



**TURKEY TRIBUNAL**

Because Silence is the Greatest Enemy of  
Fundamental Human Rights

# Torture in Turkey Today

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in collaboration with



**INTERNATIONAL  
OBSERVATORY  
HUMAN RIGHTS**

# Executive Summary

# Torture in Turkey Today

BY ERIC SOTTAS AND JOHAN VANDE LANOTTE

This report aims to provide an answer to the key questions addressed to the Turkey Tribunal about torture. These questions are: Who are the targeted groups? What is the purpose and the motivation of the perpetrators? Is there a pattern in the way torture is inflicted? Is it being used systematically? Is it an organised practice? Is torture tolerated within the security system itself and what is the involvement at the central governmental level?

## International legislation

Binding international regulations, which are directly applicable in the Turkish legal order, prohibit the government, without exception, from torturing someone, or treating or punishing someone in an inhumane or degrading manner. These international regulations also mean that all necessary steps must be taken to prevent such behavior, even if it involves non-state personnel. Any such behavior must be detected, investigated thoroughly and must be punished with sufficiently long prison sentences. Even though the burden of proof lies with the victim, if the victim can indicate a reasonable suspicion that he or she has been subjected to torture, inhuman or degrading treatment while deprived of his or her liberty, the government will have to provide evidence to the contrary.

According to the official statistics of the ECtHR, after Russia, Turkey has the most judgements in which a violation of art. 3 ECHR is ruled. In total, from 1991 until the end of May 2020, 620 cases concerning art. 3 ECHR have been decided. In 441 cases (71.1%) a violation was found.

## Brief history of the use of torture

The coup d'état of 1980 was followed by a period of generalised use of brutal torture. In the 1990s, the CPT and the UN Committee published their reports, this was clearly and critically pointed out. Without any doubt, in the 1990s, violence and torture are a widely used feature of the Turkish police and security forces.

By the beginning of the twenty-first century, positive legislative changes were made. In 2003, the new Erdogan government officially declared that it will apply a “zero tolerance policy towards torture”. A number of publications by international bodies report an improvement in the situation in that first decade of the twenty-first century, and also mention that when torture occurs, it is less violent. These evolutions do not prevent the continued strong presence of torture in relation to the PKK and other extreme left-wing (Kurdish) organisations, certainly linked to violent confrontations and to the presence of the state of emergency in some regions.

However, in the last ten years there has been an intensive resurgence of torture. Figures on the exact number of cases of torture are not clear. Based on official statistics we can state, albeit with considerable caution, that around 3,000 complaints of torture are filed per year on average. A maximum of 1% of the complaints lead to imprisonment (and this estimate is most probably high), and the chance that the perpetrators will be punished with a sufficiently severe imprisonment, is nearly non-existent.

The Turkish government systematically denies the complaints. This is demonstrated in:

1. The fact that the complainants are opponents of the regime and therefore have an interest in spreading false rumours and accusations;
2. The lack of medical evidence for most of the torture complaints, and;
3. The fact that the complaints examined by the courts very rarely lead to a conviction.

To give an answer to this statement, we examined the jurisprudence of the ECtHR, that concludes, on an almost continuous basis, that there have been violations of Article 3 ECHR by the Turkish state based on the state’s lack of effort to conduct effective investigations, nor to take care of medical reports, that are in line with the international standards, and the almost pervasive culture of losing crucial time in the criminal proceedings makes the arguments of the Turkish authorities very unconvincing. “Nemo auditur propriam turpitudinem allegans”: no one should be permitted to profit from his own fraud or take advantage of his own wrong or negligence.” That is, however, exactly what the Turkish state does in its argumentation and what the judgments of the ECtHR have proven.

More than 20 reports have been made by official international organisations, further demonstrating evidence to support the legally binding rulings of the ECtHR. The Turkish government has, so far, recognised these international bodies involved, and as a result must also recognise the conclusions of these bodies.

## The questions

The key questions surrounding concerns about the use of torture being systematic, organized and tolerated were asked.

### Is torture organised?

We can establish, without doubt and with absolute clarity, that the frequent use of torture of certain groups of people does not constitute a spontaneous reaction of certain police officers but is a practice that is clearly well organised within the security services.

### Is it being used systematically?

With all due precautions about the absence of precise figures, our conclusion is that certainly in the last five years in Turkey, the use of torture is systematic towards members of the targeted groups that we identified. It was used when these groups fail to give the answers the security services want, in the sense that the UN Committee assigns to the word 'systematic'.<sup>11</sup>

### Is torture tolerated within the security system?

The figures submitted by the Turkish government concerning disciplinary sanctions in case of torture, certainly do not justify the assertion that, through disciplinary actions, the security services are reacting to torture in a coherent and rigorous way. The contrary is true. Torture is tolerated in the security system.

The answers to these questions, and the others outlined at the start of this summary, bring us to the inevitable conclusion that the central government bears full responsibility for the systematic and organised use of torture in Turkey, and the nearly non-existent prosecution and punishment of it.

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<sup>11</sup>The UN Committee defines systematic as follows "when it is apparent that the torture cases reported have not occurred fortuitously in a particular place or at a particular time, but are seen to be habitual, widespread and deliberate in at least a considerable part of the territory of the country in question" And furthermore: "Inadequate legislation which in practice allows room for the use of torture may also add to the systematic nature of this practice".

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## 1. INTRODUCTION

1. In this report we aim to provide an answer to the questions addressed to the Turkey Tribunal about torture.
  - Who are the targeted groups?
  - What is the purpose and the motivation of the perpetrators?
  - Is there a pattern in the way torture is inflicted?
  - Is it being used systematically?
  - Is it an organised practice?
  - Is torture tolerated within the security system itself and what is the involvement at the central governmental level?
2. We will first give a short description of the applicable international legal instruments. For this report we have based our findings almost exclusively on official statistics and reports, which we will summarise with the international reports dedicated to these questions. Then we will give an overview of the practice and evolution of torture over the past 30 years in Turkey. Finally, we will seek to answer the questions.

## 2. INTERNATIONAL LEGAL CONTEXT

3. Article 1 of the **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)** stipulates the following: *“For the purposes of this Convention, the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”*

4. The prohibition of torture and other cruel, inhumane or degrading treatment or punishment is absolute. Exceptions or derogations are not allowed:

*“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. An order from a superior officer or a public authority may not be invoked as a justification of torture.” (CAT, art. 2 (2) and art. 2 (3))*

5. According to article 4 each state party to the CAT *“must ensure that all acts of torture are offences under its criminal law” (CAT, art. 4(1))*. Disciplinary sanctions and light or suspended prison sentences are not in accordance with this provision. *“In accordance to the practice of the CAT committee in the state reporting procedure, only a prison sentence of at least a few years can be considered as an appropriate penalty which takes the grave nature of torture into account”<sup>2</sup>*.
6. The non-derogable character of the prohibition is accepted as a matter of *ius cogens* (obligatory international law) in all circumstances. The UN Committee against Torture (UN Committee) *“draws the attention of the State party to paragraph 5 of its general comment No. 2 (2007 on the implementation of article 2 by the State parties, ..., that exceptional circumstances also include any threat of terrorist acts or violent crime, as well as armed conflict, international or non-international.” (CAT/C/TUR/CO/4; No 12)*
7. The CAT is only applicable to *“public officials or other persons acting in an official capacity”*. However: *“Where State authorities (...) know or have reasonable ground to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors (...), the State bears responsibility.” (General Comment No.2, CAT/C/GC/2, No.18)*

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<sup>2</sup> Katona, N., “Article 4. Obligation to criminalize Torture”, in: [The United Nations Convention against Torture. A commentary](#), Nowak, M., Birk, M Monina, G., Oxford University Press, 2019, p.177

8. The **European Convention for the Protection of Human Rights and Fundamental Freedom (ECHR)** is far more concise: *“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”* (art.3 ECHR)<sup>34</sup>. The interpretation of this concept is largely left to the European Court of Human Rights (ECtHR). The ECtHR has - in line with the CAT and the General Comments and vice versa - elaborated a consistent jurisprudence that the state not only has the duty to abstain from subjecting a person to torture or ill treatment or punishment, but also has *“the obligation to investigate whether torture or inhuman or degrading treatment or punishment has been committed, and the obligation to prevent such treatment from being inflicted both by state agents and by private parties”*<sup>5</sup>.”
9. These obligations are generally referred to as the “positive obligations”: prevention and the obligation to investigate. In 2004, the United Nations published a “Manual on the Effective Investigation and Documentation on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment”, the so-called “Istanbul Protocol”. Where there has been no, or only an insufficient investigation in the jurisprudence of the court, it is referred to as *“a procedural violation – next to a substantial violation”*<sup>6</sup>, more specifically *“criminal proceedings ought not to be discontinued on account of a limitation period and amnesty and pardons are not allowed in these cases”*.<sup>7</sup> As is the case for CAT, also in the ECHR, the prohibition of torture is absolute and non-derogable. Both the CAT and the ECHR are ratified by Turkey and – according to the Turkish Constitution (Article 90) prevail over national laws in case of conflict.

<sup>3</sup> In the International Covenant on Civil and Political Rights Article 7 states as follows: *“No one shall be subjected to torture, inhuman or degrading treatment or punishment. In particular no one shall be subjected without his free consent to medical or scientific experimentation”*. As this article is literally the same as Article 3 ECHR, we will concentrate on this one.

<sup>4</sup> The European Convention for the prevention of Torture and Inhuman or Degrading Treatment or Punishment, did not add a new definition the ECHR. This convention establishes a Committee which may visit any place within the jurisdiction of the Parties where persons are deprived of their liberty by a public authority. The Committee's function is to carry out visits and, where necessary, to suggest improvements as regards the protection of persons deprived of their liberty from torture and from inhuman or degrading treatment or punishment.

<sup>5</sup> Vermeulen, B. and Battjes, H. “Prohibition of Torture and other inhuman or degrading treatment or punishment”, in “Theory and Practice of the European Convention on Human Rights, Van Dijk, P., Van Hoof, F., Van Rijn, A. en Zwaak, L; (ed.,) Intersentia, 2018, p. 385 with reference to: A. v. United Kingdom, ECtHR, 23 September 1998 and Assenov and Others v. Bulgaria, ECtHR, 28 October 1998. In several judgments the ECtHR confirmed that the duty to investigate under article 3 is not limited to State agents but also to private persons (ECtHR, M.C. v. Bulgaria, 4 December 2003; ECtHR, M. and M. v. Croatia, 3 September 2015; Dordevic v. Croatia, 19 July 2011).

<sup>6</sup> “Thus the Court has considered the obligation to investigate as the *“procedural aspect”* of the provision, next to the *“substantive aspect”* under which heading it discussed the obligation to prevent” *Ibidem*, p.405.

<sup>7</sup> *Ibid.*, p.406, with reference to Mocanu and others, ECtHR, 17 September 2014. Also: *“The CAT Committee has insisted in numerous cases that no acts amounting to torture should be subject to any statute of limitation (...). Accordingly, no time bar should deter the application of criminal law against acts of torture”*, Katona, N. Article 4. Obligation to criminalize, in The United Nations Convention Against Torture and its optional Protocol, *o.c.*, p. 190, No. 44

10. It is important to emphasise that this report is about torture or ill-treatment of persons who are deprived of their freedom, in prison or in police custody or at extra-custodial locations.<sup>8</sup> The report is not about persons who are abducted and afterwards tortured. Another report deals with that issue. For this report “in police custody” and “police station” not only applies to custody in police stations as such but also to custody in extra-custodial locations and to custody in Security Directorates.
11. For persons who are deprived of their freedom and are thus under the authority of the government, the burden of proof is specific. In the case *Aylin versus Turkey* the ECtHR states:

*“that the Commission could properly reach the conclusion that the applicant’s allegations were proved beyond reasonable doubt, it being recalled that such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences (see the Ireland v. the United Kingdom judgment cited above, pp. 64–65, § 161). It would also note in this regard that the Government have been unable to adduce any evidence collected in the course of the criminal investigation into the applicant’s allegations (see paragraph 56 above) which would have served to contradict this conclusion and that the medical evidence which they rely on cannot be taken to rebut the applicant’s assertion that she was raped while in custody (see paragraph 67 above).”<sup>9</sup>*

12. Although we cannot go so far as to assert that in this judgment, the Court is completely turning around the burden of proof, the fact the Court stresses that evidence of the state is not convincing enough, is not without significance. We see a more explicit statement in a later judgement:

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<sup>8</sup> The situation of migrants in centers where they are detained, including the possibility of removal, is not the subject of the report. We also do not focus on poor living conditions in prisons (overcrowding), long-term solitary confinement or other forms of unacceptable living conditions for prisoners

<sup>9</sup> ECtHR, *Aylin v. Turkey*, 25 September, Grand Chamber, par 73.

*“Where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, as in the case of persons within their control in custody, strong presumptions of fact will arise in respect of injuries and death occurring during such detention. Indeed, the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation.”*<sup>10</sup>

In any case, when an individual is taken into custody in good health, but found to be injured at the moment of release, it is incumbent upon the state to provide a plausible explanation of how the injuries were caused.<sup>11</sup>

13. **We can therefore state that binding international regulations, which are directly applicable in the Turkish legal order, prohibit the government without exception from torturing someone or treating or punishing someone in an inhuman or degrading manner. These international regulations, which are applicable in the Turkish legal order, also mean that all necessary steps must be taken to prevent such behavior, (even if it would involve non-state personnel. Any such behavior must be detected, must be investigated thoroughly and must be punished in a severe manner, with sufficiently long prison sentences. Even though the burden of proof lies with the victim, if the victim can indicate a reasonable suspicion that he or she has been subjected to torture, inhuman or degrading treatment while deprived of his or her liberty, the government will have to provide evidence to the contrary.**

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<sup>10</sup> ECtHR, *Salman v. Turkey*, 27 June 2000, Grand Chamber, par. 100. See also ECtHR, *Tomasi v. France*, 27 August 1992, par 110 where we partly (in the first section of par. 110) have a reasoning *a contrario*: no other proof being found, the responsibility of the state is accepted.

<sup>11</sup> *Süleyman Demir and Hasan Demir v. Turkey*, ECtHR, 24 March 2015; *Aktürk v Turkey*, ECtHR, 13 November 2014.

### 3. SOME STATISTICAL INFORMATION ABOUT TORTURE IN TURKEY

#### 3.1. STATISTICAL INFORMATION FROM THE TURKISH GOVERNMENT

14. In table 1, data is given about the judicial action against torture in Turkey. This data is official data from the Ministry of Justice and is available on the website of the Ministry. No data has yet been published for 2019 or 2020.

Table 1: Judicial Statistics on Article 94 (Torture) and Article 95 (Severe Torture) of the Turkish Criminal Code					
Year	Total	Investigation Phase		Trial Phase	
		Non-Prosecution	Filing a Public Case (Indictment)	Acquittals	Imprisonment
2013	1826	1148	211	86	20
2014	1719	1029	248	99	13
2015	1475	894	294	65	17
2016	1359	903	128	52	11
2017	1191	804	98	144	7
2018	960	652	83	38	10
<b>Total</b>	<b>8530</b>	<b>5430</b>	<b>1062</b>	<b>484</b>	<b>78</b>
<b>Yearly</b>	<b>1422</b>	<b>905</b>	<b>177</b>	<b>80</b>	<b>13</b>

Source: Ministry of Justice, Turkey. These statistics are available in English on the website of the Turkish Ministry of Justice.

15. Based on this information we can present the following overview in Diagram 1.



16. Some remarks must be made to clarify this diagram.

1. We have no statistics about the exact number of cases of torture. It is common and universal knowledge that the dark number is high, certainly in a system where the number of convictions is low.
2. We do not know the exact number of complaints either. For the period 2013-2018, the Human Rights Association (HRA – IHD in Turkish) received an average of 2063 complaints yearly (See Appendix 2)<sup>12</sup>. Of course, they do not receive all the complaints from the whole country. In the report of the Committee against Torture for the fourth periodic report on Turkey, the Committee against Torture notes:

*“a significant disparity between the high number of allegations reported by non-governmental organizations and the data provided by the state party in its periodic report... suggesting that not all allegations of torture have been investigated during the reporting period.”* (CAT/C/TUR/CO/4, No 9). In that context an estimation of a yearly average of 3000 complaints is surely not an overestimation.

3. Filing a complaint doesn't necessarily mean that a case is opened for torture. The case can be considered under article 96 - voluntary injury, for instance (see infra No. 7). Or competence can be denied, etc. It is the prosecutor who decides, not the complainant. We notice that an average of 1421 cases for torture were opened annually. If we estimate the number of complaints yearly at 3000, then half of the complaints are opened under torture.
4. Remarkably, the number of cases opened have clearly declined since 2015. Compared to 2013, the number for 2018 is down by nearly 50%. There is no indication that the number of cases of torture dropped in this period, on the contrary. The number of allegations went up markedly. The only explanation that is plausible is a reduced will to prosecute torture on the part of the prosecutors. If we

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<sup>12</sup> In their figures we see a slow growth in the number of complaints till 2010 (average 843 complaints in a year), from 2011 to 2014 the number is higher (average 1428 complaints per year), from 2015 to 2019 we notice a very sharp increase in complaints (average of 2300 complaints per year). As far as the location where the torture is allegedly executed is concerned, prisons represent 39% of the complaints but the proportion is markedly lower before 2010. We see the opposite situation for “custody”, in police stations (this also includes the security directorates). The percentage of the complaints about torture or ill-treatment in extra-custodial places is high.

stick with the number of 3000 complaints yearly (and for the period 2015- 2018 that is probably an underestimation), the percentage of cases opened dropped to less than one third. It should, of course, be borne in mind that the international obligation is for all cases to be examined thoroughly.

5. When a case is opened, this does not automatically lead to an indictment. On average 177 indictments were rendered annually. This is 12% of the cases opened and 6% of the estimated number of complaints.
6. Finally, on average 13 prison sentences were issued. This is 1% of the indictments and 0.5% of the estimated complaints.
7. To this diagram we need to add that under article 96 (torment/deliberate injury – not amounting to torture) on average 1500 cases were opened annually in the period 2013-2018, leading to 532 indictments and 238 imprisonments. A considerable number of these cases most probably should have been investigated as torture cases. The sanction for torment is lower than for torture and suspension of pronouncement of the verdict is possible. Note that if we add these cases opened to the cases on torture, we also arrive at 3000 cases opened annually.
8. Some reports (for instance in the conclusions and recommendations of the UN Committee on the third periodic report of Turkey of 20 January 2011) mention the tendency that, when confronted with complaints of torture or ill-treatment, police officers would often resort to counter-charges, using Art. 265: *using violence or threats against a public official to prevent them from carrying out their duty*. By doing so, the reports suggest that pressure or intimidation is directed towards the victims or the relatives of the victims, not to file a complaint. In this context it is interesting to compare the cases about torture and the number of cases about art. 265.<sup>13</sup> For this comparison, we have added the numbers of torment/deliberate injury to the ones of torture. For the whole period 2010-2019 in total for torture and deliberate injury: 28,768 cases are concerned and for art. 265: 1,723,767 cases, or 60 times more.

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<sup>13</sup> Data from the official website of the Ministry of Justice

9. Finally, in the yearly reports, HRA mentions that in 2018, 160 persons “*notably students, journalists and political activists*” stated that they were subjected to torture and ill-treatment due to attempts to force them to become informants. For 2019 this concerned 71 persons, but on top of that the media has mentioned 66 other persons.

In Appendix 1 some extra numbers are given. They confirm the findings mentioned above.

17. **The figures and percentages shown above are partly based on assumptions, so we must therefore use them with caution. But it is reasonable to say that a complaint about torture leads to an imprisonment in maximum 1% of the cases. In the past year, this number is even an overestimation. On top of that, in ten years’ time, cases have been opened against 1 million seven hundred and thirty-two thousand and seven hundred and sixty-seven (1.732.767) persons for using violence or threats against a public official to prevent them from carrying out their duty. This is 60 times the number of cases opened for torture + deliberate injury.**

### 3.2. STATISTICAL INFORMATION FROM THE ECtHR

18. According to the official statistics of the ECtHR, after Russia, Turkey has the most judgements in which a violation of art. 3 ECHR is ruled. Some more detailed information can be found in the Hudoc database. In this database the case-law of the ECHR is incorporated. Our figures are based on the cases, not the judgements. One judgement can decide more than one case. Cases still pending are not included. Knowing the very long time needed for a case to be dealt with in the ECtHR system, cases introduced after 2010 are not systematically in the database yet, as the judgement has not been delivered. We should be aware also of the fact that 95% of the cases do not pass the “entrance filter” and so are not represented in Hudoc either.
  
19. In total, from 1991 until end of May 2020, 620 cases concerning art. 3 ECHR have been decided. In 441 cases (71.1%) a violation was found. The years in which the most complaints were filed are 2002 (61), 2003 (50), 1999 (40), 2005 (39) and 2008 (38). Most violations are found by the court in the complaints from 2002 (43), 2003 (40), 2005 (37), 2004 (34) and 2007 (28).
  
20. In fact, we have a constant high number of judgements where the Court found a violation of article 3 in the complaints from 2002 on. We cannot rule out the possibility that being more familiar with the possibility of filing a complaint with the ECtHR also plays a role here.

## 4. OFFICIAL REPORTS ABOUT TORTURE IN TURKEY

### 4.1. INTRODUCTION

21. In this section of the report, we will quote extensively from the official documents presented by international bodies. The professional manner in which these documents have been drawn up with the necessary caution makes these reports an important element in arriving at balanced and well-founded answers to the questions raised. As we have based our conclusions for the calculations on official Turkish government figures, we will base our substantive conclusions almost exclusively on these official documents. The longer quotations may to some extent detract from the readability of the report, but it is our conviction that they are absolutely necessary.

### 4.2. REPORTS OF THE CPT (THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE)

22. The CPT carried out **31 visits** to Turkey from 1990 to the end of 2019. Seven of them were periodic visits, 24 were ad hoc visits. For the reports corresponding to visits in August 2016 and April 2018 no authorisation to publish was given by the Turkish government.
23. The first report of the CPT concerns the **visit from 9 to 21 September 1990**. Most attention has been paid to the Ankara and the Diyarbakir Police Headquarters and to the Interrogation Centre of the political Department of the Diyarbakir Police. The wording of the report is very critical: *“in the light of all information gathered, including its own on-site observations it has concluded that detectives of the Political Department of Ankara and Diyarbakir Police frequently resort to torture and/or other forms of severe ill-treatment, both physical and psychological, when holding and questioning suspects. These practices must cease.”* (CPT/Inf(2007) 1, par. 89) *“The only conclusion that can reasonably be drawn (...) is that torture and other forms of severe ill-treatment are important characteristics of police custody in that country.”* (Ibidem., par. 94)

24. Visits were paid to Turkey in 1991, 1992 (twice), 1994, 1996 (twice), 1997 and 1999. Most attention was devoted to police custody. The CPT made two public statements: one in 1992 and one in 1996. From the **1996 public statement** we present the following comprehensive passage:

*In its public statement on Turkey of 15 December 1992, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (...) concluded that the practice of torture and other forms of severe ill-treatment of persons in police custody - both ordinary criminal suspects and persons held under anti-terrorism provisions - remained widespread. (...)*

*Some progress has been made. The Turkish authorities have issued a multitude of instructions and circulars; further, training programs and human rights education strategies have been devised. However, the translation of words into deeds is proving to be a highly protracted process. The CPT's findings in the course of a visit to Turkey in October 1994 demonstrated that torture and other forms of severe ill-treatment were still important characteristics of police custody in that country. This led to an intensification of the dialogue between the Turkish authorities and the CPT. Nevertheless, the Committee has continued to receive credible reports of torture and ill treatment by Turkish law enforcement officials throughout 1995 and 1996. Further, in the course of visits to Turkey in 1996, CPT delegations have once again found clear evidence of the practice of torture and other forms of severe ill-treatment by the Turkish police.*

*The CPT's most recent visit took place in September of this year. Police establishments in Adana, Bursa and Istanbul were visited, and the delegation also went to three prisons in order to interview certain persons who had very recently been in police custody in Adana and Istanbul. A considerable number of persons examined by the delegation's three forensic doctors displayed marks or conditions consistent with their allegations of recent ill-treatment by the police, and in particular of beating of the soles of the feet, blows to the palms of the hands and suspension by the arms. The cases of seven persons (four women and three men) medically examined at Sakarya Prison, where they had very recently arrived after a period of custody in the Anti-Terror Department at Istanbul Police Headquarters, must rank among the most flagrant examples of torture encountered by*

CPT delegations in Turkey. To focus only on their allegations of prolonged suspension by the arms, motor function and/or sensation in the upper limbs of all seven persons was found to be impaired - for most of them severely - and several of them bore ecchymoses or tumefactions in the axillary region which were also clearly indicative of a recent suspension by the arms. Two of the persons examined had lost the use of both arms; these sequelae could prove irreversible. Further, as had been the case in October 1994 and during earlier CPT visits, the delegation once again found material evidence of resort to ill-treatment, in particular, an instrument adapted in a way which would facilitate the infliction of electric shocks and equipment which could be used to suspend a person by the arms. The objects concerned were discovered in Building B of Istanbul Police Headquarters; they rendered all the more credible allegations of ill-treatment made to the delegation by persons in the custody of the Narcotics Department (which is located in Building B), allegations which were also supported by observations of medical members of the delegation. The CPT forwarded a detailed account of its delegation's findings to the Turkish authorities; however, the reply received from those authorities on 22 November 1996 signally failed to acknowledge the gravity of the situation.

(...)

It is frequently argued that the existence of torture and ill-treatment in Turkey is closely linked to the scale of terrorist activities in that country. (...) Turkey is entitled to the understanding and support of others in its struggle against this destructive phenomenon. However, the Committee has also emphasized that the response to terrorism must never be allowed to degenerate into acts of torture or other forms of ill-treatment by law enforcement officials. (...) Further, the information gathered by the CPT in the course of its visits to Turkey shows clearly that torture and ill-treatment are also inflicted by law enforcement officials upon ordinary criminal suspects. Consequently, it would be quite wrong to assume that the problem of torture and ill-treatment is simply an unfortunate consequence of the scale of terrorism in Turkey. The problem may well have been exacerbated by terrorism, but its roots go far deeper." (CPT/Inf (96)34, No. 1-3 and No.11)

25. **Visit from 16 to 24 July 2000**

In the preliminary observations, the CPT noted that *“resort to the most severe methods of physical ill-treatment encountered in the past by CPT delegations – for example, suspension by the arms and the infliction of electric shocks – has diminished in recent times in the Istanbul area, both in Police Headquarters’ departments and district police establishments. This is a step in the right direction. However it would appear that resort to methods such as deprivation of sleep over periods of days, prolonged standings and threats to harm the detainee and/or his family remains common place, for example in the Anti-Terror Department at Istanbul Police Headquarters.”* (CPT/Inf (2001) 19, p. 7)

26. **Visit from 2 to 12 September 2001**

This report is similar in tone and the attention is drawn to positive constitutional and legislative changes. In the same vein, a quote from the report of the **visit from 7 to 15 September 2003**: *“The facts found in the regions to Turkey visited by the CPT’s delegation are globally encouraging. The government’s message of “zero tolerance” of torture and ill treatment has clearly been received (CPT/Inf (2004)16, nr. 8).* But also: *“However, the picture which emerges from the information gathered by the CPT’s delegation is certainly not entirely positive. The delegation did receive a number of allegations of recent ill treatment during police/gendarmerie custody, and in some cases gathered medical evidence consistent with those allegations.”* (Ibidem)

27. **Visit from 19 to 24 March 2004**

In this report, the legislative and regulatory framework is described as *“characterized by CPT as being capable of combatting effectively torture and other forms of ill treatment”*. Critical observations are made about the situation in the Izmir region and (in a sharp way) about the Ganziatep region: *“a considerable number of allegations of recent ill-treatment were received from both detained persons and other interlocutors, some of them concerning severe ill-treatment.”* (Ibidem, No. 13)

28. **Visit from 7 to 14 December 2005**

This report stated as follows: *“The information gathered during the CPT’s December 2005 visit would indicate that the curve of ill-treatment by law enforcement officers remain on the decline. However, there are clearly no ground for complacency, all the more so as reports continue to appear of ill-treatment by laws enforcement officials in different parts of the country.”* (CPT/In,( 2006)30, No. 20). We read the same in the report concerning the **visit from 4 to 17 June 2009**.

29. **Visit from 9 to 21 June 2013**

In this report the CPT no longer mentions a positive evolution and it explicitly mentions the problems in the Diyarbakir area (again) and the Sanliurfa area. CPT also *“paid particular attention to police operations that were carried out in het context of public demonstrations ongoing in different parts of the country.”* (CPT/Inf (2015)6, No. 18.)

30. **Visit from 10 to 23 May 2017**

*“[T]he CPT’s delegation received a considerable number of allegations from detained persons (including women and juveniles) of recent physical ill-treatment by police and gendarmerie officers, in particular in the Istanbul area and in south-eastern Turkey. Most of these allegations concerned excessive use of force at the time of or immediately following apprehension (...), as well as beatings during transportation to a law enforcement establishment. In addition, many detained persons claimed that they had been physically ill-treated inside law enforcement establishments (in locations which were apparently not covered by CCTV cameras), with a view to extracting a confession or obtaining information or as a punishment. (...) In Istanbul, the delegation received detailed and consistent accounts from detained persons (including women), interviewed independently of each other, that they had been taken by police officers to a partly derelict building in the city center, where they were subjected to heavy beatings and severe sexual humiliation, in particular by officers of a mobile intervention unit (so-called “Yunus”) (CPT/Inf(2020)22, No.12).It is noteworthy that only a limited number of allegations of physical ill-treatment by law enforcement officials were received from detained persons who had recently been detained on suspicion of terrorism-related offences, in particular in connection with the military coup attempt of 15 July 2016, which constitutes a stark contrast to the findings of the August/September 2016 visit (Ibidem, No.13).*

31. Following this, some detailed examples of ill treatment and torture are given that never were prosecuted. In the answer of the government, no comment is given on these cases.
32. In the report the CPT has very critical remarks about the medical control, a keystone to eliminate torture: *“However, the information gathered during the visit suggests that the entire system of medical controls suffers from fundamental flaws which are likely to seriously undermine its effectiveness. First and foremost, (...), it remained the case that medical controls of persons in police custody were usually carried out in the presence of law enforcement officials. Obviously, the relevant provision of the Detention Regulation (Section 9) and the instructions of the Ministry of the Interior remained by and large a dead letter. It does not come as a surprise that a number of persons who indicated to the delegation that they had been subjected to police ill-treatment stated that they had been afraid to speak to a doctor about the ill-treatment. Moreover, several detained persons alleged that they had been threatened by police officers and told not to show their injuries and, in one case, the person concerned claimed that he had been physically assaulted in the police vehicle in retaliation for having complained to the doctor about the ill-treatment. Several allegations were also heard that police officers had exerted pressure on doctors not to record detected injuries. In addition, as was the case during previous visits, medical controls in the context of police custody were often limited to the posing of questions about possible ill-treatment, without any proper physical examination. In this regard, in a number of cases of alleged police ill-treatment where supporting medical evidence was found in prison medical records or was directly observed by the delegation’s doctors, the medical reports obtained by the police indicated an absence of injuries. Moreover, several detained persons alleged that police officers had obtained a medical report carrying the signature of a hospital doctor without them even being presented to the doctor” (Ibidem, No.19).*
33. **Visit from 6 to 17 May 2019**
- This report largely confirms the report of 2016: again the attention is drawn to the mobile motorcycle intervention teams (“Yunus”) as frequent perpetrators of ill-treatment, allegations about torture came mostly from persons suspected of ordinary criminal offences and the lack of a reliable system of medical controls again is clearly criticised. The CPT again gives detailed examples of torture and ill-treatment. A remarkable statement is given about political statements that were made by members

of the government: *“it is a matter of serious concern that, in early 2018, political statements made at the ministerial level had been widely published within and outside Turkey, which appear not only to run counter to the Turkish authorities’ commitment to pursue a ‘zero tolerance policy’ against torture and ill-treatment but which could easily be perceived even as incitement of law enforcement officials to ill-treat certain categories of criminal suspects such as suspected drug dealers.”* (CPT/Inf(2020)24, No. 13).

34. **Visits of 29 August to 6 September 2016 and 4 April to 13 April 2018**

For these reports **no authorisation** has been given by the Turkish government to publish the report. In several reports CPT also mentions recurring allegations (sometimes on a high scale) of physical ill treatment of juveniles, conceived by the juveniles as a (threat of) corporal punishment in case they misbehave.

#### 4.3. REPORTS FROM THE UN COMMITTEE AGAINST TORTURE

35. The UN Committee has published a **first report about Torture in Turkey (15 November 1993)**. The UN Committee examined information about “systematic practice of torture” that it received in April 1990, pursuant to article 20 CAT, from Amnesty International. The government strongly denied this, stating that the NGO’s were *“deeply politicized or never have been giving credible proof of their impartiality”* (A/48/44/Add. 1, p.9), and that the testimonies were essentially derived from *“persons presumed to be terrorists who in line with their strategy, had every reason to claim that they had been tortured”* (*ibidem*). The UN Committee however *“remains concerned at the number and substance of the allegations of torture received, which confirm the existence and systematic character of the practice of torture in this State party.”* (*ibidem*, p. 13)

36. In the conclusions and recommendations of the UN Committee on the **second periodic report of Turkey (27 May 2003)**, the UN Committee welcomes some legislative ameliorations, but expresses concerns about:

*“(a) Numerous and consistent allegations that torture and other cruel, inhuman or degrading treatment of detainees held in police custody are apparently still widespread in Turkey; (...) (d) Allegations that despite the number of complaints, the prosecution and punishment of members of security forces for torture and ill-treatment are rare, proceedings are exceedingly long, sentences are not commensurate with the gravity of the crime, and officers accused of torture are rarely suspended from duty during the investigation.”*

*(CAT/C/CR/30/5, No. 4-5)*

37. In the conclusions and recommendations of the UN Committee on the **third periodic report of Turkey (20 January 2011)**, the UN Committee

*“welcomes efforts being made by the State party to amend its policies in order to ensure greater protection of human rights and give effect to the Convention, including: the announcement of a “zero tolerance for torture” on 10 December 2003” (...) The Committee is gravely concerned about numerous, ongoing and consistent allegations concerning the use of torture, particularly in unofficial places of detention, including in police vehicles, on the street and outside police stations, (...) while noting the reported decrease in the number of reports on torture and other forms of cruel, inhuman or degrading treatment and punishment in official places of detention in the State party. The Committee is furthermore concerned by the absence of prompt, thorough, independent and effective investigations into allegations of torture committed by security and law enforcement officers (...). It is also concerned that many law enforcement officers found guilty of ill-treatment receive only suspended sentences, which has contributed to a climate of impunity. In this respect, it is a matter of concern to the Committee that prosecutions into allegations of torture are often conducted under article 256 (“excessive use of force”) or article 86 (“intentional injury”) of the Penal Code, which proscribe lighter sentences and the possibility for suspended sentences, and not under articles 94 (“torture”) or 95 (“aggravated torture due to circumstances”) of the same Code (art. 2). “(Cat/C/TUR/Q/4, No. 4-7). Furthermore, the Committee is concerned at reports that police often resort to counter-charges under the Penal Code against individuals and family members of alleged victims complaining of police ill-treatment, (...). The Committee is concerned that*

such charges are reportedly employed to deter, and even intimidate, alleged victims of abuse and their relatives from filing complaints (arts. 11 and 16).” (*Ibidem*, No. 13)<sup>14</sup>

38. Finally, in the concluding observations on the **fourth periodic report of Turkey (2 June 2016)** the UN Committee “welcomes the State party’s ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 27 September 2011 (CAT/C/TUR/CO/4, No. 4). The Committee is concerned that, (...) it has not received sufficient information on prosecutions for torture, including in the context of cases involving allegations of torture that have been the subject of decisions of the European Court of Human Rights. (...) Further, while the State party has undertaken many investigations into allegations of ill-treatment and excessive use of force by its officials, these have resulted in relatively few cases of disciplinary sanctions, and in fines and imprisonment in only a small number of cases. (...) (*Ibidem*, No. 9). “The Committee is seriously concerned about numerous credible reports of law enforcement officials engaging in torture and ill - treatment of detainees while responding to perceived and alleged security threats in the south-eastern part of the country (e.g. Cizre and Silopi) in the context of the resurgence of violence between the Turkish security forces and the Kurdistan Workers’ Party (PKK) following the breakdown of the peace process in 2015 and terrorist attacks perpetrated by individuals linked to the so-called Islamic State in Iraq and the Levant (ISIL). The Committee is further concerned at the reported impunity enjoyed by the perpetrators of such acts.” (arts. 2, 4, 12, 13 and 16). (*Ibidem*, No. 11)

#### 4.4. COUNCIL OF EUROPE - MEMORANDUM OF THE COMMISSIONER FOR HUMAN RIGHTS.

39. After the coup attempt of 15 July 2016, Nils Muiznieks, Commissioner for Human Rights of the Council of Europe (Commissioner) visited Turkey already in September 2016 and published a Memorandum on the Human Rights implications of the measures taken under the state of emergency in Turkey. This Memorandum dates from 7 October 2016. “As regards on-going criminal proceedings, among the most immediate human rights concerns are consistent reports of allegations of torture and ill-treatment. The Commissioner does not automatically give credence to such allegations, but observes that the

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<sup>14</sup> See also: Concluding Observations on the initial report of Turkey adopted by the Committee at its 106th session (15 October - 2 November 2012) “The Committee is concerned that despite progress made, the number of allegations of torture and other inhuman and degrading treatment at the hands of law enforcement officers is still high.” (CCPR/C/TUR/CO/1, No. 14)

*extension of the custody period to 30 days, practical changes to procedures for obtaining medical reports, and drastic restrictions to access to lawyers, as well as limitations on the confidentiality of the client-lawyer relationship, contributed to the persistence of such allegations. The fact that there is currently no functioning National Preventive Mechanism in Turkey and that the existing prison monitoring boards have been disbanded and reappointed during such a crucial period only exacerbated the risks inherent in this situation". (Commissioner for Human Rights. Memorandum on the Human Rights Implications of the measures taken under the state of emergency in Turkey – 7 October 2016, No. 15)*

40. The Turkish government answered on 31 October 2016.

*"The measures taken during the state of emergency have not caused any changes in the daily life. Any restriction which would have an influence on daily life has not been imposed on fundamental rights and freedoms."*

*(Observations of the Ministry of Justice of the Republic of Turkey concerning the memorandum of 7 October 2016 by the Council of Europe's Commissioner for Human Rights, No. 23)*

*"(about pictures taken shortly after the coup attempt showing injuries on the persons kept in custody) It must be primarily emphasized that a large part of the persons, who were taken into custody on the first day of the incident, had been arrested at the end of the clashes while some of them had been arrested by the citizens. It is natural that persons arrested at the end of the clashes have certain wounds, which falls within the scope of legitimate power. As a matter of fact, such wounds are indicated in custody reports." (Ibidem, No. 48)*

*"Furthermore, when maintaining these kinds of allegations it should be taken into consideration that three applications with requests for interim measures lodged by those detained after the 15th July before the European Court of Human Rights alleging that they were subjected to ill treatment and their rights to life are under threat, were rejected." (Ibidem, No. 51)*

#### 4.5. THE SPECIAL UN RAPPORTEUR ON TORTURE.

41. In the same period the special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Nils Melzer, conducted a visit to Turkey from 27 November to 2 December 2016.

*“The Special Rapporteur notes with concern that there seemed to be a serious disconnect between declared government policy and its implementation in practice”. (...) Most notably, despite persistent allegations of widespread torture and other forms of ill treatment, made in relation both to the immediate aftermath of the failed coup of 15 July 2016 and to the escalating violence in the south-east of the country, formal investigations and prosecutions in respect of such allegations appear to be extremely rare, thus creating a strong perception of de facto impunity for acts of torture and other forms of ill-treatment.” (A/HRC/37/50/Add.1, No. 23)*

*“According to numerous consistent allegations received by the Special Rapporteur, in the immediate aftermath of the failed coup, torture and other forms of ill-treatment were widespread, particularly at the time of arrest and during the subsequent detention in police or gendarmerie lock-ups as well as in improvised unofficial detention locations such as sports centers, stables and the corridors of courthouses.” (*Ibidem*, No.26)*

*“The Special Rapporteur received numerous testimonies of torture and other forms of ill-treatment of both male and female individuals suspected of being members or sympathizers of the PKK and other groups affiliated with the Kurdish insurgency. Most instances of ill-treatment were alleged to have been inflicted upon apprehension and arrest, as well as during transit to the detention location, predominantly by the special operations teams of the police or by the gendarmerie. Ill treatment was also alleged to have occurred during interrogations in the early hours and days of detention in holding cells. (*Ibidem*, No. 30)*

42. The Turkish government denied the allegations in categorically: the persons the Rapporteur talked with are limited in numbers, are unreliable and there is no medical proof.

*“While emphasizing the serious nature of the security challenges that Turkey faces in recent years, the Report cites unsubstantiated, generic and vague claims. Many comments and generic conclusions cited in the Report are built on the claims of a limited number of persons interviewed and flow of information from unknown sources whose reliability could well be questioned and some of them are apparently members of terrorist organizations. The Government wishes to underline that, although the Rapporteur was given access to all locations where people are deprived of liberty throughout Turkey and was able to conduct confidential interviews with detainees of his choosing, no physical signs were reported consistent with allegations of ill-treatment cited in the Report.”*  
(A/HRC/37/50/Add.2, No. 12-13)

*“The Government wishes to express that allegations of torture and ill treatment raised in connection with the terrorist coup attempt of 15th July 2016, as well as southeast Turkey, under this section are unacceptable. It seems that most of the interviewees are apparently members of terrorist organizations and the Report has given full credit to the statements of suspects of offences of overthrowing the Government of the Republic of Turkey, establishing an oppressive and totalitarian system through use of force, violence, threat, blackmailing and other unlawful means.”*(*Ibidem*, No. 33-34).

#### **4.6. REPORTS OF THE (OHCHR)**

##### **4.6.1. REPORT FEBRUARY 2017.**

43. As the Office of the High Commissioner for Human Rights (OHCHR) from July 2015 received “*detailed and credible*” allegations of serious human rights violations in South-East Turkey, the OHCHR requested the government to grant a team of OHCHR human rights officers’ access to the concerned area. No authorisation was given, but a monitoring process was launched.

*“The Office of the United Nations High Commissioner for Human Rights (OHCHR) documented numerous cases of excessive use of force; killings; enforced disappearances;*

*torture; destruction of housing and cultural heritage; incitement to hatred; prevention of access to emergency medical care, food, water and livelihoods; violence against women; and severe curtailment of the right to freedom of opinion and expression as well as political participation. The most serious human rights violations reportedly occurred during periods of curfew, when entire residential areas were cut off and movement restricted around the-the-clock for several days at a time". (Office of the United Nations High Commissioner for Human Rights, Report on the human Rights situation in South - East Turkey, No. 2)*

#### **4.6.2. REPORT MARCH 2018.**

44. One year later, the OHCHR published a new report on human rights violations in Turkey.

*"The findings of OHCHR point to a constantly deteriorating human rights situation, exacerbated by the erosion of the rule of law." (Office of the United Nations High Commissioner for Human Rights, Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East January – December 2017, No. 1)*

*"OHCHR documented the use of different forms of torture and ill-treatment in custody, including severe beatings, threats of sexual assault and actual sexual assault, electric shocks and waterboarding. Based on accounts collected by OHCHR, the acts of torture and ill-treatment generally appeared to aim at extracting confessions or forcing detainees to denounce other individuals. It was also reported that many of the detainees retracted forced confessions during subsequent court appearances. On the basis of numerous interviews and reports, OHCHR documented the emergence of a pattern of detaining women just before, during or immediately after giving birth. In almost all cases, the women were arrested as associates of their husbands, who were the Government's primary suspects for connection to terrorist organizations, without separate evidence supporting charges against them." (Ibidem, No.77-78)*

*“Thousands of uncensored images of torture of alleged coup suspects in degrading circumstances were circulated widely in Turkish media and social networks after the coup, along with statements inciting violence against opponents of the Government. OHCHR received reports of individuals detained and ill-treated without charge by anti-terrorism police units and security forces in unconventional places of detention such as sports centers and hospitals (Ibidem, No. 80)*

45. Human rights organisations have published several reports. These reports contain detailed allegations about Torture or Ill Treatment. The reports are expertly prepared and usually perfectly verifiable. Organisations such as HRW and AI have a longstanding reputation of expertise and impartiality. For this report, however, we have decided to rely almost exclusively on official sources. This may appear disrespectful towards the aforementioned human rights organisations, but it defuses any argument that refers to the messengers and not to the message. In Appendix 3 We give a short overview of these reports.

## 5. THE PRACTICE AND THE EVOLUTION OVER THE PAST 30 YEARS IN TURKEY

46. The coup d'état of 1980 is followed by a period of generalised use of brutal torture. When, in the 1990s, the CPT and the UN Committee publish their reports, this is clearly and critically pointed out. In 1990 the CPT states that "torture and other forms of severe ill-treatment are important characteristics of police custody in that country". In 1993 the UN Committee talks about the "systematic character of torture".
47. It is important to point out that usually almost exclusively attention is paid to the torture of political opponents, in this case Kurdish, leftist and later on Gülenists organisations. The 1996 public statement of the CPT however clearly states that torture and ill-treatment also are inflicted upon (some) ordinary criminal suspects.<sup>15</sup> Violence against juveniles is also mentioned. This appears to be inflicted mainly as an unacceptable punishment, but not with the intention to obtain information or confessions.
48. **In any case, in the 1990s, violence and torture is an important part of the DNA of the Turkish police and security forces.**
49. We deliberately use the term "police". At least in the period of the nineties of the last century, torture seems to occur mainly when the suspect is in police custody or in custody in security directorates. The international reports clearly indicate certain police stations and security directorates where torture is common practice. Based on the number of complaints received by the HRA it appears that in recent years this has changed, with a greater impact of torture in extra-custodial places (which is also less controllable) and in prisons. It should be noted however that, the complaints to HRA not only relate to torture *sensu stricto* but also relate to ill-treatment and poor conditions in the prisons.
50. At the beginning of the twenty-first century, positive legislative changes are made. In 2003, the new Erdogan government officially declares that it will apply a

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<sup>15</sup> We also notice the same remarks in the CPT reports concerning the visits in 2017 and 2019

"zero tolerance policy towards torture". A number of publications by international bodies report an improvement in the situation in that first decade of the twenty-first century, and the reports also mention that when torture occurs, it is less violent.<sup>16</sup>

51. These evolutions do not prevent the continued strong presence of torture in relation to the PKK and other extreme left-wing (Kurdish) organisations, certainly linked to violent confrontations and to the presence of the state of emergency in some regions.

**However, we can fairly state that the first decade of the twenty-first century is commonly regarded as a period in which the evolution is for the most part moving in the right direction.**

52. By the second decade, the situation deteriorates again: the wave of protests that arose as a result of the construction plans in the Gezipark, a number of legal proceedings for corruption where member of the government, the president and his family were mentioned, the end of the peace talks between the government and the PKK in June 2015 and, finally, the failed coup d'état of July 2016 will be answered in 2016 with far-reaching exceptional legislative measures (possibility of long-term custody in police stations without judicial review, possibility to deny contact with a lawyer for 5 days, refusing lawyers, prohibiting the communication of the judicial file including medical reports, impunity of security officials, (...)) which are accompanied by a sharp increase in (allegations of) cases of torture. Members of the Gülen movement and of the PKK are especially targeted. Also, certain categories of suspects of common crimes are targeted, more specifically drug dealers, as confirmed by the CPT report concerning the visits of 2017 and 2019, but this is rarely documented. "Ordinary" opponents appear to be less the object of torture, but they are victims of far-reaching "judicial harassment" which sometimes takes extreme forms (e.g. life imprisonment). Between 1991 and May 2020, the ECtHR pronounced a violation of Art. 3 ECHR in 441 cases.

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<sup>16</sup> See, for instance the CPT report concerning the visit from 16 to 24 July 2000.

53. We have no clear figures about the exact number of cases of torture. However, based on official statistics - emphasising the need to approach all figures with caution - we can state that around 3,000 complaints of torture are filed per year on average, for torture. Maximum 1% of the complaints leads to an imprisonment (and most probably this estimation is too high).

**In the last ten years, there has been an intensive resurgence of torture and the chance that the perpetrators will be punished with a (sufficiently severe) imprisonment, is nearly non-existent.**

## 6. HOW TO EVALUATE THE ARGUMENTS OF THE TURKISH GOVERNMENT?

54. The Turkish government systematically denies the complaints. As argumentation, reference is made to:
1. the fact that the complainants are opponents of the regime and therefore have an interest in spreading false rumours and accusations;
  2. the lack of medical evidence for most of the torture complaints, and
  3. the fact that the complaints examined by the courts very rarely lead to a conviction.
55. These arguments clearly show how tricky a discussion about torture often is, and certainly when Turkey is concerned. Human rights organisations and international bodies point to the lack of independent and correctly implemented medical reporting on the alleged cases of torture. The Turkish government argues that there is no medical evidence of torture. This, of course, is a circular reasoning. The same applies to the independence of the judiciary. This is strongly disputed by human rights organisations, by the international bodies<sup>17</sup> and very recently by the ECtHR.<sup>18</sup> The absence of convictions is used by the Turkish government, which claims the independence and impartiality of the judiciary, as an argument to contest the presence of torture. Here, too, the argumentation is circular. In both cases, what is fundamentally disputed by one party is used as a basis for the other party's reasoning. So the question that arises and that we have to answer before the other questions can be answered, is clear: can we state with a sufficient degree of certainty that the defence of the Turkish government is not correct? **Are there enough convincing elements to reject the arguments of the Turkish government that minimise torture?**

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<sup>17</sup> See for instance CoE Commissioner for Human Rights, Report following the visit to Turkey from 1 to 15 July 2019, CommDH(2020)1 (19 February 2020), pars 27-32 ("the Turkish judiciary is influenced by the political conjuncture").

<sup>18</sup> "It is also significant that those charges were brought following the speeches given by the President of the Republic on 21 November and 3 December 2018. On 21 November 2018 the President stated: "Someone financed terrorists in the context of the Gezi events. This man is now behind bars. And who is behind him? The famous Hungarian Jew G.S. This is a man who encourages people to divide and to shatter nations. G.S. has huge amounts of money and he spends it in this way. His representative in Turkey is the man of whom I am speaking, who inherited wealth from his father and who then used his financial resources to destroy this country. It is this man who provides all manner of support for these acts of terror..." On 3 December 2018 the President openly cited the applicant's name and stated as follows: "I have already disclosed the names of those behind Gezi. I said that its external pillar was G.S., and the national pillar was Kavala. Those who send money to Kavala are well known ..." The Court cannot overlook the fact that when these two speeches were given, the applicant, who had been held in pre-trial detention for more than a year, had still not been officially charged by the prosecutor's office. In addition, it can only be noted that there is a correlation between, on the one hand, the accusations made openly against the applicant in these two public speeches and, on the other, the wording of the charges in the bill of indictment, filed about three months after the speeches in question". Kavala vs Turkey, ECtHR, 10 December 2019, par. 229.

56. In our opinion, two elements are decisive to answer this question.

57. The **first decisive element** is the jurisprudence of the ECtHR.

The ECtHR is not a terrorist organisation that wants to bring down the Turkish state. Moreover, the judgments of the ECtHR have the force of *resjudicata*. Put simply: what the ECtHR decides is presumed to be right and every state is obliged to accept it as such.<sup>19</sup> The binding force of the judgments of the ECtHR also means that the condemned State must avoid repetition of similar facts. This is not a moral obligation, but a legally binding obligation. In terms of the caselaw of the ECtHR, it is obvious that Turkey is not complying with this obligation. Turkey has been condemned in 441 cases for a violation of Article 3 ECHR. As far as torture is concerned, Turkey clearly is a repeat offender. There is no such thing as an effective policy in Turkey through which the Government is trying to avoid the repetition of the same facts. To put these assumptions very clearly: we have established that each year in Turkey, an average of 13 alleged perpetrators are sentenced to imprisonment. By contrast, there are an average of 18 convictions per year in which the Turkish State is being held accountable for a violation of Article 3 ECHR. Hence, Turkey has been more frequently condemned by the ECtHR than it has itself condemned perpetrators of torture. This must be quite unique.

58. Moreover, the analysis of the cases indicates a recurring pattern in the way the Turkish judicial authorities handle torture cases. This pattern seems to suggest the aim (or at least a lack of will to prevent) that claims not be investigated in detail or not in due time with the possibility of prescription. The following passages taken from several judgments of the ECtHR are very clear on this matter.

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<sup>19</sup> “On the other hand (the States) must take the measures needed to prevent new, similar violations” Zwaak, L., Burbano Herrera, C., Supervision, In: Theory and Practice of the European Convention of Human Rights, o.c., p.274.

59. In the case of *Rahmi Şahin v. Turkey* the Court found that “*the public prosecutor did not attempt to establish the true circumstances in which the applicant sustained his injuries*”<sup>20</sup>, “*the public prosecutor neither obtained the arresting officers’ statements nor asked for one from the applicant even though there was an explicit request to do so by the applicant’s legal representative*”.<sup>21</sup>
60. In another judgment, the Court noted that “*the State prosecutor had questioned one of three police officers two months after the applicant’s complaint and the other police officers about three years and three months after that date*”.<sup>22</sup> Furthermore, the Court also noted that the decision of the prosecutor had not been issued until almost five years and six months after the initial complaint lodged by the applicant<sup>23</sup>. In a similar regard, the Court noted that “*the prosecutor’s office and the Assize Court dismissed the complaint without even trying to justify the degree of force used during the arrest since the criminal investigation had only concerned the allegations of ill-treatment after his arrest*”<sup>24</sup>.
61. The Court has repeatedly held that “*the medical reports fail to comply with national and international standards concerning the medical examination of persons in police custody*”<sup>25</sup>. Specifically, according to the Court “*the medical examinations lacked details like the extent of the injuries, the applicant’s own account of how the injuries had been caused, neither is there a mention whether or not the doctors who examined the applicant tried to establish how the injuries might have been caused*”<sup>25</sup>. Furthermore, the Court notes that the absence of evidence for Article 3 ECHR allegations, can, to a great extent, be attributed to the Turkish State itself “*due to the failure of the public prosecutor and the judge, who both failed to proceed with a prompt investigation given that the evidence was collected more than two months after the end of the applicant’s detention in police custody*”.<sup>26</sup>
62. The *national* authorities play a crucial role in the quality of the evidence presented before the Court, “*the Court observes that the applicant raised allegations of battery, sexual assault and threats both before the national authorities and the Court and that the medical*

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<sup>20</sup> ECtHR, *Rahmi Şahin v. Turkey*, 5 July 2016, par.47.

<sup>21</sup> *Ibid.*, par 46.

<sup>22</sup> ECtHR, *Alpar v. Turkey*, 21 January 2016, par 48 (translation)

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*, par 49. (translation)

<sup>25</sup> ECtHR, *Şakir Kaçmaz v. Turkey*, 10 November 2015, par. 88. See also: ECtHR, *Salmanoğlu and Polattaş v. Turkey*, 17 March 2009, pars. 79- 84.

<sup>26</sup> *Ibid.*, par 87.

reports submitted to the Court lack detail and fall short of both the standards recommended by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the guidelines set out in 'the Istanbul Protocol'<sup>27</sup>. What is more, the medical reports which are issued in respect of alleged victims of torture in Turkey "lack detail and fall short on both the standards recommended by the CPT and the guidelines set out in 'the Istanbul Protocol. In view of the Court, the public prosecutor should have questioned the quality of the medical reports before basing his decision on them or should have requested a further examination ".<sup>28</sup> In the same judgment, with regard to, the procedural limb of Article 3 ECHR, the Court notes "that the medical reports issued in respect of the applicant lack detail and fall short of both the standards recommended by the CPT and the guidelines in 'the Istanbul Protocol'.<sup>29</sup>

63. In addition, it is well-established caselaw of the Court that domestic judicial authorities must effectively punish the infliction of physical or psychological suffering: "a suspension of the judgment wherein a Turkish Court found police officers guilty of torturing the applicant, must be considered as incompatible with the ECHR its standard of protection from ill-treatment".<sup>30</sup>
64. Moreover, the Court emphasised the lack of plausible explanation given for the injuries by the Turkish Government, "the Court notes that the Government is not able to give a plausible explanation for the origin of the injuries on the applicant his body"<sup>31</sup>. In addition, "the prosecutor did not conduct any investigative act concerning the applicant his allegations on the force used by the security forces at the moment of his arrestation."<sup>32</sup>
65. The findings of the ECtHR are clear, the medical reports are not in compliance with international and European standards and therefore, cannot be regarded as sufficient due to the ineffective or delayed investigations conducted by the authorities. As the Court has stated in the case Aktürk v. Turkey: "the public

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<sup>27</sup> *Ibid*, par 92.

<sup>28</sup> ECtHR, Dilek Aslan v. Turkey, 20 October 2015, par.49.

<sup>29</sup> *Ibid*, par. 57.

<sup>30</sup> *Ibid*.

<sup>31</sup> ECtHR,, Atesoglu v. Turkey, 20 January 2015, par 28.

<sup>32</sup> ECtHR, Mehmet Fidan v. Turkey, 16 December 2014, par 46 (translation).

prosecutor failed to establish the reason for the differences between the medical reports and the real cause of the injuries observed on the applicant's body".<sup>33</sup>

66. Moreover, the ECtHR has systematically held that the handling of the cases of torture by the judicial authorities is being organised in such a way that due to the referral of the case files to other jurisdictions, a lot of time is being wasted which ultimately leads to not taking a final decision or the prescription of the case.
67. This is indicated in the case of *Alpar v. Turkey*, where the case finally was time-barred.<sup>34</sup> In the same vein, in March 2007 the Istanbul Assize Court concluded that the proceedings against the police officers who arrested Ms. Eren on 7 June 1999, must be discontinued on the grounds that the prosecution was time-barred.<sup>35</sup> The ECtHR used strong wording by noting "*serious shortcomings in the investigation and the ensuing of criminal proceedings.*"<sup>36</sup> The Court concluded that there were substantial delays in the criminal proceedings in question, "*the criminal proceedings lasted approximately seven years and eight months and were eventually discontinued on account of prescription.*"<sup>37</sup>
68. Similarly, in the case *Süleyman Demir and Hasan Demir v. Turkey*, where on 21 November 2012 the Çukurca Criminal Court of First Instance decided that it did not have jurisdiction on the formal complaint made by the applicant on 18 July 2007. The case was then forwarded to the Çukurca Magistrates' Court's Criminal Division where it was still pending when at the moment of the judgement of the Court in March 2015.<sup>38</sup> These practices were condemned by the Court which concluded that "*in view of the very significant delay the Turkish authorities did not act with sufficient promptness or with reasonable diligence.*"<sup>39</sup> As a result of this delay in the initial investigation, the suspects and witnesses to the incident were not questioned until three and a half months after the incident.<sup>40</sup>

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<sup>33</sup> *Ibid*, pars 46-47 (translation).

<sup>34</sup> ECtHR., *Aktürk v. Turkey*, 13 November 2014, par 41.

<sup>35</sup> ECtHR, *Alpar v. Turkey*, 21 January 2016, par 25.

<sup>36</sup> ECtHR, *Afet Sureyya Eren v. Turkey*, 20 October 2015, par 17.

<sup>37</sup> *Ibid*, par 42.

<sup>38</sup> *Ibid*.

<sup>39</sup> ECtHR, *Süleyman Demir and Hasan Demir v. Turkey*, 24 March 2015, par. 28.

<sup>40</sup> *Ibid*, par 51.

69. Another striking example of the delay concerning the investigation of torture *complaints* in Turkey is the case of Mehmet Yaman v. Turkey. The Court notes that the investigation and the following criminal proceedings taken together were extremely long. The procedure commenced on 17 May 2000 with the complaint of the applicant and resulted in the finding of prescription of the criminal procedure by the Assize Court on 23 February 2013.<sup>41</sup>
70. According to the CAT, criminal proceedings on torture need to be achieved within a reasonable period, and suspension of the pronouncement of the verdict and prescription are incompatible with the convention. For instance, in *Rasim Bairamov v Kazakhstan*, the Committee made it clear that undue delays in criminal proceedings automatically constitute a violation of Article 14 CAT.<sup>42</sup> This is also the point of view of the ECtHR which ruled that the suspension of the pronouncement of the judgment of the Kars Assize Court pursuant to Article 231 of the Turkish Criminal Procedure Code “cannot be considered to be compatible with the Convention standard of protection from ill-treatment.” The Court noted that “this has a stronger effect than the deferral of the execution of the sentence and results in the impunity of the perpetrators.”<sup>43</sup>
71. The fact that the ECtHR concludes, on an almost continuous basis, that there have been violations of Article 3 ECHR by the Turkish State based on the State’s lack of effort to conduct effective investigations and to take care of medical reports that are in line with the international standards and the almost pervasive culture of losing crucial time in the criminal proceedings makes the arguments of the Turkish authorities very unconvincing. “*Nemo auditur propriam turpitudinem allegans*”: no one should be permitted to profit from his own fraud, or take advantage of his own wrong.” That is however exactly what the Turkish State does in its argumentation and what the judgments of the ECtHR have proven.

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<sup>41</sup> Mehmet Yaman v Turkey, ECtHR, 24 February 2015, par 70.

<sup>42</sup> Rasim Bairamov v Kazakhstan, No. 497/2012 (n113), para 8.9: ‘If criminal proceedings are required under domestic law to take place before civil compensation can be sought, then the absence or delay of those criminal proceedings constitute a failure on behalf of the State party to fulfil its obligations under the Convention.’

<sup>43</sup> ECtHR, Ateşoğlu v. Turkey, 20 January 2015, par. 28.

72. **Second decisive element** is that torture is applied on a large-scale.

As a second decisive element, we cannot do otherwise than to refer to the reports of the official intergovernmental organisations, which we quoted earlier. The Turkish government contests these reports, of course. But it is not because they are contested that they are not true. We cannot deny that these reports have been drawn up by reputable institutions, whether or not after a visit in the field, each time explaining their methodology, in detail. And each time the conclusion - certainly for the recent period - is that torture is applied on a large scale. The remark has been repeatedly made that the crucial questions asked by the international institutions have remained unanswered by the Turkish government in its answers. Specific cases for which medical evidence was provided were not answered in clear terms. Usually the answer was limited to "this will be investigated".

73. The two latest CPT reports (visit 2017 and 2019) are extremely clear:

*"the information gathered during the visit suggests that the entire system of medical controls suffers from fundamental flaws which are likely to seriously undermine its effectiveness.(...) In addition, as was the case during previous visits, medical controls in the context of police custody were often limited to the posing of questions about possible ill-treatment, without any proper physical examination. In this regard, in a number of cases of alleged police ill-treatment where supporting medical evidence was found in prison medical records or was directly observed by the delegation's doctors, the medical reports obtained by the police indicated an absence of injuries. Moreover, several detained persons alleged that police officers had obtained a medical report carrying the signature of a hospital doctor without them even being presented to the doctor"*

(CPT/Inf(2020)22, No.19.)

74. In these reports some detailed "cases" are put forward without any answer from the government. Of course, even an intergovernmental organisation, despite great methodological efforts, can be mistaken. Their reports, contrary to the judgments of the ECtHR, have no binding force. But it is absolutely improbable and implausible that ALL these organisations are mistaken, especially when their reports are in line with the legally binding rulings of the ECtHR. The Turkish government has, so far,

recognised these international bodies involved, as they work with the ECtHR. When a government recognises a body, it must in the end, after having had the opportunity to reply during the proceedings – what effectively was guaranteed- also recognise the conclusions of these bodies and at least accept that they cannot not draw completely wrong conclusions again and again and again.

75. Of course, we could ask ourselves the question of how it was possible that despite all this information and convincing elements, more perpetrators were not ultimately convicted. We will provide more information below and also in other reports, but the authorisation needed to prosecute, the immunity legally introduced, a system of letting the time do its work so a prescription is reached and the lack of good material medical evidence because of poor medical control are some - among others- important factors for understanding the mechanism.

76. The **third decisive element** is that perpetrators of torture have not been punished.

As a third decisive element we have analysed a number of cases of torture ourselves in a separate document. In these cases, it is clear that there are credible allegations that torture took place, with the necessary evidence being provided, and yet the Turkish judicial authorities have not punished the perpetrators. These specific cases more clearly illustrate the serious allegations made against the Turkish State. If even these clear and severe cases of torture were not punished, how can one then defend a point of view that torture scarcely exists by making reference to the judicial proceedings that are supposed to prove that. In annex 4 we give some information about 10 flagrant cases.

77. **The number of judgements of the ECtHR and the clarity of the violations found, the detailed and repeated reports of the international bodies which we have quoted in detail in this report and certain severe cases of torture that did not lead to punishment, force us to conclude without any doubt that torture is effectively a profound evil in the Turkish state nowadays, that occurs frequently and whereby the perpetrators of these crimes very rarely are punished (by an imprisonment).**

78. Now it is time to answer the two questions that we were asked.

7. **QUESTION 1: CAN WE SEE A PATTERN IN THE FACTS UNDERLYING THE (TORTURE) TESTIMONIES? WHAT GROUPS ARE TARGETED AND WHY? WHAT IS THE MOTIVATION, AND WHAT IS THE HIGHEST LEVEL OF STATE INVOLVEMENT?**

79. We have rearranged the question somewhat. Moreover, as indicated, the individual testimonies (which were mainly collected by NGOs, no matter how well this has been done or how credible the testimonies are) are not used as the basis for our conclusions. The part of the question concerning the involvement of the highest level of the state has been shifted to question 2.

80. We have divided question 1 into a number of sub-questions.

1. Who are the targeted groups of torture?
2. What is the motivation behind the torture?
3. Is there a pattern in the way the torture is executed?

**7.1. WHO ARE THE TARGETED GROUPS?**

81. The various reports and testimonies show that the groups targeted can be divided into five categories.

1/ People who are presumed to be linked with or to be supportive to the **Kurdish movement** (especially the PKK or other leftist groups). This group has been the object of torture throughout this period, albeit with varying intensity. The varying intensity is linked to the presence of a state of emergency in the regions concerned and to whether or not the violent conflict has flared up.

2/ People presumed to have something to do with the **Gülen movement**. This group has mainly been subjected to torture since the attempted coup d'état of July 2016.

3/ People suspected of "**ordinary**" **crimes**, especially aggravated crimes or sexual crimes (against minors). We know very little about this group. They submit few complaints to human rights organisations and are less discussed in the comments. This is a communicative phenomenon that also occurs in other countries.

4/ **Juveniles** who are locked up in a closed shelter / juvenile prison and who suffer from violent illegal punishment. Violent illegal punishment according to the definition of CAT is also torture.

5/ People arrested with the intention of "convincing" them to **become police informants**. This group seems to have become larger in recent years.

6/ Persons, especially presumed members of the PKK, of extreme left-wing organisations and of the Gülen movement who were **abducted**, in Turkey or abroad, and tortured after their abduction. Another report pays attention to this group. The composition (who is abducted) has changed over the years.

7/ The **wives of arrested men**, where a practice of imprisoning these women shortly before childbirth has grown. Today it is taken into account that about 800 young children are in prison.

82. The categories 5-6-7 are not really different targeted groups. They rather belong to category 1 and 2 mostly, but the way they are targeted is different.

83. Many people who are critical of the government have been imprisoned in recent years and sentenced to (long) sentences. Fewer facts of torture against them are known, as opposed to more events of "judicial harassment". As a typical example, the situation of Osman Kavala and Selahattin Demirtas can be cited. But the examples are numerous.

84. In some reports other groups are cited, Islamic State for instance. We do not have enough material to effectively regard these groups as a targeted group nowadays.

## 7.2. WHAT IS THE PURPOSE OF THE TORTURE?

85. Here, we can distinguish several different categories.<sup>44</sup>

1/ **Obtaining a confession.** Provoking confessions from victims of torture is a general recurring objective. The suspect has to sign a statement in which he incriminates himself. This is the *minimum minimorum*. Quite often, suspects will withdraw their statement afterwards. Nevertheless, knowing that the judges do not attach great importance to the withdrawal, this will not constitute a problem for the torturer. The objective has been reached: the suspect has confessed and the judge will base his/her opinion on that statement.

This seems to apply to almost all the targeted individuals. For juveniles, this appears not to be the case.

2/ **Obtaining information.** The second objective is to betray someone else, who can also be prosecuted in view of the witness statement. It concerns persons claimed to belong to the same movement (PKK, Gülen) as the suspect who is being tortured. We see that this motive is also present among persons who are being arrested and asked to become an informant for the security services. A variant of this is the suspects of common crimes who are expected to give the names of their accomplices of the crime or to designate other individuals who are part of the same criminal organisation.

3/ **Punishment.** When arrests happen in periods of violence (such as in the Kurdish region or after the alleged coup attempt), an element of revenge is often present, especially when police officers get seriously injured or killed. This motive seems to be rather absent in periods which are less violent. Revenge and punishment are also the element that has been reported in cases of torture towards the suspects of sexual abuse (of children). Also, violence towards juveniles has often been reported as having as objective to penalise.

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<sup>44</sup> "for such purposes as obtaining from him or a third person information (2) or a confession(1), punishing(3) him for an act he or a third person has committed or is suspected of having committed or intimidating or coercing(4) him or a third person, or for any reason based on discrimination(5) of any kind (Art. 1 CAT).

4/ **Intimidation or coercion.** Specifically, concerning the partners of suspects, extra pressure is being applied to the suspects by torturing or by the threatening to torture their wife or husband in order to obtain more information or to extract a confession in this manner. We note in the witness statements that this often is being used as leverage if a suspect is not quick enough to tell the security forces what they want him to say. In a wider perspective, we reported that now and then, pictures or videos about torture are published in pro government media or by government officials. This is quite remarkable. It indicates how strong the belief in impunity is and the chilling effect that this kind of publicity has on the public. Towards the broader public the government shows not only how “forcefully” they react, but the government also gives a clear dissuasive message. Not only is it dissuasive toward people who are critical of the government as such, but it will also encourage the broader public not to protest and to follow instructions of the security services much more easily. “Converting” the (young) population within the framework of State established by the regime and thereby getting rid of dissident groups is part of this purpose.

5/ **Discrimination.** Discrimination can be defined as the unjust or prejudicial treatment of different categories of people, especially on the grounds of race, age, sex, religion, disability, .... As far as the Kurdish people is concerned, discrimination is a purpose. Denying the specificity of the Kurdish ethnic identity is a cornerstone of the Turkish policy and it finds one of his expressions in the practice of torture towards them.

### 7.3. IS THERE A PATTERN IN THE WAY TORTURE IS INFLICTED?

86. The way in which torture is being carried out also differs in time.
87. Whilst the reports from the 90s talk about severe physical torture, this seems to be less likely to be the case in the years between 2002-2015. Yet, this does not say anything on the traumatic nature of torture. Even less physical torture can have horrible

consequences as well. From 2015 onwards the practices from period before the 90s seem to have returned once more without any limits.

88. What we often see put forward in the reports and the testimonies is that specialised personnel are involved, and whereby these specialised persons make it clear to the victims that they are fully aware of what they are doing and that they can go on for a long period without killing the person in question. This expertise seems to be omnipresent among the personnel of the security directorates.
89. When suspects are resisting for too long, their spouse will become involved and tortured or they will threaten the suspect with torturing their spouse whereby they often use rape and the threat of rape as extra “leverage”.
90. Repeatedly, it has been mentioned that there is timing concerning torture. This means, especially when the detention of 30 days is possible, or in the event that the custody of the person concerned is kept secret, the torture is timed in the sense that the evidence of the physical torture practices will not show or will be less visible when the suspect is brought in contact again with their legal representative or their relatives. However, overall this seems not to be a dominant method.
91. Finally, it is clear that torture often occurs in extra-custodial places, presumably to make monitoring more difficult; in this context, sports stadiums and the vehicles of the security forces are recurring places.

**8. QUESTION 2: DO THE TESTIMONIES ABOUT TORTURE ALLOW US TO CONCLUDE THAT THERE IS A SYSTEMATIC AND ORGANISED USE OF TORTURE IN TURKEY?**

92. As we previously mentioned, under this question we also will answer the question about the involvement of the government.

93. To answer this question, four sub-questions must be answered.

1. Is torture a practice limited to a spontaneous reaction of certain individual security officers or is it organised?
2. How frequent is the use of torture towards persons kept in police custody? So, can it be regarded as systematic?
3. Is torture a practice that is tolerated in the security system itself?
4. What is the involvement of the central (governmental) level?

94. The answer to these questions is not the same for all services, and not for all situations. The situation of a suspect who is in police custody or in custody in a security directorate or in an extra-custodial place, differs from someone who is in prison. Concerning prisons, the answer to these questions will be less unambiguous. Overpopulation, lack of medical care, excessive use of strip searches and long-term solitary confinement occur, based on several reports. Nevertheless, some reports give a more positive perception of the circumstances in the prisons. The use of torture, especially the physical or psychological violence against prisoners will not appear in every period, nor in all prisons or not for all categories. Without underestimating the severe problems in the Turkish prisons, we cannot, to date, based on the information presented, conclude that there is a systematic and organised use of torture in all Turkish prisons. A more extensive report on the prison conditions in Turkey could bring more clarity on this matter and would give a more detailed answer to this question.

95. Concerning the situation of persons in police custody, in custody in security places and custody in extra-custodial places, the above nuances do not apply and the answer is quite unambiguous.

**8.1. IS TORTURE A SPONTANEOUS REACTION OF INDIVIDUAL SECURITY OFFICERS OR IS IT ORGANISED?**

96. The question is if torture is incorporated in the functioning of the police, as a known method that has (an important) place in the functioning of the police system. Is torture something spontaneous, emotional, uncontrolled, or is it, on the contrary, based on a way of acting that is certainly not improvised.
97. Frequency as such is already an indication. It is not realistic that a frequent use stems only from the individual “feeling” that torture is needed.
98. Secondly, we note that in the testimonies of the victims, remarks are put forward which indicate that specialised persons took the matter into their own hands, with reference often made to officers of M.I.T. It is repeatedly shown in testimonies that the perpetrators are trained and master their craft such that the victim does not get killed and the torture practices can continue. In the two latest CPT reports (visits of 2017 and 2019) reference is made to the mobile intervention teams (Yunus) who are allegedly “specialised” in the ill-treatment of persons taking in custody.
99. Moreover, there seems to be a consistent pattern, whereby first the person concerned (mainly men) himself alone is dealt with. If the torture does not provide the desired results, the security officers threaten to get the spouse of the detained person involved. We also note that women who are close to giving birth will be arrested close to their delivery. Obviously, these are not spontaneous actions, but they form part of a larger common police practice which is considered to be a legitimate option in the security system. The fact that in international reports certain locations have been frequently mentioned and that in these locations torture devices have been found a few times also points in this direction. Finally, the abduction of persons (with long-term torture subsequently) and the arrest and the torture of

persons to make them an informant for the security forces, are examples of organised actions, which require a lot of preparation, especially with regard to abductions abroad.

100. **Consequently, we can establish without doubt and with absolute clarity that the frequent use of torture of certain groups of people does not constitute a spontaneous reaction of certain police officers but is a practice which is clearly well organised within the security services.**

101. We hereby make a reservation with regard to violent conflicts (especially following incidents whereby security officers are wounded or killed) or in the period immediately following the coup attempt. In those cases, there has been an emotional reprisal against everyone who has been “accidentally” arrested in the subsequent period. Also towards perpetrators of sexual crimes committed against children, such behaviour has been reported.

## **8.2. HOW FREQUENT IS THE USE OF TORTURE TOWARDS PERSONS KEPT IN POLICE CUSTODY, SO THAT IT CAN BE REGARDED AS SYSTEMATIC<sup>45</sup>?**

102. As, in answering the first question, we have already indicated which groups are targeted, the answer to this question concerns these groups of suspects only.

103. In the addendum to the report of the UN Committee for the 48th session of the General Assembly, the UN Committee defines systematic as follows “*when it is apparent that the torture cases reported havenot occurred fortuitously in a particular place or at a particular time, but are seen to be habitual, widespread and deliberate in at least a considerable part of the territory of the country in question*”.<sup>46</sup> And furthermore “*Inadequate legislation which in practice allows room for the use of torture may also add to the systematic nature of this practice*”.<sup>47</sup> Under 7.1. we stated already that there is no doubt that torture is an organised practice. In the past, torture was for the most part located

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<sup>45</sup> “Police custody” includes: police custody, custody in security directorates and in extra-custodial places.

<sup>46</sup> A/48/44/Add.1, 15 November 1993, No.39. The Committee concluded that “the existence of systematic torture in Turkey cannot be denied” (*Ibid.*, No. 38).

<sup>47</sup> *Ibidem*.

in the Southeast of the country (which in any case also makes up a considerable part of the country). In the current period, this does not seem to be the case anymore, because the targeted groups have also become broader, as we indicated before.

104. To be systematic, it must be habitual and widespread. It does not necessarily always have to occur. It does not have to occur in 99% of the cases, but it must be habitual and widespread. This means that at least the chance of being tortured in the specific groups we are talking about, is greater than not being tortured. For the targeted groups of suspects, when they are not “talking” (meaning not confessing and not giving the information the security services want), they are more likely than not to be tortured.
105. A 100% certain answer to the question of the frequency of torture is not possible. We don't know the exact number of the interrogated persons from the targeted group who initially stayed silent or at least didn't want to say what the services wanted them to say. But, at least for the last 5 years, there are some strong indications. An average of 1500 cases are opened a year. It is known and not contested that the dark number for torture is always high and we know that in Turkey they number of prosecutions is low in any case. In recent years it has been even lower than before. For persons who are abducted there is no doubt. They are always tortured. For the other persons, it is reasonable to conclude that the chance that they will be tortured if they fail to give the information or the confessions the services want, is higher than the chance of the opposite happening. Finally, as stated in the definition of the UN Committee, the lack of adequate legislation, by reinstating immunities and authorisations, is also a factor that points towards a systematic use.
106. With all due precautions about the absence of exact numbers, our conclusion is that certainly in the last 5 years, in Turkey, towards members of the targeted groups that we identified who fail to give the answers the security services want them to give, the use of torture is systematic, in the sense that the UN Committee assigns to that word.

### 8.3. IS TORTURE A PRACTICE THAT IS TOLERATED WITHIN THE SECURITY SYSTEM ITSELF?

107. This question does not concern the judicial reaction towards torture. We have already stated that the judicial reaction, with a maximum of 1% of the complaints leading to an imprisonment, is virtually non-existent. The question we would now like to answer is about the reaction of the security services themselves and more particularly the relevant authorities over them, through disciplinary actions and sanctions. Disciplinary sanctions are, according to the CAT, not an appropriate reaction to torture.<sup>48</sup> But still, disciplinary sanctions can indicate how torture is regarded inside the services. It can give a clear indication as to whether they tolerate torture or not.
108. According to the information of the Turkish government submitted to the CPT, during the period 1995- 2004, disciplinary proceedings were brought under Art. 243 (Torture) against 1116 persons. For 1102 cases, no grounds for a sanction was found. In 14 cases a sanction was issued (1%). Three of these sanctions were dismissal from the police force, 7 of these sanctions were a long-term suspension.
109. For ill-treatment, proceedings were brought against 7776 persons. In 347 cases a sanction was issued (4.5%). No dismissals were decided, 73 decisions (1%) were a long-term suspension.<sup>49</sup> Similar figures can be found for disciplinary proceedings on ill-treatment for personnel of the security general directorate (3% sanctions)<sup>50</sup> and for ill-treatment in penal institutions (4.4% sanctions)<sup>51</sup> and for “beating employees or persons who visit or were brought to the security premises” (3.8% sanctions).<sup>52</sup>
110. The number of disciplinary sanctions is very low. The figures are between 1 and 4%. Where we have a “higher” number (although 4% is still very low), the sanctions are

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<sup>48</sup> Katona, N, Article 4. Obligation to criminalize Torture, o.c., No. 2, p. 177 and No. 35, p. 187.

<sup>49</sup> CPT/ Inf (2005)19, Appendix 3.

<sup>50</sup> CPT/C/TUR/4/ No.274. Data for 2011-2013.

<sup>51</sup> CAT/C/TUR/4, Appendix 2, Data for 2009-2014.

<sup>52</sup> CPT/Inf/20157, p.5. Data for 2011-24 February 2014.

minor ones and surely can't be seen as appropriate for a case of torture. Dismissal would be an appropriate disciplinary sanction, but this only exceptionally occurs.

111. The figures submitted by the Turkish government concerning disciplinary sanctions in case of torture, certainly do not justify the assertion that, through disciplinary actions, the security services are reacting to torture in a coherent and rigorous way. The contrary is true. Torture is tolerated in the security system. That is the only logical conclusion we can make.

#### **8.4. WHAT IS THE INVOLVEMENT OF THE CENTRAL (GOVERNMENTAL) LEVEL?**

112. When answering this question, Involvement and Responsibility must be considered as synonyms. The question is simple, important and weighty: is the central government of Turkey responsible for the systematic, organised and tolerated use of torture, with nearly no risk of prosecution of the perpetrators. Note that, when the first reports of a positive evolution in the use of torture were made, some years ago, the government claimed responsibility for that. Wouldn't it be legitimate then for the opposite to happen now?
113. On Human Rights issues, specifically on torture, the state authorities may be held responsible for acting against the law and the international obligations, for committing an act of torture, giving orders to perpetrate this type of violations, or actively covering it up... This kind of responsibility suggests that there is an instruction, a guideline, a command, ... from the government, saying that torture is allowed and will be tolerated.
114. Such direct responsibility seldom occurs and if it occurs it is difficult to establish unless members of these security services speak out. Turkey is not an exception to that rule. The official credo of the government is a zero-tolerance policy towards Torture. The government reiterates this policy frequently and continuously. Still, there are some disturbing elements in the official communication.

115. The CPT planned a visit to Turkey from 28 August to 9 September 2016. In a classified letter sent ahead of the CPT visit, the acting deputy head of the Turkish National Police warned all officers about the visit: *“It was stated during a coordination meeting at the Foreign Ministry on Aug. 25, 2016, that the CPT is set to pay a visit to our country between Aug. 28 and Sept. 9, 2016, and that it may conduct spontaneous inspections on any detention center across the country. In this respect, I request you to show the ultimate attention to avoid using places that serve as detention centers including sport facilities; to abide by our own regulations and international standards concerning detention procedures; and to urgently make arrangements in order to get all detention centers ready for the abovementioned visit”*.
116. In Appendix 5 we reproduce this letter and an English translation. It is clear that the letter seems to be more motivated by the aim of hiding than investigating torture. On top of that: the last four reports of the CPT did not get the authorisation from the Turkish government to be published. It is a clear message to the security services that even the visit of an international committee will not lead to extraprosecution.
117. In a political meeting in late July 2016, then Minister of Economy Nihat Zeybekçi said, about the plotters of the failed military coup attempt: “We will put them into such holes for punishment that they won’t even be able to see the sun of God as long as they breathe. They will not see the light of the day. They will not hear a human voice. They will beg for death, saying “just kill us”. And in October 2016, Mehmet Metiner, AKP MP and head of the prison commission in the Turkish parliament clearly stated

**“we will not investigate the torture allegations against FETO members”.**

These are some examples. However, the same kind of statements have been repeated quite often. On top of that, sometimes uncensored images of torture of alleged coup suspects in degrading circumstances have been circulated widely in Turkish media and social networks after the coup, along with statements inciting violence against opponents of the Government. It is clear that this is not in line with a zero-tolerance policy. In the CPT report (visit of 2019) these statements are clearly criticised.

118. Although these messages raise serious questions about the sincerity of the expressed government policy, they are not sufficiently binding and clear, to conclude that the government by direct instructions bears this first type of explicit, direct responsibility for the continuing torture. We cannot prove this kind of responsibility on the part of the government.
119. But there are other forms of direct responsibility. “Other form” doesn’t mean “less important”. It means that the message that torture is allowed and will not effectively be prosecuted is given in a different, indirect, more subtle way. The responsibility of the government also includes a kind of “due diligence”: taking the necessary measures to ensure the respect of the national and the international regulations, securing a full and efficient investigation in case of violation, adequate measures to prevent the occurrence of torture, etc. This responsibility is different, but just as high and just as important, perhaps even more important than the first type of responsibility. We will introduce two elements in order to answer this question.
120. **The first element** is the high number of cases.  
The first element to answer this question is the high number of (reported) cases of torture and the lack of a real independent national prevention mechanism. The number of complaints is high. It is common and universal knowledge that in cases of torture, the dark number is even higher. We cannot rule out that some complaints could be abuse. That is universal too. But the number of complaints is high enough that some possible abuse can never be a reason for the absence of effective, structural extra action by the government. Such action never came, with the exception for some written instructions that had little impact.
121. In this context we would like to pay specific attention to the National Prevention Mechanism as indicated in Article 3 of the Optional Protocol. In the report, based on the visit from 6 to 9 October 2015, but only published on 12 December 2019, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Subcommittee) was very critical about the absence of a

real independent National Prevention Mechanism.<sup>53</sup> Meanwhile a law has been passed by the Grand National Assembly, but most of the critical remarks still are in place. The procedure to nominate of the members of this mechanism for instance (as a part of the Turkish Human Rights and Equality Institution (THREI)) still does not correspond to the international standards (Paris principles). Also, other recommendations clearly were not executed.

122. In a state where a high number of (allegations of) cases of torture are reported, not having an independent prevention mechanism surely reinforces the idea that torture is not taken seriously and that punishment of torture must not be expected. Nothing stimulates the use of torture more than the idea that punishment will not occur. The installation of a real independent prevention mechanism is not a difficult task, it is not complicated, the conditions that must be respected are clear, it doesn't take a lot of effort to organise it. Some budget must be made available, but that cannot be a real issue. Therefore, if there is no truly independent national prevention mechanism, it is only because the political will is lacking. There can be no doubt that the absence of a real independent prevention mechanism clearly establishes the responsibility of the Turkish government for the high number of cases of torture in their country.

123. **The second element** is the impunity.

The second element to answer this question lies in the impunity system in Turkey. Under the law no. 4483, Turkish civil servants, including police officers cannot be prosecuted without the permission of the relevant administrative authorities. There is some misunderstanding about this rule. First of all: torture is excluded from the application of this law. Prosecutors don't need permission to investigate a case of torture. On top of that, for security forces, in principle the law only applies to crimes committed during the execution of their administrative enforcement duties (public order). Notwithstanding that, we see in nearly all cases of torture that permission is asked (and often refused, and also, the refusal is regularly overruled by an administrative court). Other systems of permission are provided in the Law No. 2937 (MIT officers), No. 6722 (Southeast region 2015-2016) and Decree No. 667. For more detailed analysis, we refer to the report on Impunity. Needless to repeat here

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<sup>53</sup> CAT/OP/TUR/1

that any form of impunity, system of authorisations or immunity is contrary to the international obligations of the Turkish state.<sup>54</sup> The impact of this procedures is important. It is clear that the number of complaints is high, and the number of investigations initiated by the Turkish authorities is extremely low. The impunity clause in the legislation surely is partly responsible for that.

124. This conclusion was already reached in the past by the ECtHR. The ECtHR had found various violations by Turkey which were the result of the actions of the security forces in the South-East of Turkey, a region at that time in a situation of state of emergency.<sup>55</sup> In the Case of *Yasa v. Turkey* the Court used strong language by stating it was *“struck by the fact that the investigatory authorities appear to have excluded from the outset the possibility that State agents might have been implicated in the attacks.”*<sup>56</sup>
125. The Committee of Ministers in the Council of Europe has the duty to follow up the execution of the judgments and also pays attention to the efforts needed to avoid repetition. In the aftermath of these cases, the Committee of Ministers called upon the Turkish authorities *“to abolish the special powers of the local administrative councils in engaging criminal proceedings and to reform the prosecutor’s office in order to ensure that prosecutors will in the future have the independence and necessary means to ensure the identification and punishment of agents of the security forces who abuse their powers so as to violate human rights.”*<sup>57</sup> The recommendation was not executed. In its follow-up resolution of 2002, the Committee of Ministers *“urged the authorities to accelerate without delay to reform its system of criminal prosecution for abuses by members of the security forces.”*<sup>58</sup> Finally, in the resolution of 2005 the Committee of Ministers

*“encourages the Turkish authorities to take the necessary measures to remove any ambiguity regarding the fact that administrative authorisation is no longer required to prosecute any serious crimes allegedly committed by members of its security forces.”*<sup>59</sup>

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<sup>54</sup> Katona, N, Article 4. Obligation to criminalize Torture, *o.c.*, No. 2, p. 177 and No. 38, p. 188.

<sup>55</sup> E.Ct.H.R, *Aksoy v. Turkey*, 18 December 1996. See also: E.Ct.H.R, *Akdivar and others v. Turkey*, Grand Chamber; E.Ct.H.R, *Aydin v. Turkey*, Grand Chamber, 25 September 1997; E.Ct.H.R, *Mentes and others v. Turkey*, 28 November 1997.; E.Ct.H.R, *Kaya and Others v. Turkey*, 4 October 2005.; E.Ct.H.R, *Selçuk and Asker v. Turkey*, 24 April 1998 which all resulted from the actions of its security forces.

<sup>56</sup> E.Ct.H.R, *Yasa v. Turkey*, 2 September 1998, par 105.

<sup>57</sup> Interim Resolution of 9 June 1999, DH (99) 434.

<sup>58</sup> Interim Resolution of 10 July 2002, DH (2002) 98.

<sup>59</sup> Interim Resolution of 7 June 2005, DH (2002) 98

126. These clear resolutions of the Committee of Ministers have not prevented the Turkish government and parliament from reinstating several systems of authorisation for prosecution and even immunity. The government knew from the past, through the clear resolutions of the Committee of Ministers, that bringing back some systems of authorisation and immunity – as such already in violation of the ECHR and the CAT- would eventually lead to a higher frequency of the use of torture. And once the legislation was passed, the government never gave instructions to the relevant administrative authorities to make sure each investigation could get started (as is also obligatory according to both conventions). It was within its competence to give that kind of instructions, but the government failed to do that. Moreover, the CPT reports concerning the visits of 2017 and 2019 clearly gave evidence of cases where doctors denied there was proof of ill-treatment or torture. The conclusion of the CPT was harsh: “the entire system of medical control suffers from fundamental flaws”. The government cannot pretend they are not aware of this. Instead of giving new guarantees, in its answer to the report, the government denies the fundamental problem and even justifies the presence of police officers in the doctor’s room during the medical exam. So, our conclusion is clear:

- 1) **The Turkish government did not create an independent national prevention mechanism, although the government received clear and detailed recommendations about this from official international institutions, whose legitimacy was and remains legally recognised by Turkey.**
- 2) **The government reinstated systems of authorisation and immunity, although already in the past the ECtHR made clear that this was unacceptable and would lead to more torture and although these systems are clearly against the obligations provided in the ECHR and the CAT, and the government denies the documented and proven lack of independent medical control, which is essential to prove and thus to prevent torture.**

**These two observations bring us to the inevitable conclusion that the central government bears full responsibility for the systematic and organised use of torture in Turkey and the nearly non-existent prosecution and punishment of it.**

## Appendix 1: Additional statistical information

TABLE 1	Personnel in respect of whom judicial proceedings were brought under Art. 243 (torture) between 1 January 1995 and 31 December 2004 (Date of Offence).				
	Total cases	Trial pending	Decided	Imprisonment	Imprisonment (%)
<b>Total</b>	1554	242	132	80	6
2004	13	6	7	0	0
2003	143	36	107	1	0,1
2002	413	80	333	1	0,3
2001	190	60	130	2	2
2000	128	12	116	13	11
1999	170	38	132	6	5
1998	129	5	124	9	7
1997	112	5	107	10	9
1996	155	0	155	12	8
1995	101	0	101	26	26

Suspended sentence under Law No. 4616: 17 (1,3%)

Source: CTP/Inf. (2005) 19, Appendix 3

TABLE 2	Personnel in respect of whom judicial proceedings were brought under Art. 245 (Ill Treatment) between 1 January 1995 and 31 December 2004 (Date of Offence)				
	Total cases	Trial pending	Decided	Imprisonment	Imprisonment (%)
<b>Total</b>	9792	1773	8019	142	5
2004	234	155	79	1	1
2003	1191	487	704	15	2
2002	1395	534	861	30	3
2001	869	201	668	44	7
2000	1017	190	827	73	9
1999	1090	110	980	87	9
1998	1433	38	1395	33	2
1997	1053	34	1019	28	3
1996	942	18	924	62	7
1995	568	6	562	39	7

Suspended sentence under Law No. 4616: 1203 (15% of decided cases)

Source: CTP/Inf. (2005) 19, Appendix 3

During the period 1995-2004, per year, 150 cases of torture and nearly 1000 cases of ill-treatment gave rise to judicial proceedings. Once started, 6% (torture – 80 for the whole period) or 5% (ill-treatment – 412 for the whole period) resulted in an imprisonment. It is

important to note that in 15% of the decided cases concerning ill-treatment, the final result was a suspension of the sentence (or three times the number of imprisonments). It is striking that, although the number of judicial proceedings on torture went up after 2000, the number of convictions dropped quite spectacularly. These years are also the years in which the number of introduced cases that eventually led to a violation pronounced by the ECtHR were highest.

TABLE 3		Number of Officers in respect of whom imprisonment judgements were delivered by criminal courts from 11.01.2010 to 16.04.2014, under articles 86, 256, 94/95 TBC.		
Year	Art. 86	Art. 256	Art. 94/95	TOTAL
2010	88	0	4	92
2011	106	6	2	114
2012	137	8	11	156
2013	145	4	1	150
2014	36	1	2	39
<b>Total</b>	<b>512</b>	<b>19</b>	<b>20</b>	<b>551</b>

Source: CAT/C/TUR/4 Appendix 5

Table 3 gives the number of officers in respect of whom imprisonment judgements were delivered by criminal courts from 11.01.2010 to 16.04.2014, under art. 86 ((simple) injury), art. 256 (exceeding the limits of authorisation for use of force) and art. 94/95 (Torture). In a period of 4 years and 3 ½ months, 20 security officers were convicted for torture, 19 for exceeding the limits of authorisation for use of force and 512 for (simple) injury. The low numbers concerning torture and ill-treatment are in line with the information mentioned in the report. The average days of imprisonment for torture in these judgements was 1,340 days, the average days of imprisonment for (simple) injury was 456 days. There is no information to indicate if the sanctions under art. 86 were all executed or if they were suspended. It seems obvious that a lot of torture cases were handled as cases of (simple) injury so a lower sanction could be decided and suspension of pronouncement was possible. That is also what the UN Committee notes in the conclusions and recommendations on the third periodic report of Turkey.

TABLE 4	Procedural acts carried out regarding the allegations of ill-treatment in penal institutions 2009 – mid 2014					Acquittal
	Total number persons involved	Pending	No-prosecution (A)	(no inquiry needed) (%)	Imprisonment or fine	
<b>Total</b>	<b>2091</b>	<b>503</b>	1563	98	<b>18</b>	7
<b>2014</b>	87	3	84	100	0	0
<b>2013</b>	494	69	411	97	10	4
<b>2012</b>	419	231	182	97	5	1
<b>2011</b>	283	77	201	97,5	3	2
<b>2010</b>	294	108	186	100	0	0
<b>2009</b>	514	15	499	100	0	0

Source: CAT/C/TUR/4 Appendix 2

Table 4 gives some information concerning the number of procedural acts carried out regarding the allegations of ill-treatment specifically in penal institutions for the period 2009 – mid 2014. These figures give a percentage of 1.2% of the cases in which procedural acts are taken that lead to an imprisonment or a fine. The Turkish government also gave information specifically for personnel of the security General Directorate. Although 250 juridical proceedings were started, no convictions were received (still 164 cases were pending, however).<sup>60</sup>

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<sup>60</sup> CAT/C/TUR/No.274

## Appendix 2: Complaints registered by HRA

Appendix 2	Number of complaints concerning torture and ill-treatment and ill-treatment under custody, in prison or in extra-custodial places, received by Human Rights Association (HRA - IHD)					
Year	2003	2004	2005	2006	2007	2008
Torture and ill-treatment under custody	818	526	309	179	234	448
Torture and ill-treatment in extra-custodial places	241	249	165	261	184	264
Torture and ill-treatment in prisons	113	57	158	173	90	333
<b>TOTAL</b>	<b>1172</b>	<b>832</b>	<b>632</b>	<b>613</b>	<b>508</b>	<b>1045</b>

Source: HRA.

Appendix 2	Number of complaints concerning torture and ill-treatment and ill-treatment under custody, in prison or in extra-custodial places, received by Human Rights Association (HRA - IHD)					
Year	2009	2010	2011	2012	2013	2014
Torture and ill-treatment under custody	305	230	310	293	233	1021
Torture and ill-treatment in extra-custodial places	358	138	517	433	307	213
Torture and ill-treatment in prisons	397	512	724	583	843	235
<b>TOTAL</b>	<b>1060</b>	<b>880</b>	<b>1551</b>	<b>1309</b>	<b>1383</b>	<b>1469</b>

Source: HRA.

Appendix 2	Number of complaints concerning torture and ill-treatment and ill-treatment under custody, in prison or in extra-custodial places, received by Human Rights Association (HRA - IHD)						
	Year	2015	2016	2017	2018	2019	TOTAL (2003- 2019)
Torture and ill-treatment under custody	1379	830	427	356	726	8624	36
Torture and ill-treatment in extra-custodial places	474	628	489	246	751	5918	25
Torture and ill-treatment in prisons	215	1348	1988	1149	495	9413	39
<b>TOTAL</b>	<b>2068</b>	<b>2806</b>	<b>2904</b>	<b>1751</b>	<b>1972</b>	<b>23955</b>	<b>100</b>

Source: HRA.

### Appendix 3: Reports about torture in Turkey by NGOs.

Human rights organisations have published reports that attach particular importance to Torture and ill-treatment. We will mention just a few of them.

**Human Rights Watch** published "A Blank Check" already in October 2016, in which it pointed out the impact that the abolition of a number of basic rights (too long a period within which police custody became possible, possibility to refuse a consultation with the lawyer within the first five days after arrest, exclusion of certain lawyers, lack of access to the judicial file, immunity of security officials) had on the increase of even severe forms of Torture and ill-treatment. In this report, 13 specific cases of torture were documented in detail. A year later "In Custody" followed, where the charges were repeated and again 10 cases of torture by security forces, concerning 22 people, were documented in detail.

**Freedom from Torture** published a report in April 2017 in which it described 60 cases of torture that occurred from 1992 to 2015, referring partly to earlier published reports. Almost immediately after the coup attempt, **Amnesty International** published a report about the new wave of torture after the coup attempt. AI also submitted numerous reports to the United Nations and the Council of Europe. On 3 July, the former president of Amnesty International himself was condemned to an imprisonment of 6 years and 3 months, because of "membership of a terrorist organisation". In November 2017, **The Stockholm Center for Freedom** published a report on the death of Gökhan Açıkkollu, including medical reports concerning this case. It had already published "Mass Torture and ill-treatment in Turkey" in June 2017. This report contains a large number of detailed allegations of Torture.

**Advocates of Silenced Turkey (AST)** produced, in January 2020, "Systematic Torture & ill-treatment in Turkey". This report reproduces part of the allegations of the aforementioned report of the Stockholm Center and adds a large number of other allegations. Finally, in the Report "Freedom in the world 2020 - Turkey", **Freedom House** summarises its view as follows *"Torture at the hands of authorities has remained common after the 2016 coup attempt and subsequent state of emergency. Human Rights Watch has reported that security officers specifically target Kurds, Gülenists, and leftist with torture and degrading treatment and operate in an environment of impunity"*.

As mentioned in our report, most of these documents contain detailed allegations about Torture or ill- treatment. The reports are expertly prepared and usually perfectly verifiable. Organisations such as HRW and AI have a longstanding reputation of expertise and impartiality.

#### Appendix 4: 10 exemplary cases

1. Hasan Kobalay, alleged member of the Gülen movement, teacher. His case (Feb. 2017) is well documented and already several reports have been published. Kirikale court ordered the prosecutor to investigate the allegations, including viewing the camera footage, no result to date.
2. Cemal Haslam, Abdulselan Aslan, Halil Aslan. Were taken in custody (June 2017) suspected of helping PKK with a mortar attack - allegation later turned out to be wrong. Pictures were published of the 3 men beaten. A medical report confirms that. Suspect were released. No conviction for torturing these three persons.
3. Villagers from Sapactan (Altinsu). Kurdish citizens taken in custody (August 2017) after a violent confrontation in the village. Photographs showing clear signs of being beaten, photographs published in media.
4. Acikkollu, alleged member of the Gülen movement, died (5.8.2016), doctors reports published, non-prosecution decision in May 2019.
5. Ayten Ozturk, alleged member of DHKP. Detailed statement of torture (March-August 2018) before the court, no investigation launched.
6. X,Y,Z, youngsters, 14 -16-17 years old, alleged PKK supporters. Health report from Training and research Hospital.
7. Hamza Kacmaz "suicide" (August 2016), common suspect, Autopsy report: no signs of strangulation and noted signs of handcuffing. No hanging, but torture.
8. Fatih Akkoyunlu alleged member of the Gülen movement, teacher and public servant (2016) torture documented by doctor reports. Filed several criminal complaints without any answer.
9. Erhan Dogan, Kurdish teacher, July 2016
10. Tuncer Centinkaya, journalist, medical reports about his medical state, lack of medication given.

**Appendix 5: Letter from the acting deputy head of the Turkish National Police  
(original and translation).**

**GİZLİ**

T.C.  
İÇİŞLERİ BAKANLIĞI  
Emniyet Genel Müdürlüğü

**İVEDİ**  
.../08/2016

Sayı : 23346125-50151.(61228).  
Konu : AlÖK Ziyareti/Bilgi Talebi

**DAĞITIM YERLERİNE**

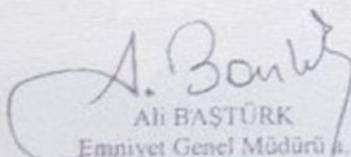
İlgi : 2016081111161065905 EBYS sayılı yazı.

Ülkemizde 15/07/2016 tarihinde gerçekleştirilen hain darbe girişimi sonrasında yürütülen soruşturmalarda ilgili olarak uluslararası kurum ve kuruluşlar tarafından yapılan açıklamalar ile yabancı medyada yer alan haberler konusunda yapılabilecek iş ve işlemlere ilişkin 01/08/2016 tarihinde Adalet Bakanlığında gerçekleştirilen koordinasyon toplantısında dile getirilen hususlar ilgi yazı ile bildirilmiştir.

Bu defa, 25/08/2016 tarihinde Dışişleri Bakanlığında gerçekleştirilen "Koordinasyon Toplantısı"nda Avrupa İşkencenin Önlenmesi Komitesi'nin 28/08-06/09/2016 tarihleri arasında Ülkemize bir ziyarette bulunacağı ve ziyaret esnasında ise Ülkemiz genelinde herhangi bir gözaltı merkezine spontane olarak ziyaretler gerçekleştirebileceği hususu belirtilmiştir.

Bu kapsamda, gözaltı birimi olarak kullanılan spor tesisleri vb. yerlerin mümkün olduğunca kullanılmamasına özen gösterilmesi, gözaltı iş ve işlemlerinde mevcut yasal ve uluslararası standartlara göre hareket edilmesi ve bütün gözaltı birimlerini anılan ziyarete uygun hale getirecek düzenlemelerin ivedilikle yapılması hususunda;

Gereğini rica ederim.

  
Ali BAŞTÜRK  
Emniyet Genel Müdürü  
Mülkiye Başmüfettişi  
Emniyet Genel Müdür Yrd. V.

## Translation

Classified Republic of Turkey  
the General Directorate of Security

URGENT

.../08/2016

No: 233461125-50151.(61228).

Subject: CPT visit/request for information

To all distribution centers

Re: Letter no 2016081111161065905 EBYS

The issues raised in the coordination meeting at Ministry of Justice on 01/08/2016 in regards to actions and processes about the statements made by international organisations and institutions and news appearing in the media related to the investigations executed after the treacherous coup attempt that took place in our country on 15/07/2016 were notified with the relevant letter.

This time, it is stated in the coordination meeting that took place at the Ministry of Foreign Affairs on 25/08/2016 that Committee for the Prevention of Torture will pay a visit to our country between 28/08- 06/09/2016, and during this visit, CPT will visit any random detention center all across the country spontaneously.

Within this scope, the sport halls and the like used as detention centers should not be used as much as possible, current laws and international standards should be followed in detention actions and processes, and the regularisations/arrangements to make all other detention centers appropriate for the aforementioned visit should be immediately realised.

Signed

pp Ali Basturk

General Director of  
Security Civil Service  
Chief Inspector

Vice General Director of Security



**TURKEY TRIBUNAL**

Because Silence is the Greatest Enemy of  
Fundamental Human Rights



in collaboration with



**INTERNATIONAL  
OBSERVATORY  
HUMAN RIGHTS**