



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

Distr.: General
13 February 2013

English only

Committee against Torture

**Consideration of reports submitted by States
parties under article 19 of the Convention**

**Concluding observations of the Committee against Torture:
Turkey**

Addendum

**Information received from Turkey on the implementation of the
concluding observations of the Committee (CAT/C/TUR/CO/3)***

[5 March 2012]

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

Follow-up information in response to the recommendations of the Committee against Torture contained in paragraphs 7, 8, 9 and 11 of its concluding observations on Turkey (CAT/C/TUR/CO/3)

1. The issues of impunity (para. 7); effective and independent investigations into complaints (para. 8); investigation into cases of disappearances (para. 9), and fundamental legal safeguards (para. 11) on which the Committee had requested follow-up information had been extensively addressed in the third periodic report (CAT/C/TUR/3) submitted to the Committee as well as during the consideration of the report by the Committee on 3 and 4 November 2010. These issues will continue to remain among Turkey's priorities.
2. The most important development since November 2010 is the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).
3. Being party to the Convention against Torture since 1988, Turkey signed the Optional Protocol to the Convention against Torture in September 2005. The ratification process was finalized in 2011 and the instrument of ratification was deposited in New York on 27 September 2011. With the ratification of the Optional Protocol, Turkey reaffirmed its commitment to pursue the policy of "zero tolerance" in the prevention and punishment of torture and ill-treatment. An appropriate national preventive mechanism will be established in accordance with the provisions of the Optional Protocol. The implementation of the Optional Protocol will constitute a new step forward in Turkey's policy against torture and ill-treatment.
4. Other important developments since November 2010 include the new Protocol on "Medical Services for detainees" signed on 22 August 2011 among the Ministry of Justice, the Ministry of Interior and the Ministry of Health, as well as the new "Guideline for Personnel in Charge of Riot Control" issued by the Ministry of Interior in November 2011.
5. Protocol on "Medical Services for Detainees" ensures patient-doctor confidentiality during medical examinations of detainees while "the Guideline for Personnel in Charge of Riot Control" brings concrete limitations to the use of force by law enforcement officers.

Reply to the recommendations contained in paragraph 7 of the concluding observations (CAT/C/TUR/CO/3)

Torture and impunity

6. The Committee has rightfully noted that combating torture and ill-treatment has been a priority for the Turkish Government and a decrease in the number of reports on torture and other forms of cruel, inhuman or degrading treatment and punishment was reported.
7. There should be no concerns on the impunity of law enforcement officers found guilty of ill-treatment. The case of the death of Engin Çeber, where action has been taken against police officers, prison officers from the lowest to the highest ranks, is an example on which information has been shared with the Committee.
8. Any allegation concerning the use of torture, including in unofficial places of detention, on the street and outside police stations, is being investigated and necessary actions are taken against the perpetrators.
9. The implementation of the OPCAT will further reinforce these guarantees.

Reply to the recommendations contained in paragraph 8 of the concluding observations**Effective, prompt and independent investigations into complaints**

10. Allegations of torture and ill-treatment are taken seriously and diligently by the judicial authorities at all stages of the investigation and trial process. Public prosecutors immediately initiate investigations concerning allegations of torture and ill-treatment ex officio and conduct them personally in accordance with the new Criminal Procedure Code and the circulars issued by the Minister of Justice.

11. As also noted by the Committee, the Minister of Justice issued a circular pursuant to which investigations concerning allegations of torture and ill-treatment shall be conducted by the Public Prosecutor and not by law enforcement officers.

12. Furthermore, concerning allegations of torture and ill-treatment, the new Criminal Procedure Code brought about new measures in order for investigations to be initiated and conducted personally by public prosecutors in an independent, effective and diligent manner.

13. The independent police complaint mechanism remains on the agenda of the ongoing reform process, together with the independent national human rights institute.

14. A national preventive mechanism is expected to be established before October 2012, in accordance with the provisions of the OPCAT. The national preventive mechanism will also be able to monitor effective, prompt and independent investigations into all complaints.

Reply to the recommendations contained in paragraph 9 of the concluding observations**Investigation of disappearances**

15. Being a party to the European Convention on Human Rights and having recognized the compulsory jurisdiction of the European Court of Human Rights (ECtHR) in 1990, Turkey considers the implementation of the Court's judgments as a priority.

16. The *Timurtas v. Turkey* case referred to in the concluding observations was implemented by Turkey.

17. Concerning the *Cyprus v. Turkey* case, the Committee of Ministers of the Council of Europe, monitoring the implementation of the judgement, considered that it was crucial that the current work of the Committee on Missing Persons (established under the auspices of the United Nations) should be carried out under the best possible conditions and that the execution of the judgments of the ECtHR should not jeopardize the mission of the Committee on Missing Persons. Furthermore, it should be noted that allegations according to which some disappearances referred to in the *Cyprus v. Turkey* case have occurred in Turkey, are unfounded and have been proved false.

18. Turkey also cooperates with the Working Group on Enforced or Involuntary Disappearances. This cooperation is appreciated by the Working Group.

19. Since its establishment, the Working Group has transmitted 182 cases; of those, 57 cases remain outstanding (63 cases as of 2009), 49 cases have been clarified on the basis of information provided by the source, 75 cases have been clarified on the basis of information provided by Turkey. 6 of these cases have been clarified during the period 2010-2011.

Reply to the recommendations contained in paragraph 11 of the concluding observations

Fundamental legal safeguards)

20. The right to liberty and security of person is safeguarded by the Constitution. All detainees are guaranteed the right to have prompt access to a lawyer, to notify a family member and to an independent medical examination. Patient-doctor confidentiality during such medical examinations is further reinforced with entry into force of the new Protocol on “Medical Services for detainees” signed on 22 August 2011 among the Ministry of Justice, the Ministry of Interior and the Ministry of Health.

21. The previous circular from 2003, criticized for authorizing law enforcement agents to be present during the medical examination, is abrogated. The new Protocol (art. 38) provides that law enforcement agents should remain out of the secure room where the detainee is examined, unless a written request for the presence of the agent is made by the doctor.

22. Another new regulation reinforcing fundamental legal safeguards is the “Guideline for Personnel in Charge of Riot Control” issued by the Ministry of Interior in November 2011. The Guideline strictly regulates the use of force by riot police. The provisions of the Guideline further reinforce previous measures taken to eradicate excessive use of force by law enforcement personnel, including identification of security personnel wearing riot gear by printing identity numbers on their helmets.

23. Concerning the issues of “denial of legal aid for suspects accused of offences carrying a sentence of less than five years of imprisonment” and “restriction of the statutory right to immediate access to a medical doctor to convicted prisoners” referred to in paragraph 11 of the concluding observations, it should be noted that according to article 150 of the Law 5271 (amended by the Law 5560), legal aid for suspects accused of offences carrying a sentence of more than five years of imprisonment is mandatory and that for offences carrying a sentence of less than five years of imprisonment legal aid is provided on the request of the suspect. There is no denial of legal aid. It should also be noted that article 94 of the Law 5275 is entitled “compassionate leave” and does not contain any provision on access to medical doctor. Articles 71 and 78 regulate the right to immediate access to a medical doctor and article 116 guarantees the same right for untried prisoners by referring to article 78.

Turkey’s fourth periodic report

24. Turkey will continue to give due consideration to the recommendations of the Committee against Torture contained in paragraphs 7, 8, 9 and 11 of the concluding observations, as well as other recommendations and comments made during the consideration of Turkey’s third periodic report and in the concluding observations. Detailed information on these issues will be provided in the fourth periodic report that Turkey will submit to the Committee against Torture.