

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	703
Land:	Tyrkiet
Kilde:	Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
Titel:	Concluding observations on the fifth periodic report of Türkiye – Advance Unedited Version
Udgivet:	25. juli 2024
Optaget på baggrundsmaterialet:	29. august 2024

Concluding observations on the fifth periodic report of Türkiye*. **

1. The Committee considered the fifth periodic report of Türkiye¹ at its 2123rd and 2125th meetings², held on 17 and 18 July 2024, and adopted the present concluding observations at its 2134th meeting, held on 25 July 2024.

A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure and submitting its periodic report thereunder, as this improves the cooperation between the State party and the Committee and focuses the examination of the report and the dialogue with the delegation.

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's delegation, and the responses provided to the questions and concerns raised during the consideration of the fifth periodic report.

B. Positive aspects

4. The Committee welcomes the acceptance by the State party, in 2017, of the Inquiry procedure under the Optional Protocol to the Convention on the Rights of the Child. The Committee also appreciates that the State party maintains a standing invitation to the special procedure mechanisms of the Human Rights Council, which has allowed independent experts to carry out visits to the country during the reporting period.

5. The Committee also welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, including the adoption of the following:

(a) Presidential Decree No. 63 of 10 June 2020 on supporting victims of crime, which established the Department of Judicial Support and Victim Services and its associated Directorates;

(b) Law No. 7406 of 27 May 2022, amending the Penal Code and Code of Criminal Procedure, establishing stalking as a criminal offence;

(c) Circular No. 2023/16 of 25 November 2023, establishing the Coordination Board for Combating Violence Against Women and expanding the capacity of the Violence Prevention and Monitoring Center (ŞÖNİM).

* Adopted by the Committee at its eightieth session (8-26 July 2024).

** The present document is being issued without formal editing.

¹ CAT/C/TUR/5

² See CAT/C/SR.2123 and CAT/C/SR.2125

6. The Committee commends the State party's initiatives to modify its policies and procedures in order to afford greater protection of human rights and to apply the Convention, in particular the following:

- (a) The Human Rights Action Plan 2021-2023, in 2021;
- (b) The Fourth National Action Plan on Combating Violence Against Women 2021-2025, in 2021.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations³, the Committee requested the State party to provide information on its implementation of the Committee's recommendations on: the use of countercharges as a means of intimidating detained persons, or their relatives, into not reporting torture (para. 10 (c)); allegations of extrajudicial killings and ill-treatment in the course of counter-terrorism operations (para. 14); measures to ensure that all returnees under the agreement of 18 March 2016 between the European Union and Turkey have the opportunity for an individual review and are protected from refoulement and collective returns (para. 26 (d)); and, the detention and prosecution of journalists and human rights defenders as a means of intimidating them or discouraging them from freely reporting (para. 44 (b)). In light of the information included on these matters in the follow-up report submitted by the State party on 8 November 2016⁴, and with reference to the additional information provided by the State party in its letter dated 24 November 2016⁵ in response to the request for further information sent on 31 August 2016 by the Committee under the procedure for follow-up to concluding observations⁶, the Committee considered that the recommendations contained in paragraphs 10 (c), 14, 26 (d) and 44 (b) have been only partially implemented (see paras. 20, 24, 30 and 36 of the present document).

Definition and criminalization of torture

8. While noting the information provided by the State party indicating that domestic legislation criminalizing torture is complemented by and interpreted in light of the Convention, and while taking into account the prevalence of international agreements concerning fundamental rights and freedoms over domestic laws enshrined in article 90 (5) of the State party's Constitution, the Committee remains concerned that article 94 of the Turkish Penal Code does not fully encompass the definition of torture contained in the Convention. In particular, the Committee is concerned that the definition of torture in domestic law does not reference the purpose of the suffering inflicted, nor does it stipulate that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. In this regard, the Committee recalls its general comment No. 2, which states that serious discrepancies between the Convention's definition and the definition in a State party's law create actual or potential loopholes that can foster impunity (see CAT/C/GC/2, para. 9) (arts. 1, 2 and 4).

9. **The Committee reiterates its previous recommendation⁷ that the State party align article 94 of the Criminal Code with the definition of torture and its other accompanying obligations under the Convention, including by identifying the purposes for the infliction of suffering in carrying out acts of torture, incorporating into the definition acts intended to intimidate, coerce or obtain information or a confession from a person other than the victim, and clearly stipulating that no exceptional circumstances**

³ CAT/C/TUR/CO/4, para. 49.

⁴ CAT/C/TUR/CO/4/Add.1 and annexes.

⁵ CAT/C/TUR/CO/4/Add.2.

⁶ See

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFUL%2FTUR%2F25040&Lang=en

⁷ Ibid., para. 18.

whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

National Human Rights Institution and National Preventive Mechanism

10. The Committee takes note of the recent B status granted to the Human Rights and Equality Institution of Türkiye by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions. In this connexion, the Committee expresses its concern that the institution lacks diversity, including adequate gender representation among its Board members, and is not independent from the Executive, noting that all of its Board members, including its chairperson, are appointed by the President. The Committee is also concerned that, in its work as national preventive mechanism, the Human Rights and Equality Institution of Türkiye has been allegedly reticent to report on instances of torture and ill-treatment (arts. 2, 11 and 16).

11. The State party should take all measures needed to guarantee the independence of its national human rights institution, including through ensuring its full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). In doing so, the Committee invites the State party to seek technical and capacity-building support and advice from the Office of the United Nations High Commissioner for Human Rights and, in the case of its activities relating to its work as the National Preventive Group, from the Subcommittee on the Prevention of Torture.

Fundamental legal safeguards

12. The Committee expresses its concern over information received indicating that persons deprived of their liberty are not always provided with sufficient legal safeguards, both in law and in practice, from the outset of their detention. In particular, the Committee is concerned that:

(a) In some cases, particularly in cases of so-called “collective crimes” and crimes related to terrorism, individuals may be detained for periods significantly exceeding 48 hours without being presented before a judge, and that, in practice, instances occur where detention limits established in legislation are bypassed;

(b) Detainees’ access to a lawyer may be restricted for up to 24 hours following apprehension, suspects are sometimes interviewed without having consulted with their lawyer or without their lawyer present, and the confidentiality of meetings between lawyers and their clients is not assured. The Committee is also concerned that lawyers are in some cases denied access to the full case files of their clients, and that disciplinary sanctions may be imposed resulting in a de facto indefinite ban on detainees contact with their lawyers, as has allegedly been the case for inmates in İmralı Prison;

(c) Detainees are unable to avail themselves of an independent medical examination by a doctor of their own choosing, medical examinations are in some instances cursory and fail to adequately document traces of torture and ill-treatment, and law enforcement officers are reported to be frequently present during medical examinations in cases where their presence has not been requested by the examining doctor, violating patient-doctor confidentiality (arts. 2 and 16).

13. The State party should ensure that all fundamental legal safeguards are guaranteed, both in law and in practice, for all detained persons from the outset of their deprivation of liberty, including:

(a) **The right to be promptly presented before a judge. In this regard, the State party should consider amending legislation to set a maximum limit of 48 hours for review of the legality of arrest and detention by a judge, without exception;**

(b) **The right to access and consult with a lawyer of their own choosing, or to have access to an appointed lawyer in case of insolvency, and have the confidentiality of private meetings guaranteed, including prior to interrogation, and, if necessary and applicable, to access free, independent, and effective legal aid. Under no circumstances**

should the right to consult with legal counsel be limited as a result of a disciplinary sanction;

(c) The right to request and receive an examination by an independent medical doctor free of charge, or by a medical doctor of their own choice, in full confidentiality. In this regard, the State party should ensure that all alleged cases of torture and ill-treatment are promptly medically documented in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol), as revised, and that registers containing information on injuries and other medical conditions of detainees are carefully maintained.

Conditions of detention

14. While noting significant efforts by the State party in recent years to improve conditions of detention and reduce overcrowding, including through the construction of new penitentiary infrastructure and the promulgation of legislative initiatives such as Law no. 7242, the Committee is concerned that:

(a) The rate of incarceration in the State party has significantly increased during the reporting period, contributing to an overcrowding rate of over 110% across the prison system;

(b) Some inmates in S-type, Y-type and other types of high-security prisons are confined in individual cells without adequate ventilation for over 22 hours per day, constituting de facto solitary confinement⁸;

(c) Despite new legislation regulating searches of inmates, strip searches (“detailed searches”) are sometimes carried out in contravention of legislation and in a routine manner, such as when detainees are transferred between facilities or to hospital, or when they meet with lawyers or family, without reasonable suspicion of wrongdoing;

(d) The penitentiary system lacks an adequate number of healthcare professionals, and prisoners are frequently restrained and kept in inappropriate conditions upon transfer to healthcare facilities and during their treatment. The Committee is also concerned over information received indicating that decisions relating to the transfer of prisoners to hospitals are sometimes made by prison administrators rather than healthcare professionals, that prison guards are frequently present during medical examinations and treatment, and that prisoners with life-threatening illnesses are denied provisional release on the basis that they allegedly pose a threat to public security;

(e) Women who have recently given birth are held in inadequate conditions with insufficient access to healthcare and appropriate nutrition to sustain the breastfeeding of their children, and women have reportedly been arrested and handcuffed while still in hospital for maternity care;

(f) Children in detention do not have their specific needs fully met in terms of education, rehabilitation and reintegration into society, with girls being most affected as regimes and facilities are not designed in a manner which takes gender specifically into account. The Committee is also concerned by the low minimum age of criminal responsibility in the State party;

(g) Administrative and Observation Boards, which are mandated to approve or deny conditional release of prisoners, lack institutional independence, being mainly constituted of prison staff, and allegedly operate with a high degree of arbitrariness, particularly prejudicing the prospects of release of human rights defenders, journalists, and prisoners convicted on politically-motivated charges (arts. 2, 11-13 and 16).

15. **The State party should:**

⁸ Rule 44, United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).

(a) Continue its efforts to improve conditions of detention and alleviate overcrowding in penitentiary institutions, including through the application of non-custodial measures. In this regard, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

(b) Ensure that all persons deprived of their liberty have adequate time spent outside of their cells and the opportunity to hold meaningful social interactions on a regular basis. Moreover, the State party should ensure that solitary confinement, including de facto solitary confinement, is not imposed by virtue of a prisoner's sentence, and that it be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization of a competent authority. Solitary confinement should under no circumstances exceed 15 days (see rules 43 to 46 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules));

(c) Limit the practice of strip-searching persons deprived of their liberty to exceptional cases and guarantee in law and in practice that, such searches are carried out only where absolutely necessary and there is a reasonable suspicion of wrongdoing, and that the criteria of necessity, reasonableness and proportionality are met, in accordance with rules 50 to 53 of the Nelson Mandela Rules;

(d) Ensure the allocation of the human and material resources necessary for the proper medical and health care of prisoners, refrain from applying restraints to prisoners in healthcare settings, except in cases where their use is absolutely necessary as a precaution against escape during transfer or in order to prevent a prisoner from injuring himself or herself or others or from damaging property, respect patient-doctor confidentiality, and ensure that health care professionals have ultimate authority in all decisions relating to prisoners' health, in accordance with rules 24 to 35 and 47 to 49 of the Nelson Mandela Rules;

(e) Ensure that female prisoners, in particular those who are pregnant or are in prison with babies, have access to adequate health, sanitation and hygiene facilities, are detained in gender-sensitive conditions, and are never placed under restraint during labour, during childbirth or immediately after childbirth, in accordance with rules 28 and 48 (2) of the Nelson Mandela Rules and rules 5, 24, 42 (2 and 3) and 48 to 52 of the Bangkok rules;

(f) Adopt the necessary legislative and other measures to raise the minimum age of criminal responsibility and ensure the full application of juvenile justice standards, taking into account the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules);

(g) Consider revising the Regulation on Observation and Classification Centres and Evaluation of Convicts as it relates to the composition of Administrative and Observation Boards, in order to ensure the independence of their constituent members. Boards should not be composed of individuals who interact with prisoners on a day-to-day basis, and should not be unduly biased, politically or otherwise.

Aggravated life imprisonment

16. The Committee expresses its concern over the regime of aggravated life imprisonment, which in certain cases is not accompanied by any prospect of release. The Committee is particularly concerned by the stringent conditions of detention for the approximately 4,000 prisoners serving such sentences, which severely limit social contact and visitation, and is concerned that such limitations continue to apply even in healthcare settings. With regard to prisoners Abdullah Öcalan, Hamili Yıldırım, Ömer Hayri Konar and Veysi Aktaş, currently held in İmralı Prison, the Committee is profoundly concerned by their incommunicado detention since 25 March 2021, noting that some prisoners have not had access to their lawyers in over nine years (arts. 2, 11 and 16).

17. **The State party should consider revising the Penal Code and Law No. 5275 on the Execution of Penalties and Security Measures to abolish the penalty of aggravated life imprisonment. In this regard, the State party should ensure that prisoners serving life sentences have the prospect of release or a reduction in their sentence after a reasonable period of time. The State parties should also immediately facilitate visitation and communication for Abdullah Öcalan, Hamili Yıldırım, Ömer Hayri Konar and Veysi Aktaş with their families and lawyers, and refrain from placing limitations on such contact, in accordance with rules 43(3) and 61 of the Nelson Mandela Rules.**

Deaths in custody

18. The Committee expresses its concern over information indicating that deaths in custody are insufficiently investigated, and investigations that do take place lack meaningful involvement of family members, legal representatives of the deceased and their families, and independent monitoring by civil society. The Committee also regrets the lack of data provided by the State party regarding deaths in custody and public reporting on such deaths (arts. 2, 11-13, and 16).

19. **The State party should adopt measures to ensure that all deaths in custody are investigated in a prompt and impartial manner by an independent body, including by means of forensic examinations, with due regard to the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and where appropriate, apply the corresponding sanctions. The State party should also maintain up-to-date and disaggregated data on deaths in all places of detention, their causes, and the outcome of the investigations.**

Allegations of torture and ill-treatment

20. The Committee is concerned by allegations that torture and ill-treatment continue to occur in the State party in a generalized manner, notably in detention centres, including allegations of beatings and sexual assault and harassment by law enforcement and intelligence officers, along with the use of electric shocks and waterboarding in some alleged instances. The Committee is particularly concerned over increases in allegations of torture and ill-treatment following the attempted coup in 2016, including in order to extract confessions, following earthquakes in the South-East of the country in 2023, and in the context of counter-terrorism operations. The Committee is also concerned that counter-terrorism legislation, including Law No. 3713 on Anti-terrorism, is frequently used in order to limit fundamental legal safeguards in contravention of international standards, including access to a lawyer and the right to review of the legality of detention (arts. 2, 4, 11-13, 15 and 16).

21. **The State party should:**

(a) **Carry out prompt, impartial, thorough, efficient and independent investigations into all allegations of torture and ill-treatment by law enforcement and intelligence officials, ensure that authorities without hierarchical links to the alleged perpetrator or perpetrators, open an investigation ex officio whenever there are reasonable grounds for believing that an act of torture or ill-treatment has been committed, and ensure that those suspected of having committed such acts are immediately suspended from their duties throughout the period of investigation, while ensuring that the principle of presumption of innocence is observed;**

(b) **Prosecute all persons suspected of having committed torture or ill-treatment, and, if they are found guilty, ensure that they receive sentences that are commensurate with the gravity of their acts and that the victims and/or their family members are afforded appropriate redress and compensation in a timely manner. In this regard, the State party should ensure that emergency-era legislation and administrative authorisations barring prosecution do not result in impunity;**

(c) **Consider reviewing its domestic legislation as it relates to terrorism offences to ensure that such legislation, along with the State party's other counter-terrorism and national security policies and practices, with a view to ensuring that they**

are fully in line with the obligations contained in the Convention, and that adequate and effective legal safeguards are in place.

Excessive use of force by law enforcement

22. The Committee is concerned over amendments to Law no. 2559 on the Duties and Powers of the Police in the context of the so-called “Domestic Security Package”, which appear to permit law enforcement officers to use lethal force in situations other than those where it is absolutely necessary in order to protect life, for example in order to prevent the destruction of property. The Committee is also concerned by allegations of excessive use of force by law enforcement in policing and dispersing protests and the use of impermissible means of restraint in the context of public assemblies, such as reverse handcuffing, and by the apparent arbitrary application of Law No. 2911 on Public Meetings and Demonstrations to justify arrests which violate the right to freedom of peaceful assembly (arts. 2, 4, 11-13 and 16).

23. **The Committee recommends that that State party:**

(a) **Consider reviewing its legislation on the use of force to bring it into line with international standards, develop clear guidelines incorporating the principles of lawfulness, necessity and proportionality and the precautionary principle, and strengthen its efforts to provide all law enforcement personnel with mandatory and comprehensive training on these international standards. In this regard, the Committee draws the State party’s attention to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, and the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests⁹;**

(b) **Ensure that prompt, impartial, effective, and independent investigations are undertaken into all allegations relating to torture, ill-treatment, and the excessive use of force by law enforcement officers, that the perpetrators are prosecuted, and, if found guilty, receive sentences commensurate with the gravity of their acts, and the victims are adequately compensated;**

(c) **Ban the use of restraint techniques which cause unnecessary pain and suffering, such as reverse handcuffing, and ensure that restraints are only applied as a measure of last resort, for the shortest possible period and subject to strict regulation, supervision, oversight and documentation. The State party should also consider equipping law enforcement officers with body cameras when policing public assemblies, and, more generally, in all instances where force is likely to be used;**

(d) **Ensure that all persons are protected from any harassment or violence to which they might be exposed as a result of the simple exercise of their freedom of opinion and expression and their rights to freedom of association and peaceful assembly.**

Principle of non-refoulement

24. While the Committee notes the considerable efforts of the State party in responding to refugee crises in the region, the Committee is concerned over allegations regarding excessive use of force by border police against migrants and individuals seeking asylum at border crossings. The Committee is also concerned over the detention of families with children in removal centres, and regrets that the State party maintains its declaration regarding the 1951 Convention relating to the Status of Refugees, and its 1967 protocol, which denies refugee status to individuals seeking asylum from outside of Europe (arts. 2, 3, 11-13 and 16).

25. **The State party should:**

⁹ A/HRC/55/60.

(a) **Ensure that in law and in practice no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture, and guarantee effective access to procedural safeguards, including the right to appeal adverse decisions, with automatic suspensive effect;**

(b) **Carry out prompt, impartial, independent, and effective investigations into all allegations of excessive use of force by all law enforcement officials that are tasked with handling issues related to migration, and prosecute all persons suspected of having used excessive force, and, if they are found guilty, ensure that they receive sentences that are commensurate with the gravity of their acts and that the victims and/or their family members are afforded appropriate redress and compensation in a timely manner;**

(c) **Ensure that detention for the purposes of deportation is applied only as a last resort, when determined to be strictly necessary and proportionate in the light of an individual's circumstances and for as short a period as possible. The State party should also intensify its efforts to expand its application of non-custodial measures. Children and families with children should not be detained solely for their immigration status;**

(d) **Consider withdrawing its declaration regarding the 1951 Convention relating to the Status of Refugees and its 1967 protocol.**

Forced renditions and extraditions

26. The Committee expresses its concern over allegations regarding a systematic practice of state-sponsored extraterritorial abductions and forcible return of individuals allegedly associated with the Hizmet/Gülen movement in coordination with authorities in Afghanistan, Albania, Azerbaijan, Cambodia, Gabon, Kosovo¹⁰, Kazakhstan, Lebanon, and Pakistan, as previously raised by several special procedures mandate holders¹¹. Such abductions are alleged to have taken place with the involvement of Turkish intelligence services (Millî İstihbarat Teşkilatı), and to entail human rights violations such as enforced disappearance and other forms of torture and ill-treatment. (arts. 2, 3, 11-13 and 16).

27. **The State party should:**

(a) **Cease all extrajudicial extraditions and renditions, including of individuals with perceived or real affiliations with the Hizmet/Gülen movement, as well as under counter-terrorism pretexts;**

(b) **Explicitly criminalize enforced disappearance and ensure that all cases of enforced disappearance, and other forms of torture and ill-treatment, are investigated independently, effectively, thoroughly and impartially, that those responsible are prosecuted and, if they are found guilty, that they receive punishment commensurate with the crime. In this regard, all legislative and administrative barriers to prosecution of Turkish intelligence officers which may result in impunity should be lifted;**

(c) **Ensure that victims of extraordinary rendition and enforced disappearance, and/or their families, receive redress, including adequate compensation and rehabilitation;**

(d) **Consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.**

State of Emergency

28. The Committee takes note of information provided by the State party, including in its letter of 8 November 2016, regarding the state of emergency in place in Türkiye from 21 July 2016 to 18 July 2018, and the associated derogations from its obligations under the

¹⁰ All references to Kosovo shall be understood to be in the context of UN Security Council Resolution 1244 (1999).

¹¹ See A/HRC/42/40, para. 56 and AL TUR 5/2020.

International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms. However, the Committee expresses its concern that numerous decrees enacted in order to respond to the exceptional circumstances of emergency declared by the State party have been permanentized through Law no. 7145 on Amendments to Certain Laws and Emergency Decrees. The Committee underscores that the continued application of exceptional measures, which at times may be necessary to respond to threats to the survival of a nation, is not appropriate for sustainable ordinary governance, and should never result in impunity for acts of torture or ill-treatment (arts. 2, 11-13 and 16).

29. Taking into account the principles of necessity and proportionality, the State party should urgently consider repealing emergency legislative acts which were later permanentized in legislation, or provisions thereof adversely affecting the implementation of its obligations under the Convention, including as they relate to fundamental legal safeguards against torture and the investigation and prosecution of cases of torture and ill-treatment. In this regard, the State party should ensure that all fundamental legal safeguards against torture and ill-treatment are guaranteed, in law and in practice, and that all acts of torture are promptly, effectively, and impartially investigated, that perpetrators are prosecuted and, if convicted, punished appropriately, and that the victims and/or their families receive redress, including adequate compensation and the means for as full a rehabilitation as possible.

Human rights defenders and journalists

30. The Committee is concerned that human rights defenders and journalists in the State party allegedly face threats, physical harassment, arrest, prosecution, torture and ill-treatment as a result of their legitimate exercise of their rights to freedom of opinion and expression, freedom of peaceful assembly, freedom of association and their right to promote and protect human rights. In particular, the Committee is concerned over the judicial harassment of national media outlets and human rights defenders working on issues directly related to the Convention (arts. 2, 11-13 and 16).

31. The State party should ensure that all human rights defenders and journalists are able to carry out their legitimate work in an enabling environment, free from threats, reprisals, violence, or other forms of harassment. The State party should also investigate promptly, thoroughly, and impartially all allegations of arbitrary arrest, torture or ill-treatment, and other forms of harassment of human rights defenders and journalists, prosecute and appropriately punish those found guilty, and provide victims with redress.

Gender-based and domestic violence

32. While acknowledging the steps that the State party has made during the reporting period to train law enforcement officers and reinforce its domestic legislation to respond to acts of gender-based and domestic violence, the Committee regrets the State party's decision to withdraw from the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, also known as "the Istanbul Convention". The Committee is also concerned over allegations that preventive and protective cautionary orders are not granted for sufficient durations, that complaints of gender-based and domestic violence are frequently dismissed, especially in rural areas and when involving lesbian, gay, bisexual and transgender individuals, and that the provision of shelter accommodation is discriminatory to older women and women with teenage sons and disabled children (arts. 2, 12-13 and 16).

33. The State party should consider reversing its decision to withdraw from the Istanbul Convention and ensure that all acts of gender-based and domestic violence, including those involving actions and omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, including through the initiation of ex officio investigations, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately, and that the victims or their families receive redress, including fair and adequate compensation and rehabilitation. The State party should also redouble its efforts to provide mandatory training on dealing with acts of sexual and gender-

based violence for law enforcement officials, social workers, medical personnel, lawyers, prosecutors, and judges, including training which takes into account the specific risks and challenges faced by lesbian, gay, bisexual and transgender individuals.

Training

34. The Committee takes note of information provided by the State party regarding the training of physicians, including forensic doctors, and other health care personnel on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), as revised. However, the Committee regrets that no information was provided by the State party indicating that judges, lawyers, law enforcement officers or other relevant personnel working with persons deprived of their liberty receive similar training. (art. 10).

35. The State party should ensure that all relevant staff, including prosecutors and judges, are specifically trained to identify, document and investigate cases of torture and ill-treatment, in accordance with the Istanbul Protocol, as revised. The State party should also incorporate the principles on effective interviewing for investigations and information gathering, known as the “Méndez Principles”, into future initiatives to review and revise interrogation techniques.

Investigation and prosecution of acts of torture and ill-treatment

36. The Committee regrets that the State party did not provide it with sufficiently detailed statistics regarding the number of criminal complaints, investigations, prosecutions, convictions and the sentences handed down regarding acts of torture and ill-treatment. The Committee is also concerned by information received indicating that acts falling within the definition of torture, as contained in article 1 of the Convention, when prosecuted, are frequently classified as other crimes, rather than prosecuted under article 94 of the Penal Code. In such cases, the Committee is concerned that the statute of limitations may act as a bar to prosecution and accountability. The Committee notes positive steps taken by the State party with regard to administrative accountability for perpetrators of torture and ill-treatment, including through Law No. 6713 on the Establishment of the Law Enforcement Oversight Commission, however it regrets that the Commission appears to lack a direct investigatory mandate. The Committee is also concerned over reports that individuals who make criminal complaints over allegations of torture face judicial harassment. Finally, the Committee expresses its concern over the frequent legislative practice in the State party of requiring administrative authorisation in order to prosecute public officials, as is the case for civil servants, including police and other law enforcement officers of all ranks, and military personnel, among others. Of particular concern is article 6 of Law No. 6532, which allows the Undersecretariat of the National Intelligence Organization (MIT) to block investigations and prosecutions into the actions of its personnel solely by certifying that such actions formed part of the duties and activities of the agency (arts. 2, 4, 11-13 and 16).

37. The State party should ensure that all complaints of torture or ill-treatment are investigated promptly, thoroughly, and impartially by an independent institution having no hierarchical links to alleged perpetrators, that suspected officials are suspended from duty immediately for the duration of the investigation, particularly where there is a risk that they might otherwise be in a position to repeat the alleged act, commit reprisals against the alleged victim, interfere in the collection of evidence, or otherwise obstruct the investigation, subject to the principle of the presumption of innocence, and ensure that the alleged perpetrators are duly prosecuted and, if found guilty, given a sentence commensurate with the gravity of their acts. In this regard, the Committee recommends that the State Party:

(a) Remove impediments which preclude or indicate unwillingness to provide prompt and fair prosecution and punishment of perpetrators of torture or ill-treatment thus violating the principle of certainty of punishment;

(b) **Guarantee that individuals alleging to have suffered acts of torture and ill-treatment are protected from all forms of harassment in order to ensure the prohibition and prosecution of torture to its fullest extent;**

(c) **Compile and make available to the Committee and to the general public disaggregated data regarding the number of criminal complaints, investigations, prosecutions, convictions, and the sentences handed down regarding acts of torture and ill-treatment;**

(d) **Revise Law No. 6532 to ensure that investigations into and prosecutions of allegations of torture and ill-treatment committed by MIT officials cannot be blocked by the agency itself.**

Independence of judges and lawyers

38. The Committee is concerned by what appears to be a severe regression in the independence of judges, prosecutors and lawyers in the State party during the period under review. While taking into account the exceptional measures that the State party considered necessary in order to adequately respond to the attempted coup in July 2016, the Committee expresses its concern over the effects that the increased influence of the Executive power over members of the judiciary, prosecutors, and other members of the legal profession, may have on the investigation and prosecution of torture and ill-treatment. In particular, the Committee is concerned by:

(a) The mass dismissals and arrests of judges and lawyers in the aftermath of the attempted coup in 2016, and continuously elevated levels of arrests and dismissals of members of the legal profession in the years following¹², including the arrest of four lawyers from the Progressive Lawyers' Association (Çağdaş Hukukçular Derneği). In this regard, the Committee is concerned that in a number of cases, lawyers have been detained on the basis of an allegedly flawed interpretation of Law No. 1136 on the Code of Lawyers, as noted by the European Court of Human Rights in the *Alparslan Altan*¹³ and *Akgün*¹⁴ cases;

(b) The constitutional amendment in 2017 reducing the number of judges on the Council of Judges and Prosecutors from 22 to 13, increasing the proportion of members who are directly appointed by the President, thus compromising its independence;

(c) The widespread closure of bar associations by decree and confiscation of their assets, as referenced by the Special Rapporteur on the independence of judges and lawyers¹⁵, Presidential Decree No. 5 of 2018, which allows the State Inspection Institution (Devlet Denetleme Kurumu), under the Presidency, to suspend the chairpersons and board members of bar associations, and Law No. 7249, amending the Code of Lawyers, which interferes with bar associations' self-governance (arts. 2, 12, 13 and 16).

39. The State party should ensure the full independence, impartiality, and effectiveness of the judiciary, including by guaranteeing the independence of the Council of Judges and Prosecutors and its conformity to relevant international standards, including the Basic Principles on the Independence of the Judiciary. It should also ensure respect for the right to freedom of association and for the independent practice of law, in accordance with the Basic Principles on the Role of Lawyers. Prosecutions of lawyers and judges should only take place following an independent, impartial, and effective investigation, and in a manner in conformity with domestic and international law. The State party should further guarantee the self-governance of professional lawyers' associations, independent of the authorities and the public, ensuring that they are able to exercise their functions without external interference from government or other actors.

¹² See, for example, A/HRC/50/36, para. 59.

¹³ *Alparslan Altan v. Türkiye*, Application No. 12778/17, Judgment, 9 September 2019.

¹⁴ *Akgün v. Türkiye*, Application No. 19699/18, Judgment, 22 November 2021.

¹⁵ A/73/365, para. 36

Monitoring of places of deprivation of liberty

40. The Committee takes note of the extensive network of detention monitoring bodies in the State party, along with information provided by the State party regarding the participation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in conducting trainings for civilian monitoring boards. However, the Committee is concerned that the selection process for membership of civilian monitoring boards lacks transparency, and that members can be removed by decree, as happened with the issuance of Decree Law No. 673, in 2016. The Committee is also concerned over the minimal role given to civil society organizations in conducting detention monitoring visits. The Committee further notes that the last report of the Subcommittee on Prevention of Torture and the last three visit reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment have yet to be made public (arts. 2, 11 and 16).

41. The Committee urges the State party to ensure the independence of the civilian monitoring boards, including by increasing transparency in the selection of their members, and to increase public communications regarding the place, time, and periodicity of visits of all detention monitoring bodies to places of deprivation of liberty, along with the findings and the follow-up on the outcomes of such visits, in a timely manner. The State party should also facilitate and encourage the participation of civil society organizations in conducting monitoring visits to places of deprivation of liberty. The Committee further recommends that the State party agree to the publication of all past, pending, and future reports of the Subcommittee on Prevention of Torture and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Redress

42. The Committee takes note of the information provided by the State party that victims of torture and ill-treatment may be awarded material or moral compensation through administrative mechanisms and may also act as plaintiff in civil suits in order to seek compensation. However, the Committee regrets that no legislation or subsidiary regulations exist which specifically refer to the rights and rehabilitation of victims of torture. The Committee also regrets that the sub-section referring to victims of torture in the “Guide on Approach Towards Victims” in 2016 was allegedly removed in subsequent editions of the guide (art. 14).

43. The State party should ensure that all victims of torture and ill-treatment obtain redress, including by ensuring an enforceable right to fair and adequate compensation and the means for as full a rehabilitation as possible, regardless of whether the perpetrator has been determined. In this regard, the State party should consider promulgating legislation and guidance on the rights and rehabilitation of victims of torture and collect data on the number of victims and their specific rehabilitation needs. The State party may further consider resuming its contributions to the United Nations Voluntary Fund for Victims of Torture.

Confessions obtained through the use of torture and ill-treatment

44. While the Committee acknowledges the information provided by the State party regarding the inadmissibility of evidence obtained through the use of torture and ill-treatment, as regulated by article 148 of the Code of Criminal Procedure, it is concerned by allegations that this article is not always applied in practice and by the lack of information provided by the State party on instances where such evidence was deemed to be inadmissible (art. 15).

45. The State party should ensure that:

(a) Confessions and statements obtained through torture or ill-treatment are not admitted as evidence in practice, except against persons accused of committing torture, as evidence that the statement was made under duress;

(b) When it is alleged that a statement has been obtained through torture, the allegation is investigated immediately, effectively and independently and that alleged perpetrators are prosecuted and, if found guilty, punished;

(c) All police officers, national security officers and military personnel, judges and public prosecutors receive mandatory training emphasizing the link between non - coercive interrogation techniques, the prohibition against torture and ill-treatment and the obligation of the judiciary to invalidate confessions and witness statements made under torture, taking note, in that regard, of the Principles on Effective Interviewing for Investigations and Information-Gathering (Méndez Principles).

Data collection

46. The Committee regrets that the State party did not provide the Committee comprehensive and disaggregated statistical data on areas of relevance to its obligations under the Convention, including cases of torture and other cruel, inhuman or degrading treatment or punishment, and on other matters requested. The Committee notes that a focused and coordinated system of data compilation and analysis is necessary to effectively monitor the State Party's implementation of its obligations under the Convention (arts. 2, 11-13 and 16).

47. The State party should intensify its efforts to compile and publish comprehensive disaggregated statistical information on all matters relevant to its obligations under the Convention, including on all complaints and reports received of torture, ill-treatment, excessive use of force and means of coercion, and abuse of power concerning public officials, including information on whether such complaints led to investigations and, if so, by which authority, whether the investigation resulted in the imposition of disciplinary measures or prosecutions, and whether the victims obtained redress.

Follow-up procedure

48. The Committee requests the State party to provide, by 26 July 2025, information on follow-up to the Committee's recommendations on: aggravated life imprisonment and the facilitation of contact of prisoners in İmralı Prison with their families and legal representatives; the repeal of legislation brought into force during the state of emergency affecting the enjoyment of fundamental legal safeguards; and efforts to prevent and prosecute gender-based violence (paras. 17, 29 and 33). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the present concluding observations.

Other issues

49. The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations, and to inform the Committee about its disseminating activities.

50. The Committee requests the State party to submit its next periodic report, which will be its sixth, by 26 July 2028. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its sixth periodic report under article 19 of the Convention.
