



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

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**Committee against Torture**

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

**Second periodic reports of States parties due in 2015**

**Turkmenistan\* \*\***

[Date received: 16 July 2015]

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- \* The initial report of Turkmenistan appears in document CAT/C/TKM/1; it was considered by the Committee at its 994th and 997th meetings, held on 17 and 18 May 2011 (CAT/C/SR.994 and 997). For its consideration, see the Committee's concluding observations (CAT/C/TKM/CO/1).
- \*\* The present document is being issued without formal editing.

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## I. Introduction

1. Turkmenistan acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”) in April 1999 (Mejlis (parliament) Decision No. 372-1 of 30 April 1999 on accession). In accordance with article 19(1) of the Convention, in January 2010 Turkmenistan presented its initial report on the measures taken to give effect to the commitments that it had undertaken under that instrument.
2. This report is submitted in accordance with article 19 (1) of the Convention, the general guidelines regarding the form and content of periodic reports to be submitted by States parties, and the concluding observations (CAT/C/TKM/CO/1) presented by the Committee against Torture on the basis of dialogue held with the Turkmen delegation on 17–18 May 2011.
3. This report covers the period 2011–June 2015; contains information on key legislative, judicial, administrative, practical and other measures which have been taken since the country’s first periodic report (CAT/C/TKM/1), submitted in 2011; and addresses the above concluding observations, adopted after consideration of the first report.
4. The report was drawn up by the Interdepartmental Commission on Compliance with the International Obligations Undertaken by Turkmenistan in the Field of Human Rights and International Humanitarian Law. The information used was obtained from the ministries and departments concerned.
5. The Interdepartmental Commission held a number of interdepartmental meetings and consultations with international experts invited by United Nations agencies. The draft report was circulated to ministries, departments and voluntary organizations, and their comments and wishes were taken into account in the preparation of the final draft.
6. The draft report was submitted for coordination and discussion to a round table, in which representatives of the Interdepartmental Commission took part. Observations and proposals were taken into account in the process of finalizing the report.

## II. Information on the implementation of articles 1–16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, including information relating to the concluding observations of the Committee (paragraphs 7-198)

7. Turkmenistan is successfully reforming its national legal system under the direct supervision of President Gurbanguly Berdimuhamedov, Head of the State.
8. A constitutional commission on the improvement of the Constitution was set up with a view to strengthening the foundations of the rule of law, promoting democratization in State activities and in public life, ensuring all-round protection of human and civil rights and freedoms, improving the system of government authority and enhancing State independence. The Commission’s tasks and main goals were defined by the President of Turkmenistan at its first meeting, held on 6 August 2014.
9. At a regular meeting of the Commission, held on 28 May 2015 and chaired by the President of Turkmenistan, the steps taken towards improving the Constitution were reviewed, the reports of the members of the Commission were heard and the tasks ahead were outlined.

10. As noted by the President of Turkmenistan, the current constitutional reforms must reflect the best practices encountered worldwide and the accumulated experience acquired in the framework of the national development model. In drawing up national legislation, priority should be given to the universally recognized standards of international law. Reference was made to the importance of studying thoroughly the consequences of proposals aimed at the promotion of human and civil rights for the Constitution, and to the need for further work towards such promotion.

11. Under article 3 of the Constitution, the human being is the paramount value of society and the State. At the constitutional level, the State guarantees equal enjoyment of human and civil rights and freedoms, and the equality of all persons and citizens before the law regardless of ethnic background, race, gender, property or employment status, place of residence, language, views on religion, political convictions, party affiliation or lack thereof.

12. Work is currently under way on the improvement of national legislation and on its alignment with universally recognized international standards. During the period covered by the report, Turkmenistan achieved considerable progress in meeting its obligations under the Convention in terms of combating torture and other cruel, inhuman or degrading treatment or punishment. Efforts are made to humanize the country's existing criminal legislation.

13. The new version of the Criminal Code, adopted on 10 May 2010, embodies the views of the President of Turkmenistan on humanizing criminal law by ceasing to consider a number of offenses as criminal and classifying them as administrative. Such offences involve, inter alia, battery, negligence causing moderate harm to health, slander and insult.

14. The decriminalization process continues. Thus, offences were decriminalized in November 2013 through amendments to Criminal Code provisions on liability for, inter alia, violations of industrial safety standards and unfair refusal to hire or dismissal of pregnant women.

15. Other amendments to the Criminal Code have introduced such types of punishment as, in particular, restrictions on liberty or alternatives to deprivation of liberty, thereby making it possible to avoid isolating convicted offenders from society and to facilitate their rehabilitation.

16. In the Criminal Code which entered into force on 1 July 2010, the penalties provided for in a number of articles, and imposed by the courts, have been changed from various forms of detention to other types of punishment, which do not involve deprivation of liberty.

17. Former articles 112, 118 and 133 of the Criminal Code have been transferred to the Code of Administrative Offences, while liability for negligence causing moderate harm has been removed from certain articles (Act of 9 November 2013 on additions and amendments to the Criminal Code).

18. The Act of 4 August 2012 on amendments and additions to the Criminal Code added article 182, defining torture and establishing criminal liability for its use. That definition is in line with the definition of torture contained in the Convention and with paragraph 8 of the concluding observations of the Committee.

19. Under article 182 of the Criminal Code, torture, namely any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person, by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity, for such purposes as obtaining from the person, or from a third person, information or a confession, punishing the person for an act he or she or a third person has committed or is suspected of having committed, or intimidating or

coercing him or her or a third person, or for any reason based on discrimination of any kind. Such acts are punishable by deprivation of liberty for 3–8 years, with forfeiture of the right to occupy certain posts or engage in certain activities for up to 3 years.

20. The acts specified in paragraph 1 of the above article are punishable by deprivation of liberty for 5–10 years, with forfeiture of the right to occupy certain posts or engage in certain activities for up to 3 years, if those acts are committed:

- (a) Against women, minors or persons with manifest signs of disability;
- (b) Against an individual known to the perpetrator to be in a vulnerable state or by taking advantage of the victim's defenceless condition;
- (c) Against two or more persons;
- (d) By two or more persons without prior agreement, or by a group of persons with prior agreement;
- (e) Against a person or members of his or her family in connection with the performance of his or her official or public duties;
- (f) With the use of a weapon or special equipment (objects, devices, implements etc.);
- (g) During a war or threat of war, internal political instability or other emergency or military situations.

21. If they result, through negligence, in the death of the victim or other grave consequences, the acts specified in paragraphs (a) and (b) of the above article are punishable by deprivation of liberty for 8–15 years, with forfeiture of the right to occupy certain posts or engage in certain activities for up to 3 years.

22. No criminal liability is incurred for inflicting severe pain or physical or moral suffering through lawful actions (including legitimate self-defence).

23. Thus, the definition of "torture" in Turkmen legislation fully corresponds to the definition formulated in article 1 of the Convention.

24. Turkmenistan takes effective measures for the prevention of acts of torture and cruel treatment throughout the national territory. The forms and methods of action taken by the relevant units of special institutions with a view to the prevention of the use of torture and cruel treatment on persons serving sentences of deprivation of liberty are being improved. Primarily, the officials' obligation to comply with the established rules of the penal enforcement system has been reinforced and the supervision of operational and educational activities among special categories has been strengthened.

25. Since the above article was adopted, no cases involving offences of the type concerned have been examined by the courts.

26. Turkmen legislation guarantees protection against torture and other cruel, inhuman or degrading treatment or punishment. Article 23 of the Constitution prohibits the use of torture or other cruel, inhuman or degrading treatment or punishment. Those rules are enshrined in the sectoral legal and regulatory provisions.

27. Under article 6 of the Internal Affairs Agencies Act (21 May 2011), internal affairs agencies ensure equality among all persons and citizens with respect to rights and freedoms and the protection of their life, health, honour, dignity, rights, freedoms and legitimate interests regardless of ethnic background, race, gender, property or employment status, place of residence, language, views on religion, political convictions, party affiliation or lack thereof.

28. Internal affairs agencies may not restrict civil rights and freedoms, except in cases provided for by the Act. Citizens are entitled to demand from internal affairs staff an explanation for such restrictions.

29. Where necessary, internal affairs agencies ensure immediate provision of medical and other assistance to detainees and remand prisoners, and take measures to avert threats to the life, health or property of any individual concerned by the detention of the persons in question.

30. Under article 50 of the Procurator's Office Act (15 September 2009), procurators monitor the application of the law by internal affairs agencies in places of detention and remand in custody as regards the enforcement of sentences and other coercive measures ordered by the courts.

31. In carrying out such monitoring, a procurator, within the limits of his or her competence, shall:

(a) Visit methodically, at any time, the bodies and institutions specified in article 49 of the Act and have unhindered access to all of their facilities;

(b) Collect statements from persons arrested, detained, convicted or subjected to coercive measures;

(c) Inspect the documents forming the basis for detention, administrative arrest, remand in custody, enforcement of a sentence of deprivation of liberty or other penalties or coercive measures;

(d) Decide the release of persons illegally held in detention centres, prisons or other institutions where penalties or other coercive measures are enforced, or persons subjected in violation of the law to pretrial or other detention, except where such measures are imposed by judicial authorities;

(e) Check whether the decisions and orders of the administrations of the institutions referred to in article 49 of the Act comply with Turkmen legislation on detention procedures and conditions; and, in the event of non-compliance, suspend or challenge the measures concerned or demand explanations from the administration officials;

(f) Monitor compliance with the law regarding the right of persons detained, arrested, remanded in custody, sentenced to deprivation of liberty or subjected to other penalties or coercive measures to submit complaints or statements to the appropriate State bodies, public associations or officials according to established procedure; and, in the event of violation of these requirements by the administration, take the measures prescribed by the legislation;

(g) In the event of non-compliance with the law, cancel any disciplinary penalties imposed on detainees or prisoners and decide their immediate release from the isolation unit.

32. Procurators' orders and demands concerning the enforcement of statutory procedures and conditions for persons placed in detention, remanded in custody or sentenced to deprivation of liberty or other coercive measures and persons placed in psychiatric institutions are binding on the relevant administrations and the bodies responsible for enforcing court judgements with regard to persons sentenced to a punishment not involving deprivation of liberty.

33. The new Penal Enforcement Code, which entered into force on 1 July 2011, takes into account the international norms of the United Nations and the Organization for

Security and Cooperation in Europe (OSCE) as regards criminal sentence enforcement and humane treatment of convicted offenders.

34. In accordance with article 1 of the Code, the application of the country's penal enforcement legislation is based on the generally recognized rules and principles of international law as they relate to the serving of sentences and the treatment of convicted offenders, including strict compliance with the safeguards against torture, violence and other cruel or degrading treatment of convicted offenders.

35. Under article 3 of the Code, persons serving custodial sentences are entitled to humane treatment and respect for their inherent dignity as human beings.

36. Discrimination, on grounds of language, views on religion, political convictions and party affiliation or lack thereof, against convicted offenders serving sentences is prohibited.

37. The State guarantees the protection of the rights, freedoms and lawful interests of convicted persons and ensures that the conditions established by law for the serving of sentences and the application of other corrective measures are met and that social justice is respected.

38. Prisoners have the right to be informed of their rights and obligations and of the terms and conditions in which the sentence handed down by the court is to be served. Upon arrival at a detention facility, they must be informed by the administration, in writing, about the regulations governing the treatment of prisoners, the facility's rules and the procedure for filing complaints.

39. Under article 8 of the Code, convicted persons are entitled to be treated by the staff in a manner that is courteous and aimed at instilling in detainees a sense of personal dignity and responsibility. Detainees must not be subjected to torture or cruel, inhuman or degrading treatment. Regardless of whether or not they have given their consent, prisoners may not be subjected to medical or other experimentation that could constitute a threat to their life or health.

40. Prisoners have the right to submit proposals, claims and complaints to the administration of the penal enforcement facility, its supervising body and other authorities, the courts, the procuratorial service and civil society organizations, and — if all domestic remedies have been exhausted — to international organizations.

41. Prisoners have the right to explain themselves; to address proposals, requests and complaints in their native language or a language in which they are proficient; if necessary, to use the services of an interpreter in accordance with the established procedure; and to receive psychological assistance by the resident psychologist of the detention facility or other qualified individuals.

42. Prisoners have the right to receive pensions and State benefits for disability, temporary loss of capacity to work, birth of a child, child care, and — in the case of working women — pregnancy and childbirth, in accordance with Turkmen legislation.

43. For the purposes of receiving qualified legal assistance, prisoners have the right to use the services of lawyers or other qualified individuals.

44. Foreign prisoners have the right to maintain contact with the diplomatic representation and consular institutions of their country of citizenship. Citizens of countries without such institutions in Turkmenistan and stateless persons have the right to maintain contact with diplomatic representatives of countries that have undertaken to safeguard their interests, or with any national or international bodies that are concerned with their protection.

45. Prisoners with serious physical, mental, intellectual or sensory impairments enjoy the same rights as all other categories of prisoners.
46. There are rules which, taking account of international standards, ensure that disabled detainees, on an equal footing with other convicted offenders, have access to justice, rehabilitation and reintegration in view of their social needs and strictly in line with safeguards for their protection from degrading treatment.
47. Ministers of religious organizations may be invited to visit prisoners at the latter's request. Prisoners may perform religious rites and have and use religious objects and religious literature. Prison administration provides premises appropriate for such purposes.
48. Public associations participate in the reform and rehabilitation of prisoners and in public monitoring of the activities of bodies responsible for penal enforcement.
49. Under article 13(4) of the Code of Criminal Procedure, no parties to criminal proceedings may be subjected to force or cruel or degrading treatment.
50. Under article 14 of the Code, where there are sufficient grounds for thinking that a victim, a witness or other parties to proceedings or members of their families or next of kin are threatened with murder, violence, destruction of or damage to property or any other dangerous unlawful acts, the body conducting the criminal proceedings must take steps within the scope of its competence to protect the lives, health, honour, dignity and property of such persons.
51. Under article 23 of the Code, violence, threats or other illegal methods may not be used to obtain evidence from a suspect, indictee, defendant or other persons involved in a case.
52. Under article 108 of the Code, if there is sufficient information to the effect that, in connection with criminal proceedings, there is a real danger that threats of death, coercion, violence, cruelty, destruction of or damage to their property or other acts punishable under criminal law are committed against victims, suspects, accused persons, defendants, witnesses, experts, specialists or other participants in the case or close relatives of such persons, the body conducting the initial inquiry, the investigator, the procurator and the court must take the measures prescribed by law to protect the life, honour, dignity and property of those persons, ensure their security, and identify and prosecute the perpetrators.
53. Article 227 of the Code prohibits any use in preliminary investigation of violence, threats or other unlawful measures, and any endangerment of the life or health of those involved.
54. Under article 9(4) of the Code of Administrative Offences, which entered into force on 1 January 2014, no one may be subjected to torture, violence or other forms of cruel, inhuman or degrading treatment or punishment during administrative proceedings.
55. Torture is prohibited not only under criminal, criminal-procedure, penal-enforcement and administrative law, but also in other legislation which concerns specific legal relations, such as, in particular, the Internet Regulations and Services Act.
56. In article 29, the above Act specifies requirements for the dissemination of computer and other electronic games among children through the Internet; and prohibits such dissemination if the games realistically depict or simulate inhuman treatment that entails specific physical or mental suffering for human beings (or beings manifestly similar to man) or animals, including torture, torment, mockery and particularly cruel practices involving mutilation or execution.
57. According to the Health Protection Act (23 May 2015), if a citizen disagrees with the findings of a medical expertise, an independent such expertise shall be carried out at his



or her request. The citizen may choose the specialized establishment and the expert that are to perform the independent expertise.

58. Work currently carried out in Turkmenistan to enhance the protection of human rights by independent agencies includes the establishment of a constitutional and legislative basis for the office of the Commissioner for Human Rights (Ombudsman), invested with the power to consider complaints of human rights violations.

59. The draft Act on the Commissioner for Human Rights is being drawn up in the Mejlis, in the light of international experience, by a working group created to that end through a parliamentary decision. The bill will be prepared taking into account the recommendations set forth in the annex to United Nations General Assembly resolution No. 48/134 of 20 December 1993, which establishes the principles regarding international institutions for the promotion and protection of human rights.

60. The above bill provides for an independent review of complaints of human rights violations and for an annual report on the work accomplished. Such principles governing the Ombudsman's activities as transparency, objectivity and impartiality will underpin the relevant provisions of the Act.

61. Under article 7 of the Penal Enforcement Code, the State must guarantee the protection of the rights, freedoms and lawful interests of convicted persons and ensure that the conditions established by law for the serving of sentences and the use of other corrective measures are met and that social justice is respected.

62. In the exercise of their official duties, the following persons may visit places of detention without any special authorization by the institution:

- Procurator General, his or her deputies, duly authorized prosecutors, and other prosecutors specifically monitoring compliance with the law in the enforcement of criminal sentences in a specific locality;
- Officials of high-level prison authorities;
- Court officials and other individuals participating in court cases in the vicinity of the detention facility;
- Provincial, district or municipal governors in their respective localities;
- Members of supervisory and other committees responsible for monitoring the activities of detention centres in their respective localities.

63. Lawyers and other individuals who are entitled to provide legal aid and have been retained by detainees have the right to visit them in prison in accordance with agreements on legal aid concluded as prescribed by national law.

64. Representatives of civil society organizations that monitor the work of the authorities responsible for the enforcement of penalties may visit detention facilities, as prescribed by national law (article 20 of the Penal Enforcement Code).

65. Members of the diplomatic and consular institutions of foreign States and international organizations may visit prisoners, as prescribed by national law.

66. Filming, photographing and video recording of detainees and the conduct of interviews with them, including with the use of sound or video recording, may be authorized by the prison administration or the relevant regulatory body, with the written consent of the detainees concerned.

67. To avoid causing harm to a juvenile offender through unnecessary publicity or damaging his or her reputation, the administrators of juvenile detention facilities are obliged to guarantee the minor's right to confidentiality. Filming, photographing and video

recording of juvenile offenders and any interviews with them, including with the use of audio or video recording, may be permitted only if they so desire and upon receipt of the informed consent of the minor concerned or his or her parents or legal representatives. No information, including images, that may reveal a juvenile offender's identity may be published.

68. Filming, photographing and video recording of installations guaranteeing the security of the detention institution and the safety of the detainees may be allowed by permission of the prison administration or the relevant regulatory body (article 21 of the Penal Enforcement Code).

69. Under article 8 of the Penal Enforcement Code, prisoners have the right to submit proposals, claims and complaints to the administration of the penal enforcement facility, its supervising body and other authorities, the courts, the procuratorial service and civil society organizations, and — if all domestic remedies have been exhausted — to international organizations.

70. Foreign prisoners have the right to maintain contact with the diplomatic representation and consular institutions of their country of citizenship. Citizens of countries without such institutions in Turkmenistan and stateless persons have the right to maintain contact with diplomatic representatives of countries that have undertaken to safeguard their interests, or with any national or international bodies that are concerned with their protection.

71. Under article 9 of the Code, prisoners are entitled to personal security. If his or her personal security is threatened by other prisoners or other persons, a prisoner may request any official of the penal establishment to ensure such security. That official must then without delay take measures to that effect.

72. At the prisoner's request or on his or her own initiative, the head of the penal establishment must decide to have the prisoner transferred to a safe place and take any other measures to prevent the commission of an offence against the prisoner.

73. Prisoners may submit proposals, statements and complaints, including on issues involving violations of their rights or legitimate interests.

74. Prisoners' proposals, statements or complaints may be submitted orally or in writing and must be examined without delay by the administration of the penal enforcement authority.

75. Proposals, statements and complaints from prisoners in a military penal enforcement section are forwarded to the recipient by the administration of the penal enforcement authority. Offenders convicted to other types of sentences transmit proposals, statements and complaints independently.

76. Prisoners' proposals, statements and complaints about decisions or actions of prison administrations and penal enforcement authorities do not have suspensive force. If such a proposal, statement or complaint is evidently well-founded, the official examining it must suspend the decision or action should such suspension lie within his or her powers, or propose such suspension to an official having the necessary authority.

77. Prison administrations and penal enforcement authorities receiving proposals, statements or complaints from prisoners must examine them within the prescribed period and communicate the decision taken to the prisoner concerned.

78. As a party to the Convention, Turkmenistan must prevent other acts involving cruel, inhuman or degrading treatment or punishment that do not come under the definition of torture contained in article 1 of the Convention.

79. Under Turkmen law, members of law enforcement agencies who subject persons involved in criminal proceedings to torture or mockery with a view to obtaining evidence shall be held responsible for their acts.

80. Thus, article 197 Criminal Code provides for liability in the case of any procurator, investigator or person conducting an inquiry who uses threats, blackmail or other illegal acts to coerce a suspect, accused person, victim or witness into giving evidence or an expert into giving an opinion. Combination of such acts with the use of violence or mockery concerning the victim's personality constitutes an aggravating factor.

81. The Criminal Code stipulates criminal liability for other forms of cruel, inhuman or degrading treatment or punishment in, inter alia, articles 126 (Abduction), 129 (Unlawful deprivation of liberty), 129 (Human trafficking), 130 (Hostage-taking), 162 (Coercing a woman into, or preventing one from, entering into marriage), 182 (Exceeding of authority) and 203 (Subornation or coercion to give false testimony, expert opinions or inaccurate interpretations). Thus, Turkmenistan consistently meets its obligation to ensure compliance with the Convention's requirements. Turkmen legislators are constantly attentive to that task.

### **Information with respect to paragraph 7 in section C of the concluding observations**

82. Training, retraining and skills upgrading for personnel of internal affairs agencies is regulated by service provisions adopted by the Presidential Decision of 4 July 2006 and Minister of Internal Affairs Order No. 66 of 3 March 2015 approving instructions for initial training, enhancement of professional skills and retraining of internal affairs personnel.

83. The Ministry of Internal Affairs has its own educational institutions — the Ministry of Internal Affairs Institute and a training centre for upgrading the skills of internal affairs staff — where trainees, in addition to professional qualification subjects, are taught international law and international human-rights standards.

84. The said Ministry takes steps to ensure that prison personnel are informed about international standards of prisoner treatment so as to promote humane and decent relations with the prisoners.

85. The following are some of the international instruments studied in training sessions organized on an ongoing basis with a view to improve the prison workers' professional qualifications and knowledge in the area of human rights: Standard Minimum Rules for the Treatment of Prisoners; Basic Principles for the Treatment of Prisoners; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; United Nations Rules for the Protection of Juveniles Deprived of Their Liberty; Code of Conduct for Law Enforcement Officials; Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; and the Convention.

86. Turkmenistan cooperates with the International Organization for Migration (IOM) in the framework of a series of 23 joint projects to be implemented in 2015 by the Government in cooperation with the IOM delegation in Turkmenistan and covering three main areas, including a programme for combating human trafficking and assisting migrants. The following activities have taken place under that programme since January 2015:

- A working group, including representatives of relevant ministries, departments and public organizations and associations, was set up to develop a national action plan for combating human trafficking;
- On 10–15 February 2015, a study tour on best practices against human trafficking was organized in Vienna for the members of the working group;
- On 8–9 April 2015, training was provided in Ashkhabad to Turkmen public organizations and associations in order to build their capacities in the areas of dealing with migration and human trafficking;
- On 27 April 2015, the working group met in Ashkhabad;
- On 13–14 May 2015, a regional seminar took place in Ashkhabad regarding the identification of human trafficking victims. The seminar was attended by representatives of the law enforcement agencies of the Russian Federation, the United Arab Emirates, Turkey, Kazakhstan and Azerbaijan.

87. Turkmenistan cooperates with the International Committee of the Red Cross (ICRC) in the framework of a relevant cooperation plan for 2015, which includes 19 projects covering the following three basic areas:

- Implementation of international humanitarian law;
- Cooperation with the national Red Cross society;
- Cooperation in the area of prison systems.

Since January 2015, the following activities have been carried out through cooperation in the area of prison systems:

- Round table on issues related to tuberculosis in prisons, held on 26 February 2015;
- On 8 April 2015, technical consultation with the Ministry of Internal Affairs on a memorandum of understanding between the Government ICRC on cooperation and humanitarian activities regarding persons deprived of liberty.

88. A series of joint projects to be carried out in 2015 by the Government in cooperation with the OSCE centre in Ashkhabad includes a training trip for representatives of Turkmen law enforcement agencies to study and acquaint themselves with the prison system of an OSCE member State and a week-long workshop to be held in November 2015 on international standards and principles of ethics, for prison workers from all of the country's regions.

### **Information with respect to paragraph 9 (b) in section C of the concluding observations**

89. Chapter 49 of the Code of Criminal Procedure lays down legal safeguards designed to protect the rights of juvenile delinquents.

90. Under article 507 of the Code, the provisions of that chapter apply to persons under 18 at the time of commission of the offence. The procedure concerning cases involving offences committed by minors is determined by the general rules laid down in the Code and by the articles of the above chapter.

91. That procedure does not apply to cases in which:

- Offences committed by the same person before and after attainment of age 18 are combined for examination in the same proceedings;

- The accused reaches attains age 18 before his or her acts are examined by the court.

92. Under article 508 of the Code, during preliminary investigation and judicial proceedings involving minors, with the exception of the conditions specified in article 126 of the Code, special attention must be paid to the:

- Minor's age (date of birth);
- Minor's living conditions and education;
- Causes and conditions contributing to the commission of the offence by the minor;
- Minor's intellectual, emotional and psychological development, special traits of character and temperament, needs and interests;
- Impact of peers and adult instigators on the minor.

93. Where there is evidence of mental deficiency, unrelated to mental illness, of the minor, it must be determined whether the minor fully understands the significance of his or her actions, by inquiring with the minor's parents and teachers or with others that can provide relevant information, seeking the necessary documents and taking other investigative or judicial steps.

94. Under article 509 of the Code, the right of a juvenile suspect, accused or defendant to confidentiality must be respected at all stages of criminal proceedings.

95. Under article 510 of the Code, separate proceedings may be instigated at the pretrial investigation stage, in accordance with article 45 (3) (a) of the Code, for minors who have participated in the commission of a crime together with adults.

96. Where such separation of proceedings may significantly hinder full and thorough elucidation of the case, the rules of the chapter containing the article apply to the minors in question.

97. Under article 511 of the Code, a juvenile suspect, accused or defendant must be summoned before the investigator or the court through his or her parents, other legal representatives or, in their absence, through the agencies of tutorship and guardianship.

98. Minors held in facilities for juveniles or in custody are summoned through the administrative authorities of their locality.

99. Article 512 of the Code lays down the procedure for questioning minors. Thus, in cases involving offences committed by juveniles, a defence lawyer is to be present as of the first time a juvenile is interviewed as a suspect or is accused of having committed a crime and, should he or she be detained or be remanded in custody, until charges are brought. If a minor who is a suspect, accused person or defendant, or his or her legal representative, has not contracted the services of a lawyer, then the investigator, the procurator or the judge must ensure that a lawyer is assigned to the case.

100. It is mandatory for the parents or other guardians of minors who are suspected or accused of an offence, or, in the absence of parents or guardians, representatives of guardianship or tutorship agencies, to take part in the proceedings. They may be present during the proceedings from the first time the minor is questioned, by virtue of a decision issued by the investigator.

101. Once the pretrial investigation is completed, the minor, pursuant to the investigator's decision, is not be given access to the evidence collected if it may adversely affect him or her. The minor's legal representative may have access to the file.

102. The legal representative may be excluded from participation in the case by a reasoned decision of the investigator if there are sufficient grounds to conclude that the

representative's acts are detrimental to the interests of the minor or constitute an obstacle to an objective investigation. In that event, another legal representative may take part in the proceedings.

103. Questioning of a suspect, indictee, or defendant who is a minor takes place in the daytime and may not last longer than two hours without a break or take longer than four hours a day.

104. Under article 514 of the Code, a teacher or psychologist must take part in legal proceedings involving suspects, accused persons or persons undergoing trial who are under 16, or are over 16 years but display signs of mental retardation. In other situations, a teacher or psychologist may participate at the invitation of a detective, investigator, procurator or judge, or upon the request of the lawyer or legal representative.

105. Article 515 of the Code establishes the rights of the minor's legal representative, the teacher and the psychologist.

The legal representative is entitled to:

- Know of what the minor is suspected or with what the minor is charged;
- Participate in the indictment or interrogation of the minor;
- With the permission of the investigator, participate in any other investigative activities in which the underage suspect or indictee and his or her counsel take part;
- Have access to reports on investigative acts in which he or she participates, and formulate written observations as to the exactitude and completeness of the statements in the reports;
- File petitions, formulate objections, and challenge the investigator's and procurator's acts or decisions;
- Present evidence;
- At the end of the investigation, have access to the file and retrieve from it information of any scope.
- The teacher and the psychologist are entitled to:
  - With the permission of the investigator or the court, question the juvenile suspected or accused;
  - At the end of proceedings, have access to the reports on investigative acts or court proceedings in which he or she personally participates, and formulate observations as to their exactitude and completeness;
  - At the discretion of the investigator or the court, examine elements in the file that describe the minor.

106. The investigator, the procurator or the court shall explain those rights to the teacher or the psychologist before the proceedings begin, and a note to that effect shall be entered in the record of the investigation or the record of the trial.

107. Under article 517 of the Code, the parents or other legal representatives of juvenile defendants and victims must be summoned to be present at court hearings. They have the right to be present during the examination of evidence in court, submit evidence, testify, file petitions and objections, lodge appeals against the acts or decisions of the court, take part in appeal hearings and explain the reason for the appeal. These rights must be explained to them during the preparatory stage of the trial. Legal representatives must be present in the courtroom throughout the proceedings, and may be called on by the court as witnesses if they so agree.

108. By a reasoned decision or pronouncement of the court or the judge, a legal representative may be barred from such participation, if there are specific grounds for considering that the representative's acts are detrimental to the interests of the underage defendant or prevent a comprehensive and objective examination of the case. In that event, another legal representative may take part in the proceedings.

109. If the court does not deem his or her participation necessary, a legal representative's failure to appear does not hinder the continuation of the hearing.

110. If called upon to participate in the case as defender or civil respondent, an underage defendant's legal representative has the rights and bears the responsibilities concomitant with such roles.

111. Under article 518 of the Code, in juvenile cases the court notifies the date and place of examination of the matter to the school, enterprise, organization or establishment where the minor studied or worked, the Juvenile Affairs authority and any other relevant organizations. Where necessary, the court is authorized to summon representatives of these organizations and of public associations of the place of work of the defendant's parents, guardian or tutor.

112. By permission of the court, the representatives of the above organizations may participate in the examination of evidence. Where necessary, they may be questioned as witnesses. If the court does not deem their participation in the proceedings necessary, failure of such representatives to appear does not prevent the case from being heard.

### **Information with respect to paragraph 9 (c) in section C of the concluding observations**

113. Under article 43 (1) of the Penal Enforcement Code, prisons are to keep records of convicts, with information on them entered in the appropriate register, in accordance with external regulations. An order of the Ministry of Internal Affairs issued in November 1999 approved regulations for individualized and centralized record-keeping on convicted persons and for maintaining an up-to-date reference index.

### **Information with respect to paragraphs 9 (d) and 10 in section C of the concluding observations**

114. Ilmurad Nurliyev, Turkmen citizen born in Dashoguz in 1965, is regarded as the leader of a protestant sect known as Christ's Church, not registered with the Ministry of Justice. Investigation based on a collective complaint found that he fraudulently, under pretext of a structure referred to as "bright life", extracted money from members of his congregation and used the funds to build his own dacha and purchase a motor vehicle. On 21 October 2010, he was convicted under Criminal Code article 228 (False pretences) to four years' imprisonment. He was released on 18 February 2012, pardoned by presidential decree.

#### **Information with respect to paragraph 11 (a) in section C of the concluding observations**

115. Under article 8 (4) of the Penal Enforcement Code, prisoners have the right to submit proposals, claims and complaints to the administration of the penal enforcement facility, its supervising body and other authorities, the courts, the procuratorial service and civil society organizations, and — if all domestic remedies have been exhausted — to international organizations.

116. Internal Affairs officers who exceed their authority, namely who commit acts that clearly go beyond the bounds of their official powers and entail serious violations of the rights and legal interests of citizens or organizations or the legally protected interests of society or the State, may be held criminally liable under article 182 of the Criminal Code.

117. Every attested incident involving torture or cruel treatment of convicted offenders or abuse of power by internal affairs staff gives rise to a thorough official investigation and, depending on the findings, perpetrators incur criminal, disciplinary or administrative liability and measures are taken to prosecute and prevent such offenses.

118. In the internal affairs agencies, the following disciplinary penalties are imposed on the basis of service provisions:

- Admonition;
- Reprimand;
- Severe reprimand;
- Warning about inadequate performance of duties;
- Demotion;
- Deletion of name from the book of honour and of photograph from the role of honour;
- Loss of a merit button;
- Detention in the guardroom;
- Dismissal from the internal affairs agencies.

### **Information with respect to paragraph 11 (c) in section C of the concluding observations**

119. Spouses Bazargeldy and Aydyemal Berdyev, Turkmen citizens, were found guilty under Criminal Code articles 228 (False pretences), 221 (Self-redress) and 63 (Multiple offences). On 27 June 2011, Bazargeldy Berdyev was sentenced to 12 years of deprivation of liberty in the Bayramali strict regime colony. On 27 June 201, Aydyemal Berdyeva was also sentenced to 12 years of deprivation of liberty in the Dashoguz women's colony.

120. Criminal charges were based on D. Shamukhammedov's statement to the police that the Berdyevs, promising to help her purchase two new apartments, fraudulently obtained US\$ 25,000, piecemeal. In discussing the "deal", B. Berdyev posed as a procurator in the Office of the Procurator-General. The victim did not recover the funds thus obtained from her.

Information with respect to paragraph 11 (d) in section C of the concluding observations

121. No acts involving torture or cruel treatment have been recorded in Ministry of Foreign Affairs agencies. According to the Ministry's information centre, there are no records of cases under Criminal Code article 182 (Torture).

Information with respect to paragraph 12 in section C of the concluding observations

122. A working group has been created in the Mejlis to draw up the draft Act on the Commissioner for Human Rights. The working group consists of members of the Mejlis and experts and specialists from various ministries, departments and public organizations. See paragraph 30 of this report.



### **Information with respect to paragraph 13 in section C of the concluding observations**

123. Annakurban Amanklychev, Turkmen citizen born in Ashkhabad in 1971, was convicted in 2003 under Criminal Code articles 220 (Assumption of an official's identity or authority), 228 (False pretences) and 185 (Active bribery) to 5 years of deprivation of liberty. He was released in the same year, pardoned by presidential decree. For an offence committed on 25 August 2006, he was convicted under Criminal Code article 287 (Illegal acquisition, sale, storage, transport, forwarding or carrying of weapons, ammunition, explosives or related devices) to seven years' imprisonment. He was released on 15 February 2013, pardoned by presidential decree.

124. Sapardurdy Khadzhiev, Turkmen citizen born in Ashkhabad in 1959, was convicted in 2002 under Criminal Code article 292 (Illegal production, procession, acquisition, storage, transportation or forwarding of narcotic drugs or psychotropic substances for the purpose of sale) to nine years of deprivation of liberty. He was released in 2003, pardoned by presidential decree. On 25 August 2006, he was convicted under Criminal Code article 287 (Illegal acquisition, sale, storage, transport, forwarding or carrying of weapons, ammunition, explosives or related devices) to seven years' imprisonment. He was released on 15 February 2013, pardoned by presidential decree.

### **Information with respect to paragraph 14 (a) in section C of the concluding observations**

125. Measures are taken to improve penal enforcement system towards openness and transparency regarding the serving of penalties.

126. Convicted offenders are provided with more rights in connection with challenging court decisions, their detention conditions and any acts of the administrations which they deem to be wrong.

127. Thus, in accordance with Presidential Decision No. 11019 of 31 March 2010 on improving monitoring of the way in which bodies administering criminal penalties comply with the law and on ensuring that the State takes measures in respect of convicts and persons on parole, monitoring commissions have been set up under the Cabinet of Ministers and in the administrations of the provinces, the city of Ashgabat and in the country's districts and districts having the status of a city in order to check specifically whether the law is complied with in the activity of penal enforcement facilities and with respect to the rights and interests of convicts and parolees.

128. The above monitoring commissions work with the convicts and the parolees.

129. The aforementioned Commission includes representatives of the national law enforcement bodies, the Mejlis, the Democratic Party of Turkmenistan, the Turkmenistan Trade Union, the Women's Union of Turkmenistan, and the Magtymguly Youth Organization.

130. The Commission carries out its activities according to an annual plan adopted by the President. Its main tasks are:

- Monitoring compliance with the law in the work done at penal institutions, monitoring the assignment of convicts to work that is beneficial to society and checking on working and social conditions and the performance of the work done at such institutions. The Commission monitors the living conditions, cleanliness and health status of the convicts and the vocational and technical training and general education provided to them as part of correctional and rehabilitation activities;

- Assisting in job placement and helping to create proper material and everyday conditions for released prisoners and for convicted persons whose sentences restrict their freedom of movement to a specific location;
- Helping NGOs and labour collectives to carry out correctional and rehabilitation work for released prisoners, persons released on probation, persons sentenced to correctional work and convicted persons whose sentences restrict their freedom of movement to a specific location;
- Involving the public in the correction and rehabilitation of convicted persons;
- Verifying compliance with the procedure for complaints and claims filed by convicted persons and members of their families.

131. The relevant regulations of the Ministry of Internal Affairs regarding the Penal Correction Department have been brought into line with the above Decision.

### **Information with respect to paragraph 14 (b) in section C of the concluding observations**

132. In 2011, ICRC staff began to visit persons the country's detainees. On 16 July 2011, an ICRC delegation visited the AN-M/4 treatment- and labour-facility of the Akhal province police department.

133. ICRC representatives visited the new building, then under construction, of the DZ-K/8 prison of the Dashoguz province police department in April 2012; the special section (in Tedzhen, Akhal province) of the MR-K/16 prison of the Mary province police department in December 2012; and the new DZ-K/8 prison of the Dashoguz province police department in July 2014.

134. The Government and ICRC cooperation plan for 2015 provides for a number of prison visits.

135. On 19 August 2014, Mr. Ivo Petrov, head of the OSCE Centre in Ashkhabad, visited the DZ-K/8 women's colony of the Dashoguz province police department.

### **Information with respect to paragraph 15 in section C of the concluding observations**

136. In 1996, Gulgeldy Annaniazov, Turkmen citizen born in Ashkhabad in 1960, was convicted under articles 15–106 (Aggravated homicide), 257 (Illegal handling of narcotic substances without intention to sell) and 249 (Illegal carrying, storage, acquisition, production or sale of firearms, ammunition or explosives) of the 1961 Criminal Code to 15 years of deprivation of liberty but was released in 1999, pardoned by presidential decree. For an offence committed on 7 October 2008, he was convicted under Criminal Code articles 214 (Illegal crossing of the State border) and 217 (Seizure or destruction of documents, stamps, seals and forms) to 11 years of deprivation of liberty in the colony of the police department of Akhal province.

137. Ovezgeldy Ataev, Turkmen citizen born in 1951 in Rukhabat district, Akhal province, in 1951, is a former parliament chairman. On 10 January 2007, he was convicted to 5 years of deprivation of liberty under Criminal Code articles 181, 177, 187 and 106. On 10 December 2011 was released at the end of that sentence. Nurgozel Atayev, his spouse, was released in May 2011, pardoned by presidential decree.

138. In 2003, the Supreme Court convicted Boris Shikhmuradov to life imprisonment under Criminal Code articles 275 (a) (Organization of or participation in a criminal association), 287(c) (Illegal acquisition, sale, storage, transport, forwarding or carrying of weapons, ammunition, explosives or related devices), 214(b) (Illegal crossing of the State border), 254(d) (Smuggling), 176 (a) (Offence against the President of Turkmenistan), 174 (b) (Conspiracy to seize power), 271 (c) (Terrorism), 101 (b) (Homicide), 218 (Forgery, production or sale of counterfeit documents, stamps or forms, or use of a forged document), 231 (d) (Robbery), 129 (c) (Unlawful deprivation of liberty), 273 (a) (Organization of or participation in an illegal armed formation) and article 235 (b) (Malicious destruction of or damage to property ).

### **Information with respect to paragraph 16 (a) in section C of the concluding observations**

139. The Penal Correction Department of the Ministry of Internal Affairs investigates all cases of death in any detention facility. Records of all cases of death during detention are kept in every prison and in the above department. There is no record of death due to torture or brutal treatment in a detention facility.

Information with respect to paragraph 16 (c) in section C of the concluding observations

140. No cases of death resulting from torture during custody have been recorded in the country.

141. On 17 August 2006, Ogulsapar Myradova, Turkmen citizen born in Ashkhabad in 1948, was convicted under Criminal Code article 287 (Illegal acquisition, sale, storage, transport, forwarding or carrying of weapons, ammunition, explosives or related devices) to six years of deprivation of liberty in the prison of the police department of Akhal province, where in September 2006 she committed suicide by hanging. No criminal charges were brought because the relevant investigation undertaken by the procurator's office of Gekdepin district, Akhal province, found no evidence of foul play. Her body was delivered to her relatives.

### **Information with respect to paragraph 17 in section C of the concluding observations**

142. In the period 1994–2000, Gurbandurdy Durdykuliev, Turkmen citizen born in Turkmenbashi, Balkan province, in 1941, worked as head of the Balkanabad city construction and repair department, on which first he secured a lease and which he subsequently sought to appropriate illegally. Criminal proceedings were brought against him under article 188 (Abuse of power for mercenary ends). The case was dropped pursuant to a presidential decree granting pardon. Unsatisfied with the court decision, however, G. Durdykuliev engaged in slanderous acts vis-à-vis his acquaintances, filing repeatedly complaints with the local authorities, and his relatives, who were obliged to request the health authorities to examine his mental state. In 2004, doctors diagnosed him with “involutional mental disorder” and he was placed in a mental hospital, from which he was released in 2006.

143. Sazak Durdymuradov, a Turkmen citizen of Turkmen origin, born in Bakharly in 1949, worked as a history teacher. In his courses, he from time to time expressed himself to the students against the national values and against mourning and remembering those killed. He systematically requested law enforcement bodies in writing to evict his brothers, with their families, from their place of residence. In 2008, based on a counter-statement filed by his brothers, he underwent a medical examination, with the participation of a

faculty instructor of the department of psychiatry of the Kyrgyz State Medical Academy and specialists of the Mental Disorder Prevention Centre, for the purpose of determining his mental state, and was diagnosed with “paranoid personality disorder”. He received hospital treatment and was released in the same year. He died on 14 January 2014 of health-related causes.

### **Information with respect to paragraph 18 (a) in section C of the concluding observations**

144. The Ministry of Internal Affairs has no knowledge of the facts and events referred to in article 18 (a). No instances of sexual and physical violence in detention facilities have been recorded.

145. Adylbek Narbaevich Khayytbaev, staff member DZ-K/8 of Dashoguz province police department, was prosecuted for unlawful relation with a prisoner. Upon detection of the offence, he was dismissed from the internal affairs agencies and the file was transmitted to the procurator’s office. On 11 November 2010, criminal charges were brought against him under Criminal Code article 181 (a) (Abuse of power). On 21 December 2010, he was convicted to two years’ imprisonment.

### **Information with respect to paragraph 18 (c) in section C of the concluding observations**

146. The Penal Enforcement Code specifies that solitary confinement of prisoners is an exceptional measure of limited duration.

147. According to article 89 of the above Code, gross violations of penal regulations by prisoners include:

- Using narcotic drugs, psychotropic substances and alcoholic beverages;
- Engaging in disorderly conduct;
- Threatening, disobeying or insulting prison officials;
- Threatening or insulting other officials during the performance of their duties;
- Producing, storing or transferring prohibited items;
- Refusing to implement compulsory medical measures or required treatment prescribed by the court or the medical commission;
- Organizing or participating in strikes or other forms of collective insubordination;
- Organizing or actively participating in prisoner groups to commit offences referred to in this article.

148. Repeating within one year a violation of penal regulations, for which a prisoner had been placed in disciplinary or punitive confinement or in a special unit or single cell, may also constitute a gross violation.

149. A prisoner is characterized as perpetrator of a gross violation by reasoned decision of the head of the detention facility, issued when a penalty is imposed.

150. Under article 92 of the same Code, prisoners placed in a punishment cell or in disciplinary or punitive confinement may not purchase food items or necessities, meet other persons, receive parcels, send or receive messages, packages or letters, or talk on the telephone. They are entitled to one hour’s walk daily.

151. Prisoners punished with placement in a special unit or single cell may:

- Spend every month on food and essential items up to 50 per cent of the monthly earnings realized earlier in the correctional institution;
- Receive, during placement in a single cell, one message, package or parcel;
- Walk during one-and-a-half hours daily;
- Receive necessary medical assistance;
- With the permission of the administration of the facility, have a short meeting.

152. In the case of a prisoner abiding by the penal regulations during confinement in a single cell, the head of the detention facility may decide to have the duration of the walk increased to two hours daily.

153. Prisoners held in punitive confinement who are transferred to a special unit or to a single cell work separately from other prisoners.

154. No early transfer of a prisoner from a special unit of a general- or strict-regime colony or from a single cell of a special-regime colony to ordinary living quarters is allowed, save where that is necessary in view of the state of the prisoner's health as attested by a physician.

155. Where a prisoner is transferred from punitive confinement or a special unit or single cell to a treatment or prevention establishment, the period spent in the establishment is included in the duration of the penalty.

156. Under article 93 of the same Code, placement in disciplinary or punitive confinement, a punishment cell, a special unit or a single cell are preceded by a physical examination in order to determine whether the prisoner can be detained in such places.

157. Prisoners held in disciplinary or punitive confinement or in a punishment cell, special unit or single cell are visited daily by a medical worker who must immediately report in writing to the head of the facility any need to interrupt that penalty because of the prisoner's physical or mental state.

158. A penalty in the form of placement in disciplinary or punitive confinement or in a punishment cell, special unit or single cell may be interrupted for medical reasons according to established procedure.

Information with respect to paragraph 19 (a) in section C of the concluding observations

159. Amendments to the national legislation and construction and repair work in the facilities concerned have radically improved the conditions of detention in special establishments.

160. In the new Criminal Code, adopted on 10 May 2010 and having entered into force on 1 July 2010, the penalties provided for in a number of articles, and imposed by courts, have been changed from various forms of detention to other types of punishment, which do not involve deprivation of liberty.

161. Former articles 112, 118 and 133 of the Criminal Code have been transferred to the Code of Administrative Offences, while liability for negligence causing moderate harm has been removed from certain articles (Act of 9 November 2013 on additions and amendments to the Criminal Code).

162. In the period 2011–2015 the Government earmarked specific allocations for the construction of new detention facilities and the reconstruction or repair of existing units.

163. Under the Act on annual amnesty, adopted with a view to introducing more humane rules in the country's public life, presidential decrees pardoning prisoners are promulgated several times in the year. Those pardoned include offenders who have deeply repented, provided compensation for material damage caused and resolutely taken the path of reform. That step tangibly confirms the State's attachment to the principles of humaneness, democracy and human rights and freedoms. The said Act enables the persons concerned to return to righteousness and to live and work in peace with their conscience.

Information with respect to paragraph 19 (b) in section C of the concluding observations

164. The Code of Criminal Procedure and the Penal Enforcement Code set forth rules and procedures for ensuring appropriate material and living conditions and health care for detainees.

165. After adoption of the Penal Enforcement Code, the legal and regulatory instruments of the Ministry of Internal Affairs were revised and the rules on such aspects of detention as regime, protection, conditions and procedure, among many others, were aligned with that Code.

166. In line with the requirements established by health-care bodies, the administrations of all detention facilities provide prisoners at due times with appropriately prepared food, whose quality and quantity fully meet the relevant nutrition standards and modern hygiene norms, taking into account a prisoner's age, state of health and type of work.

167. Prisoners are provided with necessary clothing adapted to the season, footwear, linen and personal hygiene items, financed by the State.

168. Prisoner cells meet all sanitary and hygienic requirements, and the country's climatic conditions are taken into consideration.

169. With a view to protecting their state of health, detainees are provided with sufficient living space and adequate access to air and light. Under the law, the minimum living space per prisoner is four square meters in correctional labour colonies, three square metres in prisons and five square meters in women's colonies, correctional education colonies and medical correctional facilities.

170. Prisoners enjoy continuous access to drinking water in the detention facility.

171. Issues related to the nutrition and welfare of persons detained in special establishments, remand units or special rehabilitation centres are governed by a presidential decision of 11 April 2014, which increased the rations, and their weight, for such persons and shortened the time of wearing overalls.

172. Joint orders of the Ministry of Internal Affairs, the Ministry of Health and the Turkmen medical industry call for compliance with the requirements of the Act on the provision of medical care to convicted offenders in practice and the procedure for carrying out appropriate work.

173. On the basis of agreements between them, special establishments and sanitation- or epidemiological-control services of health-care bodies jointly proceed with preventive hygienic treatment of the cells on a quarterly basis. The medical units of special establishments check the cells' cleanliness on a monthly basis.

174. All persons detained in special establishments receive primary medical care, sanitary support and, where necessary, based on a medical diagnosis, individual specialized out- or inpatient treatment or psychological assistance. The establishments include medical-care and sanitation-control sections with qualified medical staff.

175. In the framework of the National Tuberculosis Prevention and Control Programme, support was requested and obtained under the ninth funding round of the Global Fund

against AIDS, Tuberculosis and Malaria. The system includes a prison structure that provides medicines and equipment for convicts affected by tuberculosis. Under the two-year plan of action implemented as part of that programme, a commission consisting of United Nations Development Programme (UNDP), Ministry of Internal Affairs, Ministry of Health and medical industry representatives inspected the MR/K-15 hospital for convicts with a view to the installation of a ventilation system in the tuberculosis patients' ward. That equipment is being set up.

176. A new colony for women, which fully meets international standards, was put into operation in October 2013. All female detainees were transferred from the old to the new colony, featuring a total area of 90 hectares and a built area of 120,529 square meters. The State allocated US\$ 285,585,000 for the construction of the colony.

177. A new pretrial detention facility (BL-D/5, of the Balkan province police department) will soon be put into operation. The State allocated approximately US\$ 700,000 for the construction of the facility.

178. Structural repairs or renovation and modernization work have been completed or are in progress in all of the country's correctional facilities without exception.

### **Information with respect to paragraph 19(c) in section C of the concluding observations**

179. Article 51 of the Penal Enforcement Code provides for separate detention and is complied with in practice. The correctional education colony for male juveniles is also separate. Girls are held separately in the women's colony, whose staff consists of women.

180. Persons serving a prison sentence for the first time are held separately from those detained before.

181. Detainees affected by infectious diseases, including active or inactive tuberculosis, are held separately from healthy detainees.

182. Disabled persons and recumbent patients need special care and are detained separately.

183. In the women's colony, all physicians are women. Thus, the separate detention of prisoners prescribed by law is strictly observed in practice.

184. Under article 81 of the same Code, primary or other vocational training must be organized in the prisons for detainees having no trade or specialization to practice in the establishment and after their release.

185. Male convicts over 62, women over 57 and persons with category I or II disabilities may, if they wish, receive appropriate vocational training.

186. The prisoners' attitude towards receiving primary or other vocational training is taken into consideration when determining the extent of their correction.

187. Primary or other vocational training is provided according to a procedure established by the Cabinet of Ministers.

188. If deemed necessary, branches of initial vocational training schools are set up in correctional colonies and young offenders' institutions, according to the procedure established by law.

189. A general education school for convicted juveniles operates in the MR-K/18 special establishment of the Mary province police department. In the school, specialized equipment

(inter alia, sewing machines, lathes, and footwear sewing appliances) is used in vocational classes; and extracurricular activities serve to encourage professional habits in the children.

190. In paying a visit to the special establishment, representatives of ICRC also visited the above school.

### **Information with respect to paragraph 23 in section C of the concluding observations**

191. Primacy of universally accepted principles of international law is recognized under article 6 of the Constitution. If an international agreement to which Turkmenistan is a party establishes rules other than those of national law, the rules of the international agreement prevail. The provisions of article 3 (1) of the Convention and the provisions of the Constitution form the basis for not extraditing, expelling or returning persons to another State if there are grounds for believing that they will be subjected to torture.

192. Turkmenistan is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (Mejlis decision of 12 June 1997), the 1954 Convention relating to the Status of Stateless Persons (Mejlis decision of 24 August 2011) and the 1961 Convention on the Reduction of Statelessness (Mejlis decision of 6 August 2012). Turkmenistan is the first country in Central Asia to have acceded to the above instruments, crucial to the protection of human rights and conducive to creating effective tools for preventing and reducing statelessness.

193. Consistently fulfilling all obligations that it has undertaken, the State ensures implementation of the relevant international norms and recommendations in the national legislation. The Migration Act and the Refugees Act were adopted in 2012 and the Turkmen Citizenship Act was adopted in 2013.

194. Under article 37 of the Migration Act of 31 March 2012, every Turkmen citizen is entitled, in accordance with the Constitution and other legal and regulatory instruments, to freedom of movement and may choose his or her place of residence or place of stay in the national territory.

195. A citizens' rights to freedom of movement and choice of place of residence or stay within the country may be restricted on grounds specified in the above Act. Citizens may challenge decisions, acts or omissions of State executive and administrative bodies, public servants and other legal entities or individuals which affect the above rights by appealing to a higher authority, official or court.

196. Turkmen citizenship was granted to more than 4,000 migrants (now living in the country) in the period 2011–2013, and to 786 persons in 2014.

197. The signing of the Presidential Decree of 13 June 2015 on granting Turkmen citizenship and the naturalization of 361 persons who had been permanently residing in Turkmenistan without citizenship marked significant progress and illustrate the country's attachment to humane principles and its ancestral values, consistent with its international commitments in the area of humanitarian law.

198. The State creates all conditions necessary for the new citizens to lead a decent life in the country. Granting citizenship helps to improve the social status of the persons concerned, enables them to exercise their fundamental human rights and freedoms on an equal footing with other nationals, and provides them with access to education, work, and medical or other benefits.

199. In that connection, the 2012 international conference on "Refugees in the Muslim World", held on the initiative of the President of Turkmenistan, helped to review the



experience of Turkmenistan in the area of granting citizenship to refugees and stateless persons. The conference was attended by public service representatives of 57 member States of the Organization of Islamic Cooperation (OIC), leaders and delegates of approximately 40 major international and intergovernmental organizations, and observers from 21 States.

200. The International Conference on Migration and Statelessness, held in 2014 on “Identifying challenges and the way forward” was attended by official delegations of 32 countries, representatives of 16 major international organizations, and NGOs.

201. A regional forum on “International cooperation in the area of migration and emergency preparedness”, organized on 17–18 June 2015 by the Government in cooperation with IOM, was attended by delegations of the States of Central Asia and Afghanistan, heads of diplomatic representations and missions accredited in Turkmenistan, leaders of the relevant ministries, departments and public organizations, and representatives of foreign and domestic media. The Forum aimed to identify constructive approaches to current issues related to migration and to discuss national strategies and forward-looking practices designed to prevent crises, migration and emergencies.

202. In order to implement the Convention relating to the Status of Refugees and the Convention relating to the Status of Stateless Persons and to safeguard fully the rights of refugees and stateless persons living in the national territory, new models for refugee and stateless-person certificates, travel documents and residence permits were drawn up in line with International Civil Aviation Organization (ICAO) standards and approved by presidential decision; and acts specifying the legal procedure for issuing such documents were adopted. Thereby, Turkmenistan created a single system for the provision of identification documents.

203. In January 2012, new secure models for adhesive visa-labels were introduced in order to facilitate the entry of aliens into the national territory and ensure that they are provided with adequate services. In accordance with international law, including the principle of family unity and benefits for aliens residing in the national territory, such labels enable them to live in Turkmenistan on the basis of a residence permit or visa issued on favourable terms. That is a further instance of placing citizens, aliens and stateless persons on an equal footing, in line with the universally recognized precepts of international law.

204. As a permanent member of the Executive Committee of the High Commissioner’s Programme (ExCom) of the Office of the United Nations High Commissioner for Refugees (UNHCR), Turkmenistan actively contributes to the implementation of measures designed to protect and promote the rights of refugees and stateless persons.

205. Meeting its international obligations unqualifiedly and abiding by the universally recognized rules of international law, Turkmenistan has taken important steps to protect refugees, thereby contributing significantly to the solution of that global issue. The country’s experience in that area is widely respected, of interest to the world community and a positive contribution to the international reputation of Turkmenistan.

206. The new version of the Refugees Act, adopted by the Mejlis on 4 August 2012, lays down the procedure and conditions for recognizing a person as a refugee, specifies the legal status of refugees and sets forth economic and social safeguards for the protection of the rights of refugees.

207. No person is held liable for illegally entering or sojourning in Turkmen territory if, upon entry from the territory in which his or her life or freedom was in danger, he or she reports promptly to the representatives of State, Government or local self-governance bodies and files an application for refugee status.

208. Pending a decision on such application, a refugee has rights and responsibilities specified by law.

209. No refugee may be returned against his or her will to the country which he or she has left, save in cases involving the protection of national security or public order.

210. Decisions and acts by State and Government bodies, regional authorities and officials which violate the rights of refugees as set out in Turkmen law may be challenged before those bodies or in a court. A person granted refugee status enjoys the same rights and freedoms and bears the same responsibilities as Turkmen citizens, within the limits established by the country's law and regulations.

211. A person granted refugee status enjoys the right to:

- Choose a place of residence in a list of proposed inhabited localities;
- Choose to reside with his or her relatives, if they agree;
- Work and acquire property according to the legal provisions on aliens and stateless persons;
- Receive education;
- Draw benefit from cultural achievements;
- Worship freely;
- Obtain, with assistance from the competent bodies, information on relatives and property left in his or her country;
- Take out of Turkmenistan any property that he or she brought into the country and any property acquired in another country which he or she has a right to enter in order to take up residence;
- Return voluntarily to the country where he or she resided previously or travel to any third country;
- Be under judicial protection from infringements affecting his or her honour, dignity, life, health, personal freedom, home, and property-related and non-property rights;
- Acquire Turkmen citizenship according to the procedure established by Turkmen law.

### **Information with respect to paragraph 27 in section C of the concluding observations**

212. Turkmenistan is systematically proceeding towards accession to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 18 December 2002 by the General Assembly of the United Nations in resolution A/RES/57/199.

213. National legislation is reviewed to ensure consistency with the provisions of the Optional Protocol. Amendments and additions were made to the Code of Criminal Procedure (on 4 August 2011, 31 March 2012 and 22 December 2012) and to the Penal Enforcement Code (on 29 August 2013 and 1 March 2014).

214. In improving its national legislation, Turkmenistan is guided by the insight that the right to life and health implies physical, mental and social wellbeing. A comprehensive review of the national legal system is under way to ensure internal consistency and

alignment of national legislation with international norms, through comparative analysis and study of the legislative and law enforcement practices of other countries.

215. Analogous work is carried out with regard to certain United Nations human rights treaties, including the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Rome Statute of the International Criminal Court.

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