



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

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**Committee against Torture**

**Concluding observations on the initial report of  
Turkmenistan**

**Addendum**

**Information received from Turkmenistan on follow-up to the  
concluding observations\***

[31 August 2012]

**Information on paragraphs 9, 14 and 15 (b) and (c) of the concluding  
observations of the Committee against Torture, adopted at the  
forty-sixth session (Geneva, 9 May–3 June 2011)**

1. The international human rights commitments undertaken by neutral Turkmenistan proclaim that the country “shall guarantee to every person the rights and freedoms enshrined in the Constitution, laws and generally recognized norms of international law, without distinctions of any kind ...” (Declaration on the international human rights commitments of neutral Turkmenistan of 27 December 1995).
2. Holding fast to these commitments, Turkmenistan has incorporated into its domestic law the provisions of the international instruments and treaties on civil rights and freedoms that it has ratified. The recommendations of international organizations are taken into account in this process.
3. Turkmenistan has intensified cooperation with all generally recognized international organizations and is in constant contact with the regional representative of the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Development Programme (UNDP), the United Nations Children’s Fund (UNICEF), the United Nations Population Fund (UNFPA), the Office of the United Nations High Commissioner for Refugees (UNHCR), other United Nations agencies and the International Committee of the Red Cross (ICRC) in order to work for the implementation of the recommendations made by United Nations treaty bodies and to conduct joint activities.

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

4. The delegation of Turkmenistan has already thoroughly replied to some of the questions raised in the concluding observations of the Committee.
5. It should also be borne in mind that replies to the questions have been submitted previously in writing, as additional information requested by the Committee.

**Paragraph 9 (a)**

6. Article 1 of the Code of Criminal Procedure of 18 April 2009 stipulates that the Code, based on the country's Constitution, sets out criminal procedures in Turkmenistan.
7. No one may have their rights restricted or be deprived of their rights, sentenced or punished except in strict accordance with the law. No one may be subjected to torture or cruel, inhuman or degrading treatment or punishment (Constitution, art. 23).
8. In accordance with article 13 of the Code of Criminal Procedure, no one may be arrested other than on the grounds prescribed by law. The courts and procurators must immediately release any person who has been unlawfully arrested, detained, placed in a medical establishment or held beyond the period specified by law or by a sentence. Persons remanded in custody as a preventive measure or held on suspicion of committing a crime must be detained in conditions which do not endanger their lives or health. Harm caused to a person as a result of illegal deprivation of liberty, of detention in conditions endangering life or health or of cruel treatment is subject to compensation.
9. Under article 24 of the Code of Criminal Procedure, suspects, accused persons, defendants, convicted offenders and acquitted persons have the right to a defence. They may avail themselves of that right on their own behalf or with the help of a lawyer or a legal representative, as prescribed by the Code.
10. In Turkmenistan, all detainees are afforded all fundamental legal safeguards from the moment of their arrest. The procedures and periods of detention are set out in the Code of Criminal Procedure. Thus, in accordance with article 140 of the Code, law enforcement agencies are entitled to detain persons suspected of committing crimes punishable by deprivation of liberty only:
  - (a) When the person has been apprehended while committing the crime or directly after it was committed;
  - (b) When eyewitnesses, including victims, directly indicate that the persons in question committed the crime;
  - (c) When clear traces of a crime are found on suspects, on their clothes or their personal items, either on their person, in their homes or in their means of transport.

**Paragraph 9 (b)**

11. The Code of Criminal Procedure has a separate chapter on proceedings against minors. It governs cases involving juvenile offences.
12. Under article 140 of the Code, a minor may be arrested only in exceptional cases, when called for by the gravity of the offence in question and on the grounds specified in that article.
13. Under article 141 of the Code, arrests of minors must immediately be reported to their parents, persons in loco parentis or guardians.
14. In accordance with article 82 of the Code, the presence of a lawyer is obligatory during initial inquiries, pretrial investigations and judicial proceedings involving minors.

15. There have been no cases of minors being held for questioning as suspects or during criminal investigations beyond the prescribed time limits.

16. Under article 512 of the Code, a lawyer is allowed to take part in criminal proceedings involving minors from the first time the minor is questioned as a suspect or accused person, or if a minor is arrested or held in custody pending charges, from the moment of arrest or detention. 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.

17. It is mandatory for the parents or other legal guardians of minors who are suspected or accused of crimes to take part in the proceedings. In the absence of parents or legal guardians, representatives of public guardianship or tutorship agencies must take part. They are allowed to be present during the proceedings from the first time the minor is questioned, by virtue of a decision issued by the investigator.

18. In accordance with the investigator's decision, once the pretrial investigation is completed, the minor is not given access to the evidence in the case file, which may adversely affect the child. The child's legal representative may have access to the file. 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 actions might be detrimental to the interests of the child or constitute an obstacle to an objective investigation, in which case another legal representative may take part in the proceedings.

19. Questioning of minors is conducted with the participation of a lawyer, the minor's legal representative and, where appropriate, a teacher.

20. Article 514 of the Code of Criminal Procedure stipulates that a teacher or psychologist must take part in legal proceedings involving suspects, accused persons or persons undergoing trial who have not reached the age of 16, and also in proceedings involving such persons who are over 16 years of age but who show signs of mental retardation. In other situations, a teacher or psychologist may take part at the invitation of a detective, investigator, procurator or judge, or upon the request of the lawyer or the legal representative. The rights of the legal representative and of teachers and psychologists are set out in article 515 of the Code.

21. The Ministry of Internal Affairs and the Ministry of Health and the Medical Industry have issued joint orders for practical measures to be taken to meet the requirements of a law calling for the provision of medical care to convicts. The ministries in question have also issued a joint order to improve measures taken against tuberculosis at institutions run by the Penal Correction Department of the Ministry of Internal Affairs; the order contains regulations relating to an interdepartmental working group to administer the tuberculosis control programme in the Penal Correction Department. The interdepartmental working group was established to coordinate the tuberculosis-control measures implemented at facilities run by the Ministry of Internal Affairs in the framework of the National Tuberculosis Prevention and Control Programme.

22. The National Strategy for the Prevention and Control of Tuberculosis for 2008–2015 served as a basis for drawing up the National Tuberculosis Prevention and Control Programme for 2010–2015, taking into consideration the specificities of the DOTS strategy at the countrywide level, including in prisons. To support sustainability and improve the quality and broaden the scope of the services provided by the Programme, Turkmenistan submitted a grant application during the ninth funding round of the Global Fund to Fight AIDS, Tuberculosis and Malaria.

23. The aim of the project supported by the Global Fund is to help consolidate tuberculosis-control measures based on the DOTS strategy. The country coordinating mechanism has named the United Nations Development Programme (UNDP) in Turkmenistan as the principal recipient of the grant.

24. The Tuberculosis Treatment and Prevention Centre of the Ministry of Health and the Medical Industry, working through its network of health facilities and in cooperation with universities and the public, will be responsible for implementing the main activities. This system includes the prison structure that provides convicts suffering from tuberculosis with medicines and equipment.

25. Under the two-year plan of action implemented as part of this programme, a commission consisting of staff from UNDP, the Ministry of Internal Affairs and the Ministry of Health and the Medical Industry has monitored the situation at the MR/K-15 facility (a hospital for convicts) with the aim of installing a ventilation system in the ward housing patients with active tuberculosis. UNDP is now organizing a call for tenders and drawing up the technical specifications.

26. The National Institute for Democracy and Human Rights in the Office of the President, working with the United Nations Children's Fund (UNICEF) in Turkmenistan, has drawn up a project for the reform of the juvenile justice system.

27. Guided by the principles of the United Nations defining the rights of minors, the President of Turkmenistan on 1 June 2012 signed an order adopting the General Programme of Turkmenistan on the Development of the Juvenile Justice System. The aims are to keep minors from committing offences and crimes and to prevent recidivism, to ensure that the justice system deals benevolently with children, with observance of children's rights, and to ensure that children are educated in accordance with national and universal values.

#### **Paragraph 9 (c)**

28. Detainees can be registered at any police station. The Penal Enforcement Code previously in force and the new one (art. 43) stipulate that 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.

29. Within 48 hours of arrival, all detainees and convicted persons held at remand centres are registered (with registration cards produced in duplicate) and their fingerprints are taken (in a single copy). The justification for issuing such documents may be an investigator's decision to impose a preventive measure, endorsed by a procurator, or a court-ordered arrest warrant.

30. Within 48 hours of receiving the registration documents from the detention facilities, the information centre of the Ministry of Internal Affairs and the provincial police information centres verify that the registration and fingerprint cards have been properly filled in and that notification of detention has been carried out correctly. The registration cards are then entered in the reference index, in alphabetical order.

#### **Paragraph 9 (d)**

31. Suspects are summoned and questioned with observance of the rules set out by articles 246, 250, 252, 255 and 257 of the Code of Criminal Procedure.

32. Article 143 of the Code of Criminal Procedure establishes that prior to questioning, suspects must be informed of their rights under article 79 of the Code (see the information

on paragraph 9 (a)). Suspects must be told what crime they are suspected of committing, and a corresponding entry is made in the record of the questioning.

33. Article 118 of the Code of Criminal Procedure stipulates that sound or video recordings of the questioning of suspects, accused persons, witnesses or victims may be made either by decision of the investigator or at the request of the person being questioned. The investigator decides whether to make a sound or video recording and informs the person being questioned before the session begins.

34. Sound and video recordings must be uninterrupted and must fully show the person being questioned and the session in its entirety. If the recording is suddenly interrupted or stopped, the investigator must indicate in the record the cause and duration of the interruption. It is forbidden to take sound or video recordings of a part of the questioning or to specifically repeat testimony for sound or video recording during a given questioning session.

35. At the end of the questioning, the sound or video recording is played back in its entirety. Additions to the recorded testimony made by the person being questioned are also included in the recording. At the end of the recording, the person attests to the fact that the recording is accurate.

36. Testimony given in questioning with sound or video recording is entered into the record of questioning in accordance with article 117 of the Code of Criminal Procedure. The record must also contain the following:

(a) A note stating that sound or video recordings were used and that the person being questioned was informed of this;

(b) Information on the equipment used and the circumstances of the sound or video recording, and the date and time of recording;

(c) A statement on the use of sound and video recordings by the person being questioned;

(d) A note stating that the sound or video recording has been played back or shown to the person being questioned;

(e) Statements by the person undergoing questioning and the investigator, attesting to the fact that the record of the questioning and the sound or video recording are accurate. The sound or video recording is kept in the case file and is sealed at the end of the pretrial investigation.

37. All the investigative services of the Ministry of Internal Affairs are equipped with video recording equipment. In addition, in order to prevent torture and cruel treatment of detainees and others, video cameras have been set up in several police stations, remand centres and places of detention. The Ministry of Internal Affairs is now carrying out a plan to provide police stations, remand centres and prisons with audio and video recording equipment and to ensure that recordings are made without interference from the investigators or other officials conducting the interviews or questioning.

#### **Paragraph 14 (a)**

38. Presidential Decision No. 11019 of 31 March 2010 is aimed at improving monitoring of the way in which bodies administering criminal penalties comply with the law and at ensuring that the State takes measures in respect of convicts and people on parole. The Decision established monitoring commissions in the Cabinet of Ministers and in the administrations of the provinces, the city of Ashgabat, the country's districts and districts having the status of cities; the commissions carry out work with convicts and parolees.

39. The commission in question includes representatives of the national law enforcement bodies, the Mejlis (national parliament), the Democratic Party of Turkmenistan, the Turkmenistan Trade Union, the Women's Union of Turkmenistan, the Magtymguly Youth Organization and the Council on Religion reporting to the Office of the President.

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

(a) 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 checks on the living conditions, cleanliness and health status of the convicts and on the technical training and general education given to them as part of correctional and rehabilitation activities;

(b) 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;

(c) Helping non-governmental organizations and labour collectives to carry out correctional and rehabilitation work for released prisoners, persons released on probation and persons sentenced to correctional work and for convicted persons whose sentences restrict their freedom of movement to a specific location;

(d) Involving the public in the correction and rehabilitation of convicted persons;

(e) Verifying compliance with the procedure for complaints and claims filed by convicted persons and members of their families.

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

**Paragraph 14 (b)**

42. As part of a workplan duly approved in January 2012 for multilateral cooperation for activities in the prison system between the Government of Turkmenistan and the ICRC Central Asia regional delegation for the first half of 2012, an official delegation from the Ministry of Internal Affairs (led by the Deputy Minister) and the Ministry of Foreign Affairs of Turkmenistan paid a fact-finding visit to Azerbaijan from 29 February to 4 March 2012 in order to examine best practices for delivering health-care services in the prison system and for controlling tuberculosis.

43. During its visit, the delegation learned how medical care was provided at places of detention and how Azerbaijani prisoners were actively screened for tuberculosis. A series of meetings with leading officials at the Azerbaijani Ministries of Justice and Internal Affairs also took place. The experience gained during the visit will doubtless be helpful in organizing the work of the prison system in Turkmenistan.

44. To implement the next part of this workplan, the ICRC from 5 to 11 April 2012 conducted a visit to Turkmenistan, headed by Mr. François Blancy, the ICRC deputy head of regional delegation for Central Asia.

45. During the visit, a group of ICRC delegates including a doctor on 6 April 2012 undertook a fact-finding trip to the town of Daşoguz to visit the construction site of a new women's correctional facility and on 7 April went to the MR-K/18 institution for juvenile offenders, run by police authorities in Mary province.

46. During the visit on 6 April, the international experts were able to see the progress made on the women's detention facility in Daşoguz province, the design of which laid special emphasis on proper provision of water and electricity supplies, good ventilation, decent sanitary and hygiene conditions, and work and leisure opportunities for the inmates.

47. The international experts were able to ascertain that the recommendations they had made when considering the plans for the facility in 2011 had been taken into consideration and would be implemented during construction. They also expressed the wish that convicted mothers at the new facility would be held together with their children under the age of 3. They were satisfied with what they saw and were convinced that the new female correctional facility would meet all international standards.

48. The construction of the buildings and installations at the new female correctional facility in Daşoguz province and its integration in the surrounding area are being carried out in accordance with a presidential decision adopted in July 2011. The cost of the project is around 818 million manat (about US\$ 287 million), with the amount funded from the State budget. At this point, 15.7 per cent of the funding has been disbursed. According to the contract, construction was to begin in August 2011 and was to be completed by January 2014.

49. During their visit to the young offenders' institution in Mary province on 7 April, the experts were given the opportunity to inspect the entire premises, including the sleeping quarters, kitchen and canteen, sanitary installations, toilets, visiting rooms, rooms with telephones for inmates, secondary school, library, infirmary, sports facilities (gym and sports grounds), work areas, workshops, hairdresser's, club and administrative buildings.

50. The experts noted that all the premises shown to them had modern fittings, furniture, medical and sports equipment and facilities for work, that conditions were conducive to learning and recreation and that the inmates were provided with proper food and clothing, as was confirmed by their satisfactory outward appearance. Children received proper medical care and considerable time was devoted to their education. On a further positive note, the experts observed that the way the work was organized and the use of video surveillance to monitor the children made it possible for the administration to draw up daily schedules allowing for freedom of movement within the correctional facility.

51. On 10 April 2012, the ICRC delegation held a debriefing session at the Ministry of Internal Affairs on its visits to the prison system. Mr. Blancy thanked the authorities for organizing the visits and noted that the ICRC delegation was satisfied with what it had seen. The delegation noted that the conditions of detention of the juvenile offenders at the correctional facility met international standards.

52. The ICRC regional delegation for Central Asia issued a press release on 9 April 2012 to sum up the visits.

53. On 5 June 2012 a meeting was held at the ICRC office in Turkmenistan with Mr. François Blancy, the deputy head of the ICRC regional delegation for Central Asia, for the introduction of Mr. Blancy's replacement, Mr. Ikhtiyar Aslanov. On that occasion, discussions were held on the next steps for cooperation with the ICRC in activities related to the prison system.

54. A workplan has now been drawn up and is in the process of being approved for multilateral cooperation between the ICRC regional delegation for Central Asia and the Government of Turkmenistan for activities to be carried out in the prison system in the second half of 2012. It will be implemented through the Ministry of Internal Affairs.

**Paragraph 14 (c)**

55. The Government of Turkmenistan is now studying the question of visits by the special rapporteurs on health and education.

**Paragraph 15 (b) and (c)**

56. The convicted persons covered by this paragraph are held in places of deprivation of liberty on the basis of court judgements handed down in accordance with the offences committed.

57. These persons enjoy all the rights provided under the Penal Enforcement Code.

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