures taken to improve the identification and determination of statelessness and introduce procedural safeguards to improve access to the statelessness determination procedure.

#### **Articles 5-9**

16. Further to the Committee's previous concluding observations (para. 22), please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention.

17. Please inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties.

18. Please clarify what mutual judicial assistance treaties or agreements the State party has entered into with other entities, such as countries, international tribunals or international institutions, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

#### **Article 10**

19. With reference to the previous concluding observations (para. 35), please provide up-to-date information on educational programmes developed by the State party to ensure that all law enforcement officials, prison staff and border guards are fully aware of the provisions of the Convention and know that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted. Please indicate whether the State party has developed methodology to assess the effectiveness of training and educational programmes in reducing cases of torture and ill-treatment and, if so, please provide information on the methodology.

20. Bearing in mind the Committee's previous concluding observations (para. 26), please provide details on the training methodology and programmes used when instructing police officers and other security personnel in the use of electrical discharge weapons for direct contact, or any other less-than-lethal device or implement used by security forces. Please provide details on any instances of alleged excessive use of force that have occurred as a result of using such devices, and on the outcomes of any investigations into those cases.

21. Please provide detailed information on the training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on detecting and documenting physical and psychological sequelae of torture. Do such programmes include specific training with regard to the Manual on the Effective

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<sup>14</sup> See CAT/C/GBR/CO/5, paras. 19-20, and CAT/C/GBR/CO/5/Add.1, paras. 10-23.

<sup>15</sup> See CCPR/C/GBR/CO/7, para. 19.

Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)?

### Article 11

22. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any rules, instructions, methods and practices or arrangements for custody that may have been introduced since the consideration of the previous periodic report. Please indicate the frequency with which they are reviewed. Please provide information on the implementation of the prison reform in Northern Ireland.

23. In the light of the previous concluding observations (para. 31), please describe the measures taken by the State party to reduce prison overcrowding, including alternatives to imprisonment, both before and after trial. Please provide statistical data, disaggregated by sex, age and ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention. Please inform the Committee on the measures taken to address concerns regarding conditions of detention in court custody and health-care provision in prisons. Please comment on reports indicating that there are inconsistencies in the use of isolation and solitary confinement, and on the assertion in the sixth annual report of the National Preventive Mechanism entitled “Monitoring places of detention” (2015) that “improvements in the collection and monitoring of information on the use of force and strip searches were needed, as well as in the quality and quality assurance of custody records, risk assessments and transfer of information about detainees”.

24. Please provide information on the efforts by the State party to meet the special needs of minors and women in detention (paras. 31-32).<sup>16</sup> Please also provide information on the concrete measures taken by the State party to address concerns about deficiencies in access to appropriate mental health care and about the inappropriate placement of children.<sup>17</sup> Please clarify the current policy regarding the placement in police detention of children with mental disabilities.

25. With regard to the Committee’s previous concluding observations (para. 27), is the State party considering the possibility of increasing the minimum age of criminal responsibility in line with international standards?

26. Please provide information about the frequency of inter-prisoner violence, including any cases involving possible negligence on the part of law enforcement personnel, the number of complaints made in this regard and their outcome. What preventive measures have been taken?

27. Please provide statistical data regarding deaths in custody, including in mental health detention and police custody, during the period under consideration, disaggregated by place of detention, the sex, age and ethnicity or nationality of the deceased and cause of death.<sup>18</sup> Please provide information on the results of the investigations into those deaths and on the measures taken to prevent similar cases occurring in the future. Please indicate whether relatives received compensation in any of the cases.

28. In the light of the previous concluding observations (para. 30), please indicate the measures taken by the State party to ensure that detention of asylum seekers and migrants is used only as a last resort, where necessary and for as short a period as possible, and to further implement in practice alternatives to detention. Please provide information on the steps taken to ensure the early identification of victims of torture and to ensure that such individuals are not detained within the context of asylum procedures. What measures have

<sup>16</sup> See also CEDAW/C/GBR/CO/7, paras. 54-55.

<sup>17</sup> See CCPR/C/GBR/CO/7, para. 16.

<sup>18</sup> Ibid., para. 16.

been taken to introduce a limit for immigration detention and to prevent cases of de facto indefinite detention?<sup>19</sup> According to the information before the Committee, judgments handed down by the High Court and the Court of Appeal in June and July 2015 found significant deficiencies in the State party's "detained fast-track" asylum process, including a failure to prevent torture survivors from entering the detained fast-track system and to provide effective access to legal representation. Please clarify whether the State party is planning to reintroduce the fast-track procedure as a central pillar for managing asylum in the country. If so, please provide detailed information on the measures taken to ensure that the detained fast-track system is fully compliant with the State party's obligations under the Convention.

29. With reference to the Committee's previous concluding observations (para. 33), please provide information on the measures taken to ensure the effective implementation of the recommendations contained in the Mid Staffordshire National Health Service Foundation Trust Public Inquiry reports. What measures are in place to prevent ill-treatment of patients who are receiving health-care services?

30. Please provide information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with psychosocial disabilities, including care homes. Please comment on reports that there has been a dramatic increase in the number of applications to the Court of Protection in England and Wales for authorization relating to community settings which has led, according to the sixth annual report of the National Preventive Mechanism to "an unacceptable backlog of requests [...] and a high number of people probably deprived of their liberty without authorisation". Please indicate what the situation is with respect to alternative forms of treatment such as community-based rehabilitation services and other forms of outpatient treatment programmes.

31. Please comment on information before the Committee indicating that serious concerns persist regarding the use of restraint affecting detained individuals in health-care and detention settings. Please provide information on any new legislation or measures that have been adopted relating to the use of restraints in health- and social care settings.

### **Articles 12 and 13**

32. As requested in the Committee's previous concluding observations (para. 35), please provide updated statistical data, disaggregated by sex, age, ethnic origin or nationality, and place of detention, on complaints of acts of torture and ill-treatment recorded during the reporting period. Please include information on investigations, disciplinary and criminal proceedings, convictions and the criminal or disciplinary sanctions applied. Please provide examples of relevant cases and/or judicial decisions. Please comment on allegations of unnecessary force and other abuses committed by staff at the Medway Secure Training Centre, a youth custody centre in Rochester.

33. In view of the State party's public commitment to the Committee (para. 15) and the State party's follow-up replies,<sup>20</sup> please indicate what steps have been taken to set up an independent judge-led inquiry into allegations of torture and ill-treatment, including by means of complicity, of detainees held by other countries in counter-terrorism operations overseas. Please comment on concerns regarding the adequacy of the Intelligence and Security Committee of Parliament as an investigation mechanism on this matter.<sup>21</sup> Please

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<sup>19</sup> Ibid., para. 21.

<sup>20</sup> See CAT/C/GBR/CO/5/Add.1, para. 5.

<sup>21</sup> See CCPR/C/GBR/CO/7, para. 9; OHCHR, "United Kingdom: UN Special Rapporteur welcomes partial publication of Gibson's Report", 19 December 2013; OHCHR, "United Kingdom: UN experts on torture and counter-terrorism express concern over proposed official inquiry", 24 December 2016.

clarify whether, following Mr. Aamer's release from Guantánamo Bay in November 2015, the State party has conducted an investigation into his alleged torture in front of MI5 agents in Afghanistan in 2001.<sup>22</sup> Please provide information on any investigation into allegations about British special forces personnel handing over detainees into the custody of the United States of America at Camp Nama, a secret detention centre at Baghdad International Airport.<sup>23</sup>

34. Bearing in mind the Committee's previous concluding observations regarding accountability for abuses in Iraq (para. 16), please indicate what measures the State party has put in place to ensure that all allegations of abuse of Iraqi citizens by British service personnel in Iraq between 2003 and 2009 will be fully investigated and addressed, and what steps are taken to ensure that systemic issues are identified and lessons learned. Please provide up-to-date information on the cases mentioned in paragraph 8 of the State party's follow-up replies. Please indicate the total number of allegations received and the number of investigations carried out by the Iraq Historic Allegations Team.<sup>24</sup> Please include information regarding the nature of the offences, the charges and types of convictions and penalties. Please also provide information on the outcome of the Al-Sweady public inquiry.

35. Taking note of the Committee's previous concluding observations (para. 23) and the State party's follow-up replies,<sup>25</sup> please provide detailed information on the measures taken to develop a comprehensive framework for transitional justice in Northern Ireland and to ensure that prompt, thorough and independent investigations are conducted to establish the truth and identify, prosecute and punish perpetrators of human rights violations.<sup>26</sup> What measures have been taken to remedy the causes of the excessive delay in the functioning of the Coroner's inquest system in legacy (conflict-related or historical) cases? Please comment on the closure of the Historical Enquiries Team, and the impact of budget reductions on historical investigations by the Office of the Police Ombudsman for Northern Ireland and the Legacy Investigation Branch of the Police Service of Northern Ireland.<sup>27</sup> Please comment on information before the Committee according to which in 2014, the Police Ombudsman took legal action against the Police Service of Northern Ireland for its refusal to provide his investigators with information. Please clarify whether his Office has the remit to reinvestigate those deaths directly or indirectly attributable to police operations where the police have already conducted an investigation.<sup>28</sup> Please provide up-to-date information on the investigations into the murder of Patrick Finucane.<sup>29</sup> Please comment on allegations aired in June 2014 on the Irish television channel RTÉ that the Government of the United Kingdom sanctioned the use of torture in Northern Ireland in the 1970s and failed to disclose relevant evidence to the European Court of Human Rights in *The Republic of Ireland v. The United Kingdom* over the use of five torture techniques used by British security forces in Northern Ireland in 1971-1972. Please indicate what measures the State party has put in place to ensure the full investigation of all other crimes, including acts of torture and ill-treatment, that occurred during "the Troubles" and did not result in death.

36. With regard to the Committee's previous concluding observations (para. 24), please provide information on the progress made by the Historical Institutional Abuse Inquiry in investigating the experiences of abuse of children in residential institutions in Northern Ireland between 1922 and 1995. Has the State party taken steps to ensure that investigations

<sup>22</sup> See CAT/C/GBR/CO/5, para. 21, and CAT/C/GBR/CO/5/Add.1, para. 24.

<sup>23</sup> See CCPR/C/GBR/CO/7, para. 9.

<sup>24</sup> *Ibid.*, para. 9.

<sup>25</sup> See CAT/C/GBR/CO/5/Add.1, para. 25-31.

<sup>26</sup> See CCPR/C/GBR/CO/7, para. 8.

<sup>27</sup> *Ibid.*, para. 8.

<sup>28</sup> *Ibid.*, para. 8.

<sup>29</sup> See CAT/C/GBR/CO/5, para. 23.

are conducted into the relevant cases, including those of women who were over 18 years of age when they entered the laundries, and other allegations of historical abuse, including clerical abuse, that do not fall under the remit of the Inquiry?<sup>30</sup>

37. Please provide information on the investigations and disciplinary or criminal actions taken in relation to the allegations of child sexual abuse in detention, including in the Medomsley Detention Centre, which was closed down in 1988.

#### **Article 14**

38. With reference to the previous concluding observations (para. 35), please provide information on redress and compensation measures, including the means of rehabilitation ordered by the courts and actually provided to the victims of torture or their families since the consideration of the previous periodic report. That should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also provide information on any ongoing reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning.

#### **Article 15**

39. With regard to the Committee's previous concluding observations (paras. 12 and 25), please provide information on the concrete measures taken to ensure respect, both in law and in practice, for the principle of inadmissibility of evidence obtained through torture. Please provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.

#### **Article 16**

40. With reference to the previous concluding observations (para. 28), please inform the Committee about measures taken to ensure that children in young offender institutions are restrained as a last resort only and exclusively to prevent harm to the child or others.

41. With respect to the previous concluding observations (para. 29), please indicate the measures taken to ensure that corporal punishment of children is explicitly prohibited in all settings, including in the family, schools and alternative care settings.<sup>31</sup>

42. Please comment on reports that a number of high-profile independent inquiries have highlighted serious issues in relation to child sexual abuse and exploitation in England and Wales, in terms of its prevention and the investigation of victims' allegations.

43. What measures have been taken to combat hate crimes, including crimes committed on the basis of race, nationality and religion?<sup>32</sup> Please comment on reports of a rise in Islamophobic and anti-Semitic hate crimes. Please provide information on the specific measures taken to address underreporting of disability and transgender-motivated hate crimes.

44. Please provide information on steps taken to ensure access to lawful abortion in Northern Ireland, in accordance with international human rights standards. Please comment on reports that there is a lack of clear guidelines for health-care professionals in Northern Ireland on termination of pregnancy.

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<sup>30</sup> See CEDAW/C/GBR/CO/7, paras. 24-25.

<sup>31</sup> See also CCPR/C/GBR/CO/7, para. 20.

<sup>32</sup> Ibid., para. 10.



45. Please describe any measures adopted to prevent the recruitment of children by paramilitary groups still in existence in Northern Ireland. Please provide information on the number of individuals who have been arrested and prosecuted for their involvement in paramilitary style assaults on children.

46. Please comment on reports that abuse of migrant domestic workers has increased considerably since the introduction in 2012 of the “tied visa”, which eliminated the visa holder’s right to change employer and find other full-time work.

### **Other issues**

47. With regard to the Committee’s previous concluding observations (para. 34), please clarify whether the State party has reconsidered its position regarding the possibility of making the declaration provided for under article 22 of the Convention.

48. Please provide updated information on the measures taken by the State party to respond to threats of terrorism, and describe if and how those antiterrorism measures have affected human rights safeguards in law and in practice.<sup>33</sup> Please explain how the State party has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with the relevant Security Council resolutions, in particular resolution 1624 (2005). Please provide information on the relevant training given to law enforcement officers; the number of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to antiterrorism measures in law and in practice; whether there have been any complaints of non-observance of international standards; and the outcome of those complaints.

### **General information on other measures and developments relating to the implementation of the Convention in the State party**

49. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report to implement the provisions of the Convention or the Committee’s recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party considers relevant.

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<sup>33</sup> Ibid., para. 14. See also OHCHR, “UK: ‘National security concerns must never justify intimidating journalists into silence,’ warns UN expert”, 4 September 2013, and OHCHR, “UN Special Rapporteur monitors closely disclosures on the United States NSA’s Prism Program”, 11 June 2013.