



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

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Committee against Torture

List of issues in relation to the third periodic report of Turkmenistan*

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations,¹ the Committee requested the State party to provide information on the follow-up to its recommendations on incommunicado detention, including on informing the Committee about the fate and whereabouts of all persons held incommunicado or who have been disappeared, on the intimidation and arbitrary arrest and imprisonment of and reprisals and threats against human rights defenders and journalists, as well as their relatives, in retaliation for their work, and on the establishment of a genuinely independent national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).² Noting that information on follow-up to those concluding observations was received from the State party on 13 December 2017,³ and with reference to the letter dated 21 May 2019 from the Committee's Rapporteur for follow-up to concluding observations,⁴ the Committee considers that the recommendations included in paragraph 16 have been partially implemented, while the recommendations included in paragraph 12 have not been implemented. The Committee regrets not having received sufficient information on the measures taken to implement the recommendations contained in paragraph 10 to assess implementation. These points are covered in paragraphs 5, 16 and 27 of the present document.

Articles 1 and 4

2. Please provide the Committee with information regarding the adoption of the new version of the Criminal Code, as referenced in paragraph 49 of the State party's report.⁵ Please inform the Committee whether any amendments have been made regarding the definition and criminalization of torture set out in article 182-1 of the previous Criminal Code. With reference to the constitutional reforms undertaken by the State party during the period under review and the initiatives to revise the Criminal Code, please also inform the Committee of any steps taken to establish the non-derogability of the prohibition of torture in legislation and explicitly confirm that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for torture. Please indicate whether orders from a superior officer or a public authority may be invoked as a justification for torture and whether there are any circumstances in which a subordinate is permitted lawfully to oppose an order to commit acts of torture. Please also indicate whether, under current legislation, amnesties may

* Adopted by the Committee at its seventy-ninth session (15 April–10 May 2024).

¹ CAT/C/TKM/CO/2, para. 41.

² Ibid., paras. 10, 12 and 16.

³ CAT/C/TKM/CO/2/Add.1.

⁴ See

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFUL%2FTKM%2F34998&Lang=en.

⁵ CAT/C/TKM/3.



be extended to individuals who have committed acts of torture. Please further indicate whether the crime of torture under article 182-1 of the previous Criminal Code is subject to a statute of limitations.

3. With reference to the information provided in paragraphs 23 and 296–298 of the State party’s report, please clarify whether the Convention is directly enforceable by the judiciary and by quasi-judicial bodies. If it is, please provide examples of cases in which it has been directly invoked before domestic courts and describe the outcomes of these cases.

Article 2⁶

4. With reference to paragraphs 186 and 187 of the State party’s report, please provide information on how the fundamental legal safeguards contained in articles 79 and 80 of the Code of Criminal Procedure are guaranteed in practice. Please also provide information on cases in which the authorities failed to comply with the safeguards contained in articles 79 and 80 of the Code of Criminal Procedure, including the number of complaints registered, the number of investigations carried out and their outcomes and the number of cases in which disciplinary or other measures were taken against officials found responsible for violations, indicating the nature and duration of the sanctions handed down in each case. With reference to the Committee’s previous recommendations,⁷ please further provide information on the maximum period of time following apprehension for which an individual may be detained before being presented before a judicial authority. Please indicate, for the period under review, the number of habeas corpus petitions registered by the courts and the number of cases in which such petitions were granted and resulted in the release from detention of the petitioner.

5. In the light of the adoption of the Ombudsman Act on 23 November 2016, along with the extensive information provided by the State party in its report on the institution’s functions, please provide information on the steps taken to guarantee the institution’s functional independence and overall compliance with the Paris Principles, along with any plans to seek the technical assistance of the Office of the United Nations High Commissioner for Human Rights in that process. In that connection, please also provide information on any proposals to revise the process for appointing the Ombudsman to ensure the institution’s independence from the executive branch and to improve its capacity to ensure reparation for victims of human rights violations.

6. Please provide updated information on the status of the bill on the prevention of family and domestic violence against women, in particular information on whether it is aimed at defining and introducing domestic violence, including sexual violence and marital rape, as specific criminal offences under the Criminal Code, in line with the Committee’s recommendation,⁸ along with information on any other legislation, whether proposed or enacted, to combat gender-based violence, as referenced in paragraphs 234 and 246 of the State party’s report. In addition, please indicate whether effective and independent complaints mechanisms exist for victims of domestic violence, specify the number of complaints, investigations and prosecutions regarding alleged acts of domestic and gender-based violence in the State party and provide information on the sanctions handed down in cases in which the accused perpetrators were found guilty. Please provide information on the ability of victims of domestic and gender-based violence to access protection measures, including restraining orders, along with medical and legal services, counselling, redress and rehabilitation.

⁶ 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, 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 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 section V of the same general comment.

⁷ [CAT/C/TKM/CO/2](#), para. 22 (e) and (f).

⁸ *Ibid.*, para. 32 (a).

Article 3

7. Please provide information on any judicial decisions adopted in cases relevant to article 3 of the Convention. Please specify 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 provide information on existing appeal mechanisms. Please also provide data, disaggregated by country of origin, indicating the number of persons who have been returned, extradited or expelled during the period under review, including the countries to which they were returned, extradited or expelled. Please describe the mechanisms in place to identify individuals in need of international protection and the procedure followed when a person invokes that right and indicate whether individuals facing expulsion, return or extradition are informed that they have the right to seek asylum and to appeal a deportation decision. Please specify the number of temporary residences for asylum-seekers in the State party, along with their occupancy rates during the period under review, and indicate whether asylum applicants are free to choose their own residence. Please provide an update on whether the foreign nationals serving prison sentences in the State party include any asylum-seekers.

8. With reference to paragraph 268 of the State party's report, and noting articles 6 and 13 of the Refugees Act (2017), please indicate whether any provision exists in domestic legislation explicitly prohibiting the refoulement of individuals to countries where there are substantial grounds for believing that they would be in danger of being subjected to torture or ill-treatment. Please also indicate whether legislation and practices that the State party may have adopted on such matters as terrorism, emergency situations and national security have had any impact on the effective implementation of that prohibition, if it exists in domestic legislation.

9. Please indicate what information is provided to individuals seeking asylum at border entry points and individuals detained for immigration offences and what access such individuals have to legal assistance. Please also indicate whether the International Committee of the Red Cross and partner organizations of the Office of the United Nations High Commissioner for Refugees are permitted to access detention centres and provide asylum-seekers with independent, qualified and free legal advice and representation. Please inform the Committee of any training programmes provided to officials dealing with the expulsion, return or extradition of foreign nationals, including whether such programmes include training on the provisions of the Convention.

Articles 5–9

10. Please provide information on any new legislation or measures adopted to fully implement article 5 of the Convention. 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. Please indicate the measures that have been taken by the State party to comply with its obligation to extradite or prosecute (*aut dedere aut judicare*). Please specify the treaties or agreements on mutual legal and judicial assistance that the State party has entered into and indicate whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. If they have, please provide examples.

Article 10

11. With reference to paragraph 300 of the State party's report, please provide an update on the number of training courses on the prohibition of torture and ill-treatment delivered to law enforcement personnel, including police officers, members of prison staff, military personnel, investigators, border guards and relevant personnel in hospitals and welfare institutions, during the period under review, as well as an update on the number of persons who took such courses. Noting that the data provided by the State party relate to training courses on topics connected with torture, please clarify the exact topics covered by the courses and inform the Committee whether they included instruction on the provisions of the Convention. Please provide information on any courses conducted on the use of force by law enforcement personnel or personnel in hospitals and welfare institutions, in line with

international standards. If such training courses are conducted, please indicate whether they are mandatory or optional, how often they are conducted, how many law enforcement officials, members of the military, prison staff, immigration officials and personnel in hospitals and welfare institutions have completed them and what percentage of all such persons have completed them. Please also indicate whether the State party has developed a methodology to assess the effectiveness of training and educational programmes in reducing the number of cases of torture and ill-treatment and, if it has, please provide detailed information on that methodology.

12. With reference to paragraphs 23 and 296–298 of the State party’s report, please provide information on the training courses held for judges and prosecutors on the provisions of the Convention, including on its direct applicability, if it is directly applicable. Please describe any training programmes developed for judges, prosecutors, forensic doctors and medical professionals dealing with detained persons on detecting and documenting the physical and psychological sequelae of torture, including specific training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), as revised.

13. With reference to paragraphs 252 and 256 of the State party’s report, please provide an update on the number of training courses held on the topics of domestic violence, gender-based violence and women in detention during the period under review. Regarding training courses on the specific aspects of working with women prisoners, as mentioned in the State party’s report, please inform the Committee whether such training courses include specific instruction on the provisions of the Convention, along with instruction on other relevant international standards, such as the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). Please also inform the Committee whether the State party has conducted training courses with law enforcement personnel, prosecutors and members of the judiciary on the rights of individuals with diverse sexual orientations and gender identities.

Article 11

14. With reference to the information provided in paragraph 41 of the State party’s report and the Committee’s previous recommendation,⁹ please provide updated information on initiatives introduced to equip police stations, remand centres and penal institutions with audiovisual equipment to record interrogations, indicating the number of places of deprivation of liberty that are currently equipped with such tools. Please inform the Committee whether defendants and their lawyers are able to obtain video and audio recordings of interrogations at no cost to the defendant and whether such recordings may be used as evidence in court.

15. With reference to the information provided in paragraphs 188–216 of the State party’s report, please provide updated information on the steps taken to ensure adequate conditions in places of deprivation of liberty in the State party, including access to natural light, clean drinking water and adequate standards of sanitation. Please indicate the number of persons in pretrial detention in the State party, along with the average length of pretrial detention in each year during the period under review. With reference to the Committee’s previous recommendation,¹⁰ please provide information regarding the availability of alternatives to detention, along with data on their use. In this regard, please inform the Committee of overcrowding rates in places of deprivation of liberty in the State party in the period under review, including data disaggregated by place of detention, along with updated information on the steps taken to reduce overcrowding. Please also inform the Committee of any steps taken to establish an absolute maximum limit for the duration of solitary confinement at 15 days, in line with international standards. With regard to health care, please provide disaggregated data, chronologically organized, on the rates of tuberculosis and other communicable diseases, and of HIV/AIDS, in places of deprivation of liberty in the State party during the period under review. Please also provide information on staffing levels in

⁹ *Ibid.*, para. 8 (g).

¹⁰ *Ibid.*, para. 24 (c).

places of deprivation of liberty, including the number of doctors and nurses working in each facility and whether access to doctors and nurses is available at all times.

16. With reference to the Committee's previous recommendation,¹¹ please provide information on the steps taken to end incommunicado detention and ensure that all persons held incommunicado are released or are allowed to receive visits from their family members and lawyers. As recommended by the Committee,¹² please inform the Committee of the fate and whereabouts of all persons convicted and imprisoned for allegedly attempting to assassinate the former President.

17. Please provide disaggregated data on inter-prisoner violence and the mechanisms of protection available to victims during the period under review. In that connection, please also provide information on any sentences or other disciplinary measures handed down to alleged perpetrators. With reference to the Committee's previous recommendations,¹³ please further provide data regarding allegations of violence against detainees by prison staff, including the number of complaints received, investigations conducted, prosecutions carried out and sentences or disciplinary penalties handed down to perpetrators. Please inform the Committee whether any comprehensive plan is in place to address the issue of violence in detention by both staff and inmates and whether there exists any form of judicial supervision of conditions of detention. With reference to the Committee's previous recommendations,¹⁴ please provide disaggregated data indicating the number of deaths in custody during the period under review, including information on the age and sex of the victim, cause of death and any investigations undertaken in this regard and their outcomes. Please inform the Committee whether, in the State party, it is possible for family members of persons who die in custody to order an independent autopsy. Please provide information on the legislation governing the use of force by law enforcement officers, along with the internal regulations and operating procedures in place to prevent the use of excessive force, in line with international standards. Please inform the Committee of any internal oversight mechanisms in place to review and investigate cases of the use of excessive force by law enforcement officers, along with information regarding their institutional and hierarchical independence.

18. With reference to the information provided in paragraph 108 of the State party's report, please provide information regarding the Ombudsman's mandate to conduct visits to places of deprivation of liberty, including whether the Ombudsman may carry out unannounced visits to all places of deprivation of liberty without restriction, interview persons deprived of their liberty in an unrestricted and confidential manner and access all information pertaining to the deprivation of their liberty. Please also provide disaggregated data indicating the number of visits carried out by the Ombudsman, detailing which were announced and which were unannounced, during the period under review. Please further provide information on the findings and recommendations of the Ombudsman following these visits and on the actions taken by the relevant authorities of the State party in response. With reference to paragraph 134 of the State party's report and the Committee's previous recommendation,¹⁵ please update the Committee on the status of the draft memorandum of understanding between the State party and the International Committee of the Red Cross on cooperation and humanitarian activities concerning persons deprived of their liberty. Please inform the Committee of any initiatives undertaken to strengthen cooperation with United Nations human rights mechanisms by permitting visits by special procedure mandate holders of the Human Rights Council who have requested them.¹⁶

19. With reference to paragraph 271 of the State party's report, please provide information on the existence of any legislation governing the use of restraints in psychiatric settings. Please also provide information indicating the number of cases in which restraints were used in psychiatric settings during the period under review, including disaggregated data on the age and sex of the person under restraint, the location of the psychiatric institution, the time

¹¹ Ibid., para. 10 (a).

¹² Ibid., para. 10 (b).

¹³ Ibid., para. 26 (a) and (c).

¹⁴ Ibid., para. 14 (d) and (e).

¹⁵ Ibid., para. 20 (b).

¹⁶ Ibid., para. 20 (c).

under restraint and the type of restraint, including both physical and chemical restraints. Please further provide information on any internal oversight mechanisms or complaint mechanisms for patients and on any complaints received through such mechanisms. With reference to paragraph 96 of the State party's report, please provide data on cases in which a judge has found that an application for involuntary hospitalization was unfounded and has ordered the release of the patient. Please inform the Committee whether any form of consistent review of the need for involuntary hospitalization is provided for in legislation.

Articles 12 and 13

20. Please provide statistical data, disaggregated, inter alia, by sex, age, nationality and geographical location, indicating the number of criminal complaints of torture under article 182-1 of the previous Criminal Code and of other acts of cruel, inhuman or degrading treatment or punishment submitted to the authorities of the State party, as well as the number of investigations launched, the number of prosecutions conducted and the number and nature of sentences handed down to perpetrators found guilty of torture or other acts of cruel, inhuman or degrading treatment or punishment. Please indicate the number of complaints, investigations, prosecutions and sentences for abuse of official powers under article 181-1 of the previous Criminal Code. Please inform the Committee whether individuals claiming torture have access to free and independent medical examinations. Please also inform the Committee of the measures in place to reduce the risk of reprisals faced by individuals alleging torture or ill-treatment. With reference to paragraphs 37 and 38 of the State party's report, please provide disaggregated statistics indicating the number of cases during the period under review in which public officials have been suspended from their posts under article 167 of the Code of Criminal Procedure due to there being sufficient grounds on which to believe that they would obstruct an investigation or court proceedings or the reparation of the harm caused by an offence or that they would continue to engage in criminal activity related to their functions if they continued to occupy them, as well as cases in which public officials have been dismissed from their posts under article 43 of the Civil Service Act, including information on the nature of the verdicts against them.

21. With reference to the information provided in paragraphs 24, 39 and 123 of the State party's report, please provide updated and disaggregated data indicating the number of complaints received by the Ombudsman during the period under review related to misconduct by law enforcement officers or the conditions in which persons are deprived of their liberty. Please also provide information regarding the outcomes of these complaints. Please further provide information on the existence of any other internal oversight mechanisms relating to law enforcement or places of deprivation of liberty, including administrative disciplinary bodies for cases in which criminal proceedings do not take place, along with information on their functional and hierarchical independence.

22. Please provide information on any investigations into or prosecutions of cases of enforced disappearance in the State party, including investigations into and prosecutions of such cases, and any sentences handed down to perpetrators who have been found guilty. Please indicate whether any law exists explicitly criminalizing enforced disappearance in domestic legislation and whether any central public registry exists of all places of detention, along with any other measures taken to ensure that all places of detention are officially recognized. Please also indicate whether victims of enforced disappearance and members of their families have access to effective remedies, including compensation and rehabilitation.

Article 14

23. Please provide an update on the number of requests for compensation made in relation to allegations of torture, the number of requests granted and the amounts ordered and actually provided in each case. Please also provide information on any ongoing reparation programmes, including those providing specialized treatment for trauma and other forms of rehabilitation, for victims of torture or ill-treatment and on the material, human and budgetary resources allocated for their effective functioning.

Article 15

24. With regard to the information provided in paragraph 218 of the State party's report, please provide examples of any cases in which the courts have found evidence to be inadmissible on the basis that it was obtained through torture or cruel, inhuman or degrading treatment, as enshrined in article 62 of the Constitution and article 25 (1) of the Code of Criminal Procedure.

Article 16

25. With reference to the information provided in paragraph 31 of the State party's report, please explain how acts of cruel, inhuman or degrading treatment or punishment are currently defined and prohibited in domestic law, given the absence of statutory recognition that such acts are crimes. Please indicate whether, under existing domestic legislation, acts of cruel, inhuman or degrading treatment that do not cause moderate bodily harm, including psychological ill-treatment, are prohibited. Please also indicate whether any data on acts of cruel, inhuman or degrading treatment are collected. If they are, please share them with the Committee.

26. Noting that the corporal punishment of children is criminalized in all settings in the State party, please provide information on the steps taken to prevent the corporal punishment of children in practice. Regarding recent amendments to the legislation on children in conflict with the law, children in contact with the justice system and children in civil proceedings,¹⁷ please also provide information on the steps taken to develop an adequate juvenile justice system in the State party, including information on the use of alternatives to detention for children and the existence of judges specialized in juvenile justice.

27. With reference to paragraph 53 of the State party's report, please provide information on any steps, legislative or otherwise, taken by the State party to ensure that human rights defenders and journalists may exercise their rights by conducting their legitimate and peaceful work in an enabling environment, free from the threat of reprisals.

Other issues

28. Given that the prohibition of torture is absolute and cannot be derogated from, even within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the coronavirus disease (COVID-19) pandemic to ensure that its policies and actions complied with its obligations under the Convention. In addition, please specify the measures taken in relation to persons deprived of their liberty, including in places of confinement such as homes for older persons, hospitals or institutions for persons with intellectual or psychosocial disabilities.

29. Please describe the extent to which the national legal framework on countering terrorism and violent extremism is compatible with the State party's obligations under the Convention. Please specify the number of convictions under legislation adopted to combat terrorism, provide information on the legal safeguards and remedies available in law and in practice for persons suspected of terrorism or other security-related offences and indicate whether there have been complaints of the non-observance of international standards in applying measures to combat terrorism and, if there have, what the outcomes were.

¹⁷ See https://upr.info/sites/default/files/country-document/2024-01/UNCT_TKM_UPR44_TKM_E.pdf, para. 46.