



association pour la prévention de la torture  
asociación para la prevención de la tortura  
association for the prevention of torture

## United Nations, regional and national documents/jurisprudence referring to the Principles on Effective Interviewing for Investigations and Information Gathering (Méndez Principles)

Updated to 4 May 2023

### I. RESOLUTIONS AND DECLARATIONS

#### A. UN General Assembly

**Torture and other cruel, inhuman or degrading treatment or punishment, General Assembly, UN Doc. [A/RES/77/209](#), 15 December 2022.**

16. Takes note with appreciation of the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles), and encourages States to use them as appropriate through the implementation of national measures, including non-coercive interviewing methods and procedural safeguards, thereby operationalizing the presumption of innocence, ensuring that no person is subjected to torture or other cruel, inhuman or degrading treatment or punishment during questioning, as well as improving effective policing, criminal justice investigations, prosecutions, convictions and other forms of information-gathering processes;

Preamble: Recognizing further that police and other law enforcement officials play a vital role in the protection of the right to life, liberty and security of persons, and in serving the community and protecting all persons against acts of torture and other cruel, inhuman or degrading treatment or punishment, and that, in the performance of their duties, law enforcement officials are obligated to respect and protect the human rights of all persons, and in this regard, recognizing the importance of promptly and impartially investigating as well as employing non-coercive interviewing techniques and implementing associated legal safeguards to prevent torture and to effectively obtain accurate and reliable information,

**Human rights in the administration of justice, General Assembly, UN Doc. [A/RES/77/219](#), 15 December 2022.**

14. Emphasizes the importance of States' keeping under systematic review rules, instructions, methods and practices on interviewing, as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment under their jurisdiction, including by taking into account, as appropriate, the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles);



**Resolution adopted by the General Assembly on 18 December 2019, UN Doc. [A/RES/74/143](#). Torture and other cruel, inhuman or degrading treatment or punishment.**

15. Welcomes the collaboration between practitioners, experts and other relevant stakeholders on the elaboration of a set of universal standards for non-coercive interviewing methods and procedural safeguards aimed at operationalizing the presumption of innocence, improving effective policing and ensuring that no person is subjected to torture or other cruel, inhuman or degrading treatment or punishment during questioning, and encourages the continued collaboration between practitioners, experts and other relevant stakeholders towards this goal;

**Resolution adopted by the General Assembly on 19 December 2017, UN Doc. [A/RES/72/163](#), Torture and other cruel, inhuman or degrading treatment or punishment.**

41. Takes note, in particular, of the collaboration between practitioners, experts and other relevant stakeholders on the elaboration of a set of universal standards for non-coercive interviewing methods and procedural safeguards aimed at operationalizing the presumption of innocence, improving effective policing and ensuring that no person is subjected to torture, ill-treatment or coercion during questioning;

See also para. 40.

## **B. UNODC**

**Kyoto declaration on advancing crime prevention, criminal justice and the rule of law: towards the achievement of the 2030 Agenda for Sustainable Development adopted by the United Nations Congress on Crime Prevention and Criminal Justice, UN Doc. [A/CONF.234/L.6](#) , 17 February 2021.**

47. Encourage the use and sharing of good practices on legally grounded, evidence-based interviewing methods designed to obtain only voluntary statements, thereby reducing the risk of unlawful, abusive and coercive measures being used during criminal investigation processes, and enable the obtaining of best evidence, thereby improving the legitimacy and quality of criminal investigations, prosecutions and convictions, and the efficient use of resources, as well as continue to welcome the collaboration between practitioners, experts and other relevant stakeholders on the elaboration of a set of international guidelines for non-coercive interviewing methods and procedural safeguards in this regard;



### C. UN Human Rights Council

#### **Resolution adopted by the Human Rights Council on 27 March 2023, UN Doc. [A/HRC/RES/52/2](#). Promotion and protection of human rights in Nicaragua**

Preamble: Recalling General Assembly resolution 70/175 of 17 December 2015 on the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which established that disciplinary sanctions and restrictive measures shall not include the prohibition of family contact and that family contact may be restricted for only a limited period of time and as strictly required for the maintenance of security and order, Assembly resolution 65/229 of 21 December 2010 on the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), which prohibit sexual misconduct and the abuse of women and girls in detention, and Assembly resolutions 77/209 and 77/219 of 15 December 2022 on, respectively, torture and other cruel, inhuman or degrading treatment or punishment, and human rights in the administration of justice, which both mention the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles).

5. Urgently calls upon the authorities in Nicaragua to cease immediately the use of arbitrary arrests and detentions, as well as of threats and other forms of intimidation or alternative measures of detention, as a means to repress dissent, to release immediately and unconditionally all political prisoners and all those who have been unlawfully, arbitrarily or unjustly detained, as well as those who have been prosecuted under ambiguous criminal laws or laws that arbitrarily restrict the civil and political rights of the Nicaraguan population, to annul their sentences and waive charges against them, to respect fair trial guarantees and due process, to ensure that conditions of detention comply with applicable human rights obligations and are consistent with standards such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles) and the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules);

#### **Resolution adopted by the Human Rights Council on 23 March 2021, UN Doc. [A/HRC/RES/46/15](#). Torture and other cruel, inhuman or degrading treatment or punishment: the roles and responsibilities of police and other law enforcement officials.**

11. Welcomes the collaboration between police and law enforcement practitioners, lawyers, human rights experts and other relevant stakeholders on the development of international guidelines on non-coercive interviewing and associated safeguards;

See also paras. 9, 10, 25.



## II. REFERENCES BY THE HIGH COMMISSIONER FOR HUMAN RIGHTS, UN TREATY BODIES, AND SPECIAL PROCEDURES

### A. UN High Commissioner for Human Rights

**Human Rights Council, Human rights in the administration of justice, Report of the United Nations High Commissioner for Human Rights, UN Doc. [A/HRC/42/20](#), 21 August 2019.**

53. The initiative to elaborate a set of set of universal standards for non-coercive interviewing methods and procedural safeguards, will provide guidance to States on moving away from a confession based criminal justice system, thereby reducing the risk of torture and ill-treatment.

### B. UN Committee Against Torture (CAT)

**CAT, Concluding observations on the initial report of Malawi, UN Doc. [CAT/C/MWI/CO/1](#), 9 December 2022.**

#### Confessions obtained under torture or ill-treatment

16. The State party should:

(b) Develop training modules for law enforcement officers on non-coercive interviewing and investigation techniques, including the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles), introduce advanced investigative tools and establish a sound system of gathering forensic evidence;

**CAT, Concluding observations on the second report of Chad, UN Doc. [CAT/C/TCD/CO/2](#), 7 December 2022** (Text is available only in French at the moment).

#### Irrecevabilité des aveux obtenus par la torture

40. L'État partie devrait :

(c) Veiller à ce que tous les policiers, les agents de la sécurité nationale, les militaires, les juges et les procureurs suivent une formation obligatoire mettant l'accent sur le lien entre les techniques d'interrogatoire non coercitives, l'interdiction de la torture et des mauvais traitements et l'obligation pour les organes judiciaires de déclarer irrecevables les aveux



obtenus par la torture, en s'inspirant à cet égard des Principes relatifs aux entretiens efficaces dans le cadre d'enquêtes et de collecte d'informations (Principes de Méndez).

**CAT, Concluding observations on the initial report of Somalia, UN Doc. [CAT/C/SOM/CO/1](#), 2 December 2022.**

Confessions obtained under torture or ill-treatment

21. While taking note of the legal safeguards enshrined in the Criminal Procedure Code establishing the inadmissibility of evidence obtained under torture and other coercive measures, the Committee is concerned by reports of confessions being obtained under torture and ill-treatment by the National Intelligence and Security Agency and admitted by courts (art. 15).

22. The State party should adopt effective measures to guarantee that all individuals have access to effective remedies to complain about the obtention of confessions or statements made under torture or other ill-treatment and that all coerced confessions or other statements are inadmissible in practice, except when invoked against a person accused of torture as evidence that the statement was made. The State party should also ensure that judges receive training on how to detect and investigate cases in which confessions and other statements are obtained under torture. The Committee also invites the State party to carefully consider the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles).

**CAT, Concluding observations on the initial report of Botswana, UN Doc. [CAT/C/BWA/1](#), 23 August 2022.**

Confessions obtained under torture or ill-treatment

31. The Committee notes that the Criminal Procedure and Evidence Act states that confessions obtained by torture are inadmissible (sects. 228 and 231). It is concerned, however, about reports of excessive use of force by police against suspects to extract confessions. It also notes that sections 228 and 231 do not – at least on their face – appear to provide that statements not constituting confessions be automatically deemed inadmissible (art. 15).

32. The Committee urges the State party to review its legislation in order to ensure that any statement – regardless of whether it constitutes a confession – that is made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made. It also urges the State party to carefully consider the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles), and to ensure the investigation and, as appropriate, prosecution of any person who uses torture in an effort to elicit a confession or other statement.



## Training

39. The Committee welcomes the information provided by the State party indicating that it is planning to develop an educational and training programme on international human rights standards for public officials, including an e-learning platform, in the context of the national human rights strategy, as well as the assurances provided during the dialogue with the State party indicating that it agreed with the importance of human rights training for law enforcement agencies, prosecutors and judges. The Committee is, however, concerned about the lack of specific training regarding the State party's obligations under the Convention (art. 10).

40. The State party should:

(b) Ensure that all relevant staff, including medical personnel, are specifically trained to identify cases of torture and ill-treatment, in accordance with the revised version of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), and consider the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles);

### **CAT, Concluding observations on the eighth periodic report of Sweden, UN Doc. [CAT/C/SWE/CO/8](#), 26 November 2021.**

4. The Committee welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, such as:

(d) The steps taken to integrate, as governing principles in Sweden, the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles, launched in June 2021), which are aimed at ending accusatory, coercive and other confession practices during investigations.

### **CAT, Concluding observations on the fourth periodic report of Belgium, UN Doc. [CAT/C/BEL/CO/4](#), 25 August 2021.**

12. The State party should:

(b) Enhance training for the police on the use of force, techniques intended to prevent violence from escalating, respect for fundamental freedoms, including in connection with the filming of police interventions, and the obligation for police officers to identify themselves and explain their actions. The Committee recommends that the State party be guided by the new principles on effective interviewing for investigations and information gathering known as the "Mendez Principles";



### **C. UN Subcommittee on Prevention of Torture (SPT)**

**SPT, Fifteenth annual report, UN Doc. [CAT/C/73/2](#), 10 March 2022.**

54. At its forty-fifth session, the Subcommittee took note of the launching of the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles) promoted by the Association for the Prevention of Torture. In a post-session press release, the Subcommittee stated that it welcomed the Méndez Principles, as they constituted an essential step in the needed cultural shift towards the respect of human rights at all stages of the criminal justice process. National preventive mechanisms, through their mandate and particularly through their privileged access to all places of deprivation of liberty, including police stations, have an important role to play in the promotion and use of the Méndez Principles. The Subcommittee strongly encourages national preventive mechanisms to familiarize themselves with the Méndez Principles, endorse them and fully incorporate them into their working methods."

### **D. UN Working Group on Arbitrary Detention (WGAD)**

#### **➤ Reports**

**Report of the Working Group on Arbitrary Detention, Arbitrary detention and the Principles on Effective Interviewing for Investigations and Information Gathering, UN Doc. [A/HRC/ 51/29](#), 21 July 2022.**

53. During the reporting period, the Working Group noted the launch of the Principles on Effective Interviewing for Investigations and Information Gathering, also known as the Méndez Principles,<sup>30</sup> which propose concrete guidance on conducting effective questioning as part of the investigation or intelligence-gathering process with a view to gathering accurate and reliable information rather than a confession. The Méndez Principles are grounded on scientific research showing that torture is ineffective in getting to the truth and that rapport based interviewing improves the effectiveness, fairness and outcomes of investigations.

54. The Méndez Principles promote an approach that also helps to ensure the observance of other existing international human rights obligations, such as the presumption of innocence, the right not to be compelled to incriminate oneself, the right not to be subjected to discrimination, the right to a fair trial and the right to freedom from arbitrary arrest and detention. <sup>31</sup> The Méndez Principles set out an interviewing methodology for obtaining accurate and reliable information, which integrates legal and procedural safeguards



throughout the process. The use of such an approach will thereby improve “the legitimacy and quality of criminal investigations, prosecutions and convictions, and the efficient use of resources”<sup>32</sup> and also provide a safeguard against arbitrary detention.

55. The Working Group thus reiterates that it is mindful of measures aimed at eliminating the possibility of extracting confessions through torture and ill-treatment, as these could minimize the occurrence of situations of arbitrary detention. To this end, the Working Group welcomes the Méndez Principles and invites all States to give these due consideration in order to enhance their effective implementation in practice by law enforcement authorities.

72. Welcoming the launch of the Principles on Effective Interviewing for Investigations and Information Gathering and recognizing their role in reducing instances of arbitrary deprivation of liberty, the Working Group calls upon States to take due note of these Principles and to seek their effective implementation in practice by their law enforcement agencies.

➤ **Opinions and statements**

**Opinion No. 64/2022 concerning Yalqun Rozi (China), UN Doc. [A/HRC/WGAD/2022/64](#), 29 September 2022**

46. Furthermore, the Working Group is seriously concerned about the uncontested allegations that Mr. Rozi appeared severely emaciated during the trial, due to malnutrition and torture suffered. As the Working Group has stated before, confessions made in the absence of legal representation are not admissible as evidence in criminal proceedings. Furthermore, the admission into evidence of a statement allegedly obtained through torture or ill-treatment renders the entire proceedings unfair, regardless of whether other evidence was available to support the verdict. The burden is on the Government to prove that statements were given freely, but in this case it has not done so. A forced confession taints the entire proceedings, also regardless of whether other evidence was available to support the verdict. The Working Group finds a further breach of articles 10 and 11 of the Universal Declaration of Human Rights. It refers the case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, for appropriate action. The Working Group also calls upon the Government to adhere to the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles).





**Opinion No. 44/2022 concerning Saeed AbdulRahman Jabr Husain Saleh, Ramzi AbdulRahman Jabr Husain Saleh, Raed Fareed Hamdan Hasan al-Hajj Ahmad, Diyaa Zakaria Shaker al-Falooji, Naser Mohamed Yusuf al-Naji, Omar Ismail Omar Wadi and Bassem Mohamed Saleh Adib Khandakji (Israel), UN Doc. [A/HRC/WGAD/2022/44](#), 28 September 2022**

71. Further, as it has stated before, confessions made in the absence of legal representation are not admissible as evidence in criminal proceedings. Equally, the admission into evidence of a statement allegedly obtained through torture or ill-treatment renders the entire proceeding unfair, regardless of whether other evidence was available to support the verdict. The burden is on the Government to prove that statements were given freely, but in this case, it has not done so. All seven individuals had the right to be presumed innocent under article 14 (2) of the Covenant, which was clearly violated, as was their right not to be compelled to confess guilt under article 14 (3) (g) of the Covenant. The Working Group also finds a breach of article 14 (1) as the failure of the court to halt the proceedings when allegations of ill-treatment were made means that the court failed to act in a fair and impartial manner. The Working Group also calls upon the Government to adhere to the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles).

**Opinion No. 62/2022 concerning Husain bin Abdulla bin Yusuf al-Sadeq (Saudi Arabia), UN Doc. [A/HRC/WGAD/2022/62](#), 28 September 2022.**

93. The Working Group therefore finds a violation of Mr. Al-Sadeq's fundamental fair trial rights, including the right to be presumed innocent and the right not to confess guilt under articles 10 and 11 of the Universal Declaration of Human Rights. The Working Group also notes that the use of a confession extracted through ill-treatment that is tantamount if not equivalent to torture may also constitute a violation by Saudi Arabia of its international obligation under article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Furthermore, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment specifically prohibits taking undue advantage of the situation of detention to compel confession or incriminating statements (see principle 21). The Working Group refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, for appropriate action. The Working Group also calls upon the Government to adhere to the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles).

**Preliminary Findings from its visit to Botswana (4 to 15 July 2022): [Statement](#) at the end of the visit.**

The Group invites the Government to consider the Principles on Effective Interviewing for Investigations and Information Gathering ('Mendez Principles') to assist the work of its law



enforcement agencies by eliminating confessions as cornerstone of the investigative process and thus guarding against arbitrary detention.

**Opinion No. 5/2022 concerning Abdullah Ahmed Faleh Ahmed al-Taei (Iraq), UN Doc [A/HRC/WGAD/2022/5](#), 16 June 2022.**

81. As a result, the Working Group finds that Mr. Al-Taei's right not to be compelled to confess guilt under article 14 (3) (g) of the Covenant and article 11 (1) of the Universal Declaration of Human Rights was violated. The use of a confession extracted through illtreatment also constitutes a violation of principle 21 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The Working Group recalls that according to article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings.

See footnote 46 at end of para. 81 reading: See also the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles), para. 220.

**Opinion No. 33/2021 concerning Azamat Umbetaliyev, Beket Mynbasov, Samat Adilov, Zhuldyzbek Taurbekov, Zhasulan Iskakov, Nazim Abdrakhmanov, Ernar Samatov and Bolatbek Nurgaliyev (Kazakhstan), UN Doc. [A/HRC/WGAD/2021/33](#), 14 October 2021.**

79. In the present case, the trial judge was clearly informed of the allegations of forced statements during the interrogations of several of the individuals, yet took no action to investigate these claims. In these circumstances, the Working Group considers that the court failed to act impartially and thus violated the rights of Mr. Umbetaliyev, Mr. Mynbasov, Mr. Adilov, Mr. Taurbekov, Mr. Iskakov, Mr. Abdrakhmanov, Mr. Samatov and Mr. Nurgaliyev under article 14 (1) of the Covenant. The Working Group refers the case to the Special Rapporteur on the independence of judges and lawyers, for appropriate action. The Working Group also calls upon the Government to adhere to the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles).



## **E. UN Special Rapporteur on torture**

**Good practices in national criminalization, investigation, prosecution and sentencing for offences of torture. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Alice Jill Edwards, [A/HRC/52/30](#), 13 March 2023.**

### Duty to investigate crimes of torture in national law and practice

17. Developments in forensic science and technology are enabling more secure and reliable evidence collection and preservation. Expertise in torture documentation, both physical and psychological, is growing, thanks to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol), and, in cases when torture leads to murder, to the Minnesota Protocol on the Investigation of Potentially Unlawful Death. Humane and non-coercive interviewing techniques, such as those presented in the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles), are also applicable to investigations of torture.

74. In the light of the information in the present report, the Special Rapporteur recommends the following actions to States:

(f) Adopt guidelines and standards for investigators, prosecutors, lawyers, medical and forensic experts and judges on:

(...)

(iii) Interviewing techniques for victims, witnesses and suspects in alignment with the Méndez Principles;

**Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Alice Jill Edwards, [A/77/2972](#), 4 October 2022.**

51. Third, a good body of research argues that the risks of torture and ill-treatment are greatest in the first hours when an individual is arrested and/or detained by police and other law enforcement (A/71/298), especially where the regular legal and procedural safeguards are not applied. While there are a wide number of soft law standards in relation to safeguards, it has been recognized by a growing number of states that they should develop domestic guidelines and training on the conduct of interrogations with a view to preventing torture and ill-treatment (A/RES/74/142, para. 13-17). The Special Rapporteur recommends to all states the expert- and practitioner-drafted Mendez Principles on Effective Interviewing for Investigations and Evidence Gathering.



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**Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Nils Melzer, Torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. [A/HRC/49/50](#), 28 December 2021.**

35. Each thematic report can serve as an important resource for States, international organizations and other stakeholders, and many reports have informed definitions, interpretations and provisions adopted in various international human rights instruments and in the practice of international human rights mechanisms.

38. In addition, the 2016 thematic report calling for a universal protocol on non-coercive interviewing resulted in the initiation of a four-year expert process, which has resulted in the drafting of the Méndez Principles, providing guidance for the transition from confession based, coercive interrogation to science-based, non-coercive interviewing.



### III. REFERENCES AND RESOLUTIONS BY REGIONAL ORGANISATIONS AND HUMAN RIGHTS BODIES

#### A. African Union

##### **African Commission on Human and Peoples' Rights, Resolution on the Principles on Effective Interviewing for Investigations and Information-Gathering (Méndez Principles) - [ACHPR/Res.545 \(LXXIII\)](#), 12 December 2022.**

Recalling the prohibition of torture and cruel, inhuman or degrading treatment or punishment in Article 5 of the African Charter on Human and Peoples' Rights;

Reaffirming the Commission's commitment to continue to place policing and human rights at the heart of the implementation of its promotion and protection mandate set out in its resolution ACHPR/Res.259 (LIV) 2013 on policing and human rights adopted at its 40th Ordinary Session held in Banjul from 22 October to 5 November 2013;

Considering the Guidelines and Measures for the Prohibition and Prevention of Torture and Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines), adopted at its 32nd Ordinary Session, held in Banjul, The Gambia, from 17 to 23 October 2002, and in particular the part on the prevention of torture and the fundamental safeguards for persons deprived of liberty;

Considering also the Guidelines on Conditions of Arrest, Police Custody and Pre-trial Detention in Africa, adopted by the Commission, during its 55th Ordinary Session, held from 28 April to 12 May 2014 in Luanda, Angola and in particular Part 1 on Arrest and Part 2 on Police Custody;

Aware of the crucial role that police forces play throughout the continent in the maintenance of law and order, the administration of justice, the respect of human rights;

Convinced of the need to propose concrete measures to reduce the high risk of coercion, torture and ill-treatment for the purpose of obtaining confessions during interrogations by the police and other institutions in charge of criminal investigations;

Recognizing further that all members of the police, defense and security forces, and prison personnel should receive continuous training in best practices in their work so as to contribute to the prevention of torture;

Recalling the promotional mandate of the Committee for the Prevention of Torture in Africa and the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa and their



recommendations on the prevention of torture during arrest and police custody, fundamental safeguards and police training;

Recognizing the need to take concrete measures to implement existing provisions on the prohibition of torture and cruel, inhuman or degrading treatment or punishment and the right to a fair trial;

The Commission:

- i. Welcomes the Principles on Effective Interviewing for Investigations and Information Gathering - also known as the "Méndez Principles";
- ii. Encourages State Parties to the African Charter to support the use of the six Méndez Principles as a useful framework for preventing torture and other ill-treatment during hearings and interviews;
- iii. Entrusts the Committee for the Prevention of Torture in Africa and the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa with the task of integrating the Méndez Principles into their promotional mandate and disseminating them widely to States Parties to the African Charter;
- iv. Invites States Parties to the African Charter, NGOs with observer status and other actors to promote and widely disseminate the Méndez Principles;
- v. Further invites regional and international organizations, civil society and other actors to provide the necessary support to States Parties to the African Charter for the implementation of the Méndez Principles;
- vi. Urges States Parties to the African Charter that have not yet done so to ratify and implement the United Nations Convention against Torture (CAT) and its Optional Protocol (OPCAT), including the establishment of National Preventive Mechanisms (NPMs).



## **B. Council of Europe**

### **European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)**

#### **CPT, Report to the Government of Romania on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 21 May 2021, 14 April 2022.**

17. Moreover, the Committee stresses that it is necessary for the competent authorities to promote a fundamentally different approach towards methods of police investigation. It is self-evident that a criminal justice system which places a premium on confession evidence creates incentives for officials involved in the investigation of crime to use physical or psychological coercion. First and foremost, the precise aim of questioning by the police must be made crystal clear: it should be to obtain accurate and reliable information in order to discover the truth about the matter under investigation, not to obtain a confession from somebody already presumed, in the eyes of the interviewing officers, to be guilty.

There must be a change of paradigm. In addition to the measures highlighted above, such an approach must involve the adoption of detailed instructions on the proper questioning of criminal suspects. Specific training on professional interviewing techniques should be regularly provided to police operational officers and investigators. The training should place particular emphasis on an intelligence-led and physical evidence-based approach, thereby reducing reliance on information and confessions obtained during questioning for the purpose of securing convictions.

See footnote 3 at the end of para. 17 reading: In this respect, reference should be made to the "Principles on Effective Interviewing for Investigations and Information Gathering" adopted in June 2021 by a group of eminent international legal experts under the auspices of the former UN Special Rapporteur on Torture, Juan Méndez.

#### **CPT, Report to the Serbian Government on the periodic visit to Serbia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 19 March 2021, 10 March 2022.**

20: (...) The Serbian authorities should urgently adopt a Strategy on the Eradication of Police Ill-treatment which should include the following elements:

(...)

In contexts where criminal investigations are often geared towards obtaining confessional evidence or other information, the CPT has underlined the necessity of a shift of paradigm



from the principle of proceeding “from the suspect to the evidence” to one focused on “from the evidence to the suspect”. The CPT has observed that the application of investigative interviewing techniques by police inspectors, which had been developed by several police services in Europe and advocated by eminent legal experts in the field of torture prevention,<sup>21</sup> enhance information flows and communication and reduce the risk of human error and false accusations.

See footnote 21 at the end of para. 20, reading: See in this respect the “Principles on Effective Interviewing for Investigations and Information Gathering” recently adopted as a guideline by a group of eminent international legal experts in the field of torture prevention and already endorsed by several United Nations bodies and known as “Mendez Principles”.

**CPT, [Press release](#) concerning the 105th plenary meeting, 6 July 2021.**

Para. 2: In addition to preparing future visits and improving the internal organisation of its work, the CPT held an exchange of views with the Association for the Prevention of Torture (APT) on the recently launched Principles on Effective Interviewing for Investigations and Information Gathering which had been drafted by a group of international experts under the leadership of the former United Nations Special Rapporteur on Torture, Prof. Juan Méndez. The CPT welcomes these principles and their promotion in all Council of Europe member States.

**C. [European Union \(EU\)](#)**

**[Statement](#) by the High Representative/Vice-President Josep Borrell, International Day in Support of Victims of Torture: 25 June 2021.**

Para. 7: Initiatives, such as the Principles on Effective Interviewing for Investigations and Information Gathering, provide guidance on obtaining accurate and reliable information in full respect of human rights and dignity of all, including through the implementation of legal and procedural safeguards in the first hours of police custody.





## **D. Organization of American States (OAS)**

### **OAS General Assembly**

#### **Resolution PROMOTION AND PROTECTION OF HUMAN RIGHTS, [AG/RES. 2991 \(LII-O/22\)](#), 7 October 2022**

v. Principles on Effective Interviewing for Investigations and Information Gathering or “Méndez Principles”<sup>1/</sup>

EMPHASIZING the importance of due process of law and its fundamental principles and guarantees in the effective protection of the human rights of persons deprived of their liberty;

ACKNOWLEDGING with interest the development of the “Principles on Effective Interviews for Investigations and Information Gathering” or “Méndez Principles,” which aim to provide practical guidance for States to strengthen preventive measures against torture and other forms of ill-treatment during the investigation process, in particular during interrogations and interviews, and which have been endorsed by the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,

RESOLVES:

1. To encourage member states to consider incorporating into their legislation, as appropriate, regulations, training techniques, procedures, and national practices the “Principles on Effective Interviewing for Investigations and Information Gathering” also known as the “Méndez Principles,” which constitute an essential tool for the protection of human rights and the prevention of torture and other cruel, inhuman, and degrading treatment; and to consider establishing training modules on these Principles, for public authority officers who conduct interrogations or interviews to get confessions.

## **E. OSCE Office for Democratic Institutions and Human Rights (ODIHR)**

**ODIHR, [Tweet](#), 21 May 2021.**

ODIHR welcomes the new principles that will help law enforcement gather more accurate information, stop coercive interrogation techniques, and prevent #torture & other ill-

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<sup>1/</sup> The United States of America does not believe the “Mendez Principles” are ready for adoption by public authority officers as these principles and the accompanying guidance have yet to be reviewed.



association pour la prévention de la torture  
asociación para la prevención de la tortura  
association for the prevention of torture

treatment. Our efforts to move towards a world without torture will continue.  
#MendezPrinciples #HumanRights.



#### IV. REFERENCES IN NATIONAL JURISPRUDENCE

##### **Colombia, Special Jurisdiction for Peace, [Appeal decision](#), Auto TP-SA 1296 de 2022, 23 November 2022**

###### ➤ **Background information on the decision**

See para. 15 (original text available in Spanish):

*La SA debe determinar si fue correcta la decisión de la SAI de negar a la señora Nancy CONDE RUBIO la amnistía de sala con fundamento en que sus aportes a la verdad no eran satisfactorios, sin haberle dado por lo menos una oportunidad de complementarlos, aclararlos o explicarlos, en el marco de un espacio de intercambio dialógico que contara con la participación del Ministerio Público. Para ello, reiterará su jurisprudencia sobre el deber que tienen los excombatientes de las FARC-EP de aportar verdad plena en los trámites de amnistía y sobre los compromisos mínimos de diligencia que están a cargo de la Sala de Justicia con el fin de armonizar el requerimiento de verdad plena con el deber que tiene el Estado de conceder la amnistía más amplia posible a los delitos susceptibles de este beneficio transicional y de ofrecer seguridad jurídica a los antiguos integrantes de este grupo armado ilegal. »*

UNOFFICIAL TRANSLATION: “The Appeals Chamber must determine whether the SAI’s decision to deny Ms. Nancy CONDE RUBIO amnesty on the grounds that her contributions to the truth were not satisfactory, without having at least given her an opportunity to complement, clarify or explain them, within the framework of a space for dialogue with the participation of the Public Prosecutor’s Office, was correct. To this end, it will reiterate its jurisprudence on the duty of former FARC-EP combatants to provide full truth in amnesty proceedings and on the minimum commitments of diligence that are the responsibility of the Justice Chamber in order to harmonise the requirement of full truth with the state’s duty to grant the broadest possible amnesty for crimes eligible for this transitional benefit and to offer legal security to former members of this illegal armed group.”

###### ➤ **References**

See para. 24 (original text available in Spanish):

*Una entrevista desprovista de una adecuada preparación o en la que no se utilizan apropiadas técnicas de interrogatorio también puede afectar la entidad, suficiencia y claridad de la información entregada por quienes comparecen a la JEP. En efecto, las preguntas vagas, generales, sugestivas o repetitivas, o las que se formulan sin ningún direccionamiento u orientación específica de la judicatura, sea que actúe directamente o por intermedio de la UIA,*



*pueden dar lugar a que el compareciente haga relatos igualmente vagos, superfluos o generales o que, incluso estando en condiciones y disposición de hacerlo, se abstenga de aportar datos relevantes y novedosos de orden personal y de contexto que contribuyan a descubrir y caracterizar las estructuras criminales, sus redes, nexos, formas de financiación y patrones. Lo mismo puede ocurrir cuando el entrevistador se enfrenta a la entrevista con la intención única de obtener una confesión. En estos casos, dicen los Principios sobre entrevistas efectivas para investigación y recopilación de información, es probable que aquél se vea influenciado por el llamado "sesgo de confirmación" y crea que, de cara a cumplir con el deber de aportar verdad, solo es útil, relevante o veraz aquella información entregada por el compareciente que confirma "su creencia de culpabilidad".*

UNOFFICIAL TRANSLATION: "An inadequately prepared interview or one that does not use appropriate questioning techniques may also affect the substance, sufficiency and clarity of the information provided by those appearing before the SJP. Vague, general, suggestive or repetitive questions, or questions which are asked without any specific direction or guidance from the judiciary, whether acting directly or through the IAU, can lead the person appearing to give equally vague, superfluous or general accounts or, even when they are able and willing to do so, to refrain from providing relevant and new personal and contextual information which would help to discover and characterise the criminal structures, their networks, links, forms of financing and patterns. The same may occur when the interviewer approaches the interview with the sole intention of obtaining a confession. In such cases, according to the Principles on Effective Interviewing for Investigation and Information Gathering, the interviewer is likely to be influenced by the so-called "confirmation bias " and believes that, in order to fulfil the duty to provide the truth, only information provided by the interviewee that confirms "his or her belief of guilt " is useful, relevant or truthful."