



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

Distr.: General  
29 April 2016

Original: English

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## Committee against Torture Fifty-seventh session

### Summary record of the 1409th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 27 April 2016, at 3 p.m.

*Chair:* Mr. Modvig

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*The meeting was called to order at 3 p.m.*

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

*Fourth periodic report of Turkey (continued) (CAT/C/TUR/4; CAT/C/TUR/Q/4)*

1. *At the invitation of the Chair, the delegation of Turkey took places at the Committee table.*
2. **Mr. Çarıkçı** (Turkey), after outlining his State party's history at the vanguard of human rights, said that Syrian refugees were welcomed by the country. The Law on Foreigners and International Protection was available on the website of the General Directorate of Migration Administration in many languages. So far that year, Turkey had spent more than US\$ 10 billion on assisting Syrian refugees, with much more being spent by civil society and other donors. The country maintained a non-discriminatory, "open door" policy in relation to Syrian refugees and complied strictly with the principle of non-refoulement, despite the false allegations to the contrary published by the international media. The 18 individuals killed at the border had been heavily armed terrorists from the Kurdish Workers Party (PKK), who had been attempting to enter Syria.
3. More than 2.7 million Syrians resided in Turkey, 270,000 of whom were in temporary protection centres, where they received services including education, psychological support and vocational training. Those outside the centres also received health and education services and had been granted access to the labour market, despite the already high unemployment rate affecting Turkish citizens. Education for Syrian children was a priority that required the assistance of the international community.
4. In partnership with the Turkish Red Crescent Society and the United Nations, Turkey provided protection and assistance to Syrians at cross-border camps. The Turkish Coast Guard had rescued almost 92,000 migrants in 2015, and its operations in the Mediterranean and Aegean Seas were ongoing, at a cost to the State party of €5 million per month. Efforts to prevent undocumented migration and dismantle migrant smuggling networks had been intensified through the establishment of specialist departments within the Ministry of the Interior, resulting in the rescue of more than 65,000 undocumented migrants so far that year and the detention of 53 migrant smugglers.
5. Under the agreement between Turkey and the European Union, one Syrian refugee was admitted to the European Union, via Greece, for every undocumented migrant who was returned to Turkey. The agreement was implemented with help from the Office of the United Nations High Commissioner for Refugees, and special consideration was given to particularly vulnerable persons. Consequently, the average number of migrants arriving in Greece each day had dropped from more than 6,000 in October 2015 to fewer than 100 in April 2016. However, action by the international community was required to prevent migrant smugglers from circumventing the new measures. Syrians who were returned to Turkey could apply for temporary protection; applications were reviewed on a case-by-case basis. Migrants of other nationalities were dealt with under the Law on Foreigners and International Protection.
6. **Mr. Demir** (Turkey) said that interviews and medical examinations of foreigners admitted to the country, including Syrians, were undertaken, and they had access to psychologists, interpreters, and health professionals. Those whose application for asylum or international protection had been rejected or who had been placed in administrative detention could lodge an appeal with the courts and remain in the country until the appeal process had concluded. International protection decisions could also be appealed through a special committee tasked with assessing those rulings.

7. The administrative detention of persons applying for international protection was an exceptional measure that could be appealed before a magistrate. Applications could also be made to amend deportation conditions; in that case, foreigners could remain in Turkey until proceedings were completed. If a deportation decision was upheld, the person was required to leave the country within a time frame of between 15 and 30 days, with the exception of persons who posed a flight risk or who had violated entry regulations, who were transferred to removal centres.
8. Syrians who were returned to Turkey benefited from the principle of non-refoulement. If they wished to return to Syria voluntarily, documentation attesting to that fact must be signed by them and by a representative of the Office of the United Nations High Commissioner for Refugees, the Turkish Red Crescent Society or an NGO.
9. Unaccompanied minors were protected by law and dealt with by the Ministry of Family and Social Policies, which placed them with suitable foster families or their relatives. If there was doubt as to a person's age, they were treated as a minor until the Governor's Office had completed an investigation. If that investigation proved inconclusive, they were accepted as a minor. Undocumented migrants aged over 16 were housed in removal, reception or accommodation centres. Unaccompanied minors were not deported. Where possible, siblings were kept together and minors were not moved between different accommodation facilities.
10. The General Directorate of Migration Administration had sent 25 migration experts to Greece to observe the evaluation of refugees. The Kırklareli removal centre, where migrants were housed on their return to Turkey, was staffed by psychologists, psychiatrists and social workers, and a medical report was issued whenever an individual entered or exited a removal centre.
11. **Mr. Çarıkçı** (Turkey) said that the General Directorate of Migration Administration was a civilian body. The €3 billion given to Turkey as part of its agreement with the European Union would be used solely for projects aimed at Syrians. Those included education services for children, which were provided in Arabic and followed the Syrian curriculum. All services for Syrians were provided in Arabic.
12. The racist and Islamophobic portrayal of the migration and refugee crisis as a security and ideological threat, and the tendency to refer to displaced persons as "refugees" while they were in Turkey and "migrants" once they were in Europe, were concerning and should be combated. The crisis reflected broader global inequality that must be addressed. Few States had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and an "à la carte" approach to the ratification of treaties should be discouraged.
13. **Ms. Kural** (Turkey) said that the geographic limitations of the Convention relating to the Status of Refugees continued to apply to Turkey. As such, citizens of non-Member States of the Council of Europe were not granted asylum, but were granted residence until their admission to a third country through a process managed by the Office of the United Nations High Commissioner for Refugees.
14. **Mr. Çarıkçı** (Turkey), quoting François Crépeau, Special Rapporteur on the human rights of migrants, said that migrant smuggling could be reduced by international efforts to provide "regular, safe and cheap mobility solutions".
15. It was untrue that the State party had failed to take action regarding disappearances. The Working Group on Enforced or Involuntary Disappearances had recently visited Turkey and met with relatives of disappeared persons, civil society organizations and lawyers, as well as the authorities. It had been given information concerning legislation on enforced and involuntary disappearances, the decrease in complaints of disappearances

relating to political issues and the judicial proceedings launched by independent courts investigating disappearances in the 1980s and 1990s. The authorities had also highlighted the work being done to accede to the International Convention for the Protection of All Persons from Enforced Disappearance.

16. The allegations of the disappearance of migrants and refugees in Turkey made by NGOs had not been supported by evidence or raised by the Working Group during its visit. Complaints of missing persons in Cyprus were being investigated by the Committee on Missing Persons, with the active cooperation of the State party, and therefore fell outside the remit of the Committee against Torture.

17. **Ms. Soylu** (Turkey), recalling the history of missing persons in Cyprus, said that most of the missing Turkish Cypriots were civilians, while the missing Greek Cypriots were largely military personnel. The tripartite Committee on Missing Persons (CMP) had been set up in 1981 under the auspices of the United Nations. The original mandate to investigate and determine the fate of all persons missing since 1963 had later evolved to include the excavation, identification and return of remains to families. The Secretary-General of the United Nations had stressed the importance of preventing external interference in the work of CMP, which was responsible for the search phase. Turkey continued to be a staunch supporter of CMP, sharing the tips it received about possible grave sites and allocating funds. In addition, in 2015, Turkey had granted access to all military zones in the north of the island after credible information emerged regarding the location of remains. Providing a statistical overview of exhumation efforts, she said that 2015 had been a particularly successful year and that the remains of nearly one third of the missing on both sides had been identified. The Committee on Missing Persons was expected to complete its work in three years.

18. The criminal investigation phase, which the European Court of Human Rights and the Committee of Ministers of the Council of Europe considered to be progressing well, was carried out by the Missing Persons Unit under the supervision of the Attorney-General's Office. The Unit had concluded its investigation in the cases of 170 missing Greek Cypriots. The families received a copy of the report which described the steps taken in the investigation and contained all available information on the circumstances of disappearances. Regarding the Vanarva case, she reported that the remains of two of the nine missing persons had been found, identified and returned to their families.

19. **Mr. Çarıkçı** (Turkey), referring to concerns raised about counter-terrorism efforts and curfews, stressed that all political and legal channels for the exercise of rights were open; therefore, there was no justification for resorting to arms. The Kurdish Workers Party (PKK), which was internationally recognized as a terrorist organization, was responsible for derailing the peace process. Painting a vivid picture of the acts committed by PKK since July 2015 and their impact on the civilian population, he said that the counter-terrorism operations by the security forces were designed to restore public order and protect civilians and property. In the context of those operations, the State drew on various international instruments in order to safeguard human rights and paid the utmost attention to differentiating between terrorists and civilians, preventing loss of civilian life and meeting the emergency needs of the population. Victims of terrorism could obtain compensation from the State.

20. Curfews were declared for a limited period of time and only where necessary to protect civilians. During curfews, the population had access to all essential public services; packages of food, milk and diapers were distributed, and electricity and water continued to be supplied without interruption. The Constitutional Court had found curfews to be lawful, and the European Court of Human Rights had dismissed applications to lift the curfews imposed in some cities. Health-care services continued to be provided 24 hours a day, despite attacks against personnel, vehicles and facilities. The Ministry of Health had

deployed thousands of additional medical staff to the south-eastern regions. Wounded terrorists were entitled to medical treatment.

21. **Mr. Toker** (Turkey), stressing that it was vital to strike a balance between freedom and security, said that Turkey was trying to fight terrorism without declaring a state of emergency. Given that, under the law on local administrations, governors were responsible for ensuring public order, they had the authority to take measures to that end, including the imposition of curfews. The purpose of curfews was to ensure that civilians were not injured during antiterrorism operations and were not used as human shields by terrorists. Regarding persons killed in clashes, he said that everyone was treated with the utmost dignity, including terrorists. The first step was to complete an autopsy and determine identity; then the body was released to the family on the authorization of the public prosecutor. In cases where there were no next of kin or the family refused to take the body, the remains were sent to the local administration for burial.

22. The bill on the establishment of a law enforcement monitoring commission foresaw the commission as an independent body designed to ensure that allegations of ill-treatment at the hands of law enforcement officers were not investigated by the police itself but by external inspectors. The relationship between the Ministry of the Interior and the commission would, as in other European Union countries, be limited to oversight by senior ministry officials. The commission's tasks would include monitoring administrative investigations, requesting the initiation of investigations and keeping the public informed. It would work in partnership with non-governmental organizations and report annually to the Turkish Grand National Assembly.

23. By law, the Turkish Human Rights and Equality Institution was administratively, financially and operationally autonomous and had a monitoring mandate, including with regard to places of detention. Military detention facilities were also subject to oversight; the human rights commission of the Turkish Grand National Assembly had produced reports on its activities in that area.

24. **Mr. Altundaş** (Turkey) said that the Committee's criticisms and advice would encourage Turkey to improve its human rights protection measures. Under previous regulations, law enforcement officers had the authority to stop, search and arrest individuals, as well as use weapons in the event of a terrorist attack. After studying practices in certain European Union countries, new security regulations had been introduced whereby the decision to detain a person rested with the prosecutor, except when offenders were caught red-handed, in which case law enforcement officers could immediately detain the person, a situation that had occurred fewer than 90 times in the span of one year. An order from a hierarchical superior was necessary to conduct body searches and did not extend to searches of the home or place of business. The police also had the authority to remove persons from a building or area in emergency situations.

25. Informal detention areas were covered by law. All 2,500 places of detention in the country were equipped with closed circuit cameras but not audio recording devices; footage was kept for 30 days. Detainees underwent a medical examination when taken into custody and upon release. It was untrue that allegations of ill-treatment by law enforcement officers were not investigated. Claims were systematically looked into, and disciplinary sanctions, including suspension, were applied.

26. **Mr. Ulutaş** (Turkey) said that no one was imprisoned or detained simply for being a journalist. Of the individuals mentioned by Ms. Gaer in the first half of the dialogue (CAT/C/SR.1406), only three held press cards. For example, Nedim Oruç was a computer specialist and had been imprisoned on terrorism charges. In the case of the incident at Uledere, the counsel for the victims had petitioned the Constitutional Court but, having failed to submit the required documents on time, no proceedings had been initiated. Three

suspects had been convicted and imprisoned in connection with the attack on the bookstore in Şemdinli. The case of Hrant Dink was before the 14th Assize Court, and the administrative investigation into the incidents during demonstrations in Hopa and Ankara in 2011 was ongoing.

27. Regarding the presence of health-care staff in prisons, he said that there was one psychologist per 450 inmates, that centres with permanent medical staff had been set up in 73 prisons and that 5 prisons had an adjoining hospital. Persons serving life sentences were given opportunities to socialize, and F-type prisons satisfied European standards. Both judges and prosecutors performed their duties independently and impartially.

28. The age of legal capacity was 12; however, all persons were considered minors until they turned 18. All accused persons were subject to psychological assessment to determine whether they understood the offence that they had been accused of committing.

29. NGOs were involved in social and cultural activities in prisons. The Ministry of Justice had a centre whose aim was to provide support to victims of torture, and work had started on a bill that would result in additional improvements to the rehabilitation services on offer. Turkey had paid the compensation ordered by the European Court of Human Rights in the case *Gülşay Çetin v. Turkey*. Article 94 of the Criminal Code contained a reference to the Convention against Torture, and the Convention had been incorporated into the domestic legal framework.

30. One person had died in police custody in 2014, two in 2015 and one from the start of January 2016 to date. Forty-three persons had committed suicide in prison in 2015. Rehabilitation programmes had been put in place to prevent suicide among convicted prisoners, who were allowed access to psychologists and social workers. Six members of the staff of Pozantı Prison had been given warnings, and four others had been reprimanded. Cases against the 34 persons accused of abusing their authority were pending. Every two months, correctional facilities in Turkey were visited by monitoring units whose members included representatives of NGOs, and the reports produced by those units were among the sources relied on by the Ministry of Justice to initiate investigations.

31. Plans had been made to increase the capacity of the country's correctional facilities in order to ease overcrowding. The use of alternatives to prison sentences was also growing. Pretrial detainees accounted for some 14 per cent of the prison population. New prisons had been built in Gaziantep and Şanlıurfa. In Turkey, single-occupancy cells were 12 metres square, and prisoners in multiple-occupancy cells were entitled to 6 square metres each. Allegations of ill-treatment made against 11 officials from the Sincan juvenile facility had been investigated, but the investigation had found that no penalties were warranted.

32. The police officers accused of the killings of Ahmet Kaymaz and his son could not be retried for a crime that they had already been acquitted of. Abdullah Öcalan had never been subjected to ill-treatment by the Turkish authorities, as had been confirmed on two occasions by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which had visited him in 2010 and 2013. He was imprisoned with three other prisoners.

33. **Mr. Demiral** (Turkey) said that solitary confinement was no longer in use in military prisons. It had been replaced by more effective alternatives. Investigations were conducted into any deaths of detainees in military custody. Where there were no military courts, the investigations were conducted by civilian prosecutors. Civilians were no longer tried in military courts.

34. **Mr. Çadır** (Turkey) said that the country's ongoing efforts to combat violence against women included a study, carried out in 2014/15, of the impact of Act No. 6284 on the Protection of the Family and the Prevention of Violence against Women, which had

entered into force in 2012. The National Action Plan on Combating Violence against Women had been updated for the period 2016-2019. Centres providing violence-prevention services, open at all times, had also been set up. The number and capacity of women's shelters had increased considerably in the past five years. The "ALO 183" toll-free hotline was accessible around the clock.

35. Police officers, health-care personnel, officials from the justice system and other persons involved in the provision of services to female victims of violence had received appropriate training. The Ministry of Family and Social Policies and the Ministry of Defence cooperated to train thousands of non-commissioned officers and new military recruits in matters relating to protection of the family.

36. **Mr. Çetin** (Turkey) said that physicians were not punished for examining detainees on their own initiative. Training on the effective investigation and documentation of torture had been given to forensic specialists and physicians attached to the Ministry of Health. The courses, which were also made available to family doctors on distance-learning platforms, were ongoing. Medical records were confidential, and health-care personnel were under no undue pressure to refrain from reporting suspicions of ill-treatment or torture.

37. **Mr. Bruni** (Country Rapporteur) said that he would welcome more information on the methods used by the State party to process vulnerable asylum seekers. He wondered, for instance, whether such persons had real access to legal counsel and whether the unaccompanied minors placed in removal centres were ultimately removed as they had come — namely, unaccompanied. A comment from the delegation on recent reports that asylum seekers from the Syrian Arab Republic were encouraged to return to their country would also be welcome.

38. Questions remained about the independence of the Turkish Human Rights Institution, whose members were evidently appointed by the Executive. Would it, for example, be authorized to make unannounced visits to places of detention? He enquired about the more effective measures that had replaced solitary confinement in military prisons. He would welcome a comment from the delegation on reports of ill-treatment in police vehicles and on recent allegations of degrading treatment, including solitary confinement, in Tekirdağ Prison. A comment on the State party's use of solitary confinement for up to 20 days, or 5 more than the maximum provided for by the United Nations Standard Minimum Rules for the Treatment of Prisoners, would also be welcome. Lastly, he wished to know whether persons arrested in states of emergency or under martial law could be held indefinitely before being brought before a judge and whether there was a reason for placing imprisoned terrorism suspects under 24-hour digital surveillance.

39. **Ms. Gaer** (Country Rapporteur) asked whether she had understood correctly that none of the alleged cases of enforced disappearance reviewed by the Attorney General's Office had led to a prosecution. Could the delegation elaborate on any steps taken by the State party to ensure criminal accountability for enforced disappearances?

40. She said that the delegation's replies to her questions about the imprisonment on terrorism-related charges of journalists and human rights defenders appeared to suggest that the State party viewed the dissemination of criticism of the conduct of its counter-terrorism measures as something akin to terrorism. In that connection, she wished to know what the basis for the charges of terrorism against the Kurdish journalist Nedim Oruç was. She would welcome a reply to her earlier question as to whether the State party was taking any measures to ensure an independent review of the cases of the 20 human rights defenders who were currently on trial or appealing sentences.

41. She asked what steps had been taken to ensure that the imposition of strict curfews did not cause pain or suffering to the general population or restrict access to emergency health-care services. Updated information regarding the investigations into the use of

excessive force by police officers in Cısize and Solopi would also be welcome, including the disciplinary measures handed down to persons found guilty of such acts. Similarly, she wished to know what measures had been taken to effectively investigate the attack on the *Hürriyet* newspaper and the murder of journalist Hrant Dink. It would also be interesting to learn whether the State party had adopted formal regulations explicitly authorizing civil society representatives and human rights organizations to undertake independent, unannounced visits to prisons.

42. Following the Special Rapporteur on the human rights of migrant's visit to the country in 2012, she asked what steps had been taken to address the weaknesses identified in the national migration system and uphold the principle of non-refoulement. She also wished to receive updated information on the whereabouts of Abdullah Öcalan, a human rights defender, who had been detained on charges of terrorism. Noting the high number of countercharges brought against victims of alleged torture and ill-treatment, she asked what measures had been taken to prevent such acts. Further information regarding the fines issued to the Human Rights Foundation of Turkey would also be welcome. Lastly, she wished to know what steps had been taken to prosecute perpetrators of torture under article 94 of the Criminal Code and prevent violence against women in prisons, including strip searches and sexual harassment.

43. **Ms. Belmir** said that she would like to know what steps had been taken to clearly define the maximum length of custody in domestic legislation. She also wished to know whether the State party intended to withdraw its geographical limitation to the 1951 Convention relating to the Status of Refugees, which provided that only persons fleeing events in Europe were eligible for refugee status in the country.

44. **Mr. Hani** asked whether the Government intended to inform the Secretary-General of the United Nations of its new Law on Foreigners and International Protection, in accordance with article 36 of the 1951 Convention. Similarly, he wished to know what steps had been taken to strengthen coordination and cooperation between the Turkish Human Rights Institution and other national institutions. It would also be interesting to learn how many victims of torture had benefited from the national rehabilitation fund. In that connection, he wished to know why the State party had ceased contributing to the United Nations Voluntary Fund for Victims of Torture.

45. **Mr. Heller Rouassant** said that he would be interested in hearing the delegation's comments about the main human rights challenges facing the country.

46. **The Chair** asked what policies had been adopted to ensure that signs of torture were documented as a matter of urgency under current health-care provisions.

47. **Mr. Çarıkçı** (Turkey) said that the Government could not have predicted the current refugee situation facing the country when it ratified the 1951 Convention. As to the treatment of national minorities, numerous measures had been taken to support the Kurdish communities living in the country. In 1988, hundreds of thousands of Kurds had fled Iraq and found refuge in Turkey and, more recently, numerous Kurdish refugees from Kobane in Syria had been welcomed. As to the United Nations Voluntary Fund for Victims of Torture, Turkey had, in fact, increased its overall contributions to the Office of the United Nations High Commissioner for Human Rights (OHCHR), but its contributions were no longer earmarked.

48. **Mr. Demir** (Turkey) said that cameras had been installed not only in antiterrorism units, but also in other places of detention. They did not have audio recording functions and were used to safeguard detainees. Pursuant to the Criminal Code, persons deprived of their liberty must be brought before a judge within 24 hours for ordinary offences and 48 hours for collective offences. No distinction was made between terrorist and other offences.

Domestic legislation also provided that detainees must be brought to a detention centre within 12 hours.

49. The general public could bring charges against demonstrators who had damaged their property or belongings, but the number of persons to do so had remained very low. Victims of excessive use of force or violence by the police or security forces could also request reparations from the State.

50. Many human rights organizations and institutions such as the Office of the United Nations High Commissioner for Refugees (UNHCR) had been consulted during the drafting of the Law on Foreigners and International Protection. It was one of the most modern and visionary pieces of legislation in the world. The 15-day period mentioned by Committee members referred to the time frame during which failed asylum seekers could appeal their case. Lawyers were appointed to such persons where appropriate. Unaccompanied minors were not sent to removal centres, but were held in facilities run by the Ministry of Family and Social Policies. Once they reached the age of 18, they were subject to the same procedures as adults. The Government fully upheld the principle of non-refoulement and persons from Afghanistan, Eritrea and the Republic of the Sudan were not sent back to their countries of origin under any circumstance.

51. **Mr. Ulutaş** (Turkey) said that the appointment of members to the Human Rights and Equality Institution would be fully independent and impartial. There were no provisions for solitary confinement in military prisons. As to the death of Hrant Dink, some positive developments had been noted and the Constitutional Court was currently reviewing the case. A decision was expected shortly.

52. **Mr. Çarıkçı** (Turkey) said that his country had been subjected to unfounded accusations by certain groups, which had sometimes bordered on outright lies. The Government would continue to make concerted efforts to tackle terrorism and prevent the deaths of civilians, but would not condone violence under the pretext of promoting human rights. It remained fully committed to upholding the provisions of the Convention and would duly consider the recommendations made by the Committee.

*The meeting rose at 6.05 p.m.*