



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND

www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

RÉFÉRENCE: cc/jli/follow-up/CAT

23 May 2014

Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations on the United Nations Committee against Torture, I am writing regarding the examination of the initial report of the Government of Turkmenistan at its 46th session in May 2011 (CAT/C/TKM/1). The Committee adopted its concluding observations (CAT/C/TKM/CO/1), in which it requested the Government of Turkmenistan to provide further information on its response to the Committee's recommendations contained in paragraphs 9, 14, 15(b) and 15(c).

On behalf of the Committee, allow me to express appreciation for your Government's reply dated 31 August 2012 (CAT/C/TKM/CO/Add.1) regarding those recommendations. I have reviewed them with care and am writing to seek further clarification, as there remain outstanding questions about their implementation.

Fundamental legal safeguards (paragraph 9)

In paragraph 9 of its concluding observations, the Committee expressed serious concerns at the State party's failure in practice to afford all persons deprived of their liberty, including detainees held in temporary holding facilities (IVS), with all fundamental legal safeguards. The Committee recommended that Turkmenistan (a) ensure that all detainees are afforded, in practice, all fundamental legal safeguards from the very outset of their detention, (b) to ensure that minors have a lawyer and their parents or legal guardians present at every phase of a proceeding, including during questioning by a police officer; (c) to ensure that all detainees, including minors, are included in a central register of persons deprived of liberty which can be accessed by lawyers and family members of those detained and others as appropriate; and (d) to take measures to ensure the audio- or videotaping or all interrogations in police stations and detention facilities.

The Committee appreciates the information provided regarding the framework in place to prevent torture against persons deprived of their liberty. However, the Committee regrets that Turkmenistan has not provided sufficient information to address its concern that persons deprived of their liberty are frequently denied access to a lawyer. Please clarify whether article 24 of the Code of Criminal Procedure or other law or regulation specifically guarantees the right of all persons to access a lawyer promptly following deprivation of their liberty. Please also describe measures Turkmenistan is taking to ensure that this right is afforded in practice, specifically indicating how the authorities monitor the compliance of law enforcement and security officials with the requirement that law enforcement and security officials permit all persons deprived of their liberty to contact a lawyer promptly upon deprivation of liberty. Also, please provide information on any cases since the Committee's review of Turkmenistan in which authorities have been disciplined or otherwise penalized for failing to provide detainees with prompt access to a lawyer as required.

H.E. Mr. Esen Aydogdyev  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of Turkmenistan  
to the United Nations Office at Geneva



The Committee also regrets that Turkmenistan has not provided information regarding its concern that the Criminal Code allows police officers to detain a person without the authorization of the prosecutor general for 72 hours and without presentation to a judge for up to one year. Please indicate what measures have been taken to reduce the amount of time that the law permits to elapse between a suspect's detention by the police and presentation before a judge, as well as the time between a suspect's detention by the police and prosecutorial authorization of the deprivation of liberty.

The Committee appreciates the information provided regarding the laws that require the authorities to immediately report arrests of minors to their parents or guardians and that make the presence of a lawyer obligatory during initial inquiries, pretrial investigations and judicial proceedings involving minors. Please indicate whether Turkmenistan has taken measures to amend these laws to clearly require the presence of both the lawyers and parents or guardians of minors in any case in which a minor is questioned by the police for any reason, even where the police have not designated the minor in question a suspect or accused person. Please also indicate how Turkmenistan ensures the authorities' compliance with the laws in place and whether any public official has been disciplined or prosecuted for failing to ensure the presence of a lawyer and parents or guardians during the questioning of a minor by a police officer in any case since the Committee's consideration of Turkmenistan's report.

The Committee appreciates the information provided regarding the Committee's recommendation in paragraph 9(c) that the State party ensure that all detainees are included in a central register of persons deprived of liberty that can be accessed by lawyers and family members of the detained. While the State party indicates that all detainees and convicted persons held at prisons and remand centers are to be registered, it appears from the State party's response that there are separate registries maintained by the Ministry of Internal Affairs and provincial police information centres. Please clarify whether this is the case, and if there is not yet a central registry for all persons deprived of their liberty, please indicate if the State party is taking steps to create one. Please also indicate whether lawyers and family members can access the detention registries described in Turkmenistan's report and the procedures in place for doing so. Please indicate how the State party monitors compliance by all authorities with the registration requirements, and indicate if there have been any cases since the Committee's review of Turkmenistan's report in which a law enforcement or security official has been disciplined or prosecuted for falsifying a detention registry entry or failing to properly record the detention of any person.

The Committee appreciates the information provided by Turkmenistan concerning its recommendation in paragraph 9(d) that Turkmenistan take measures to ensure the audio- or videotaping of all interrogations in police stations and detention facilities as a further means to prevent torture and ill-treatment. The Committee welcomes the information provided stating that all of the investigative services of the Ministry of Internal Affairs are equipped with video recording equipment and that video cameras have been set up in several police stations, remand centres and places of detention; as well as the information that the Ministry of Internal Affairs is carrying out a plan to provide audio and video recording equipment to police stations, remand centres and prisons and ensure that recordings are made without interference from investigators or other officials conducting interviews or questioning. Please provide updated information on the progress made in the implementation of this plan, specifying the number of facilities that have received such equipment, the number of facilities that still require such equipment, and whether regulations have been promulgated to make it clear that all interrogations at such facilities are to be recorded. Please also indicate if measures have been taken to enable persons who complain of having been subjected to torture or ill-treatment during interrogation to obtain the video and/or audio records of their interrogation.



#### Monitoring and inspection of places of detention (paragraph 14)

The Committee appreciates the information provided by Turkmenistan regarding measures it has taken to ensure monitoring of certain conditions at detention facilities by commissions of the Cabinet of Ministers and within lower-level administrations. However, the Committee is concerned that the presence of representatives of official bodies including law enforcement agencies on these commissions undermines their independence. Please indicate what measures Turkmenistan has taken to strengthen the independence of these commissions. Please also clarify whether these commissions monitor all places of detention, how regularly they carry out their monitoring activities, and whether they carry out their visits without giving prior notice to the place of detention. Please also indicate whether these commissions receive complaints of torture and ill-treatment from detained persons and if so, how many such complaints they have received since the Committee reviewed the report of Turkmenistan and how the commissions have acted on any such complaints.

The Committee appreciates the information provided by Turkmenistan regarding its authorization for the International Committee of the Red Cross and Crescent ("ICRC") to conduct a weeklong visit to Turkmenistan in April 2012 including to a detention facility operated by the Ministry of Internal Affairs. Please provide updated information indicating whether Turkmenistan's government has authorized the ICRC to carry out visits to all detention facilities in the country, as recommended by the Committee. Please also indicate if the State party has permitted any other independent non-governmental organizations to visit to places of detention since the Committee's consideration of Turkmenistan's report. Please provide information about the location and date of any such visits.

The Committee regrets that Turkmenistan did not provide information in response to the recommendation that Turkmenistan permit the UN Special Rapporteur on torture and the Working Group on Arbitrary Detention to visit the country in conformity with their terms of reference as soon as possible. Please provide the Committee with updated information on whether Turkmenistan has taken measures to facilitate visits by these mechanisms.

#### Enforced disappearances and incommunicado detention (paragraph 15)

The Committee deeply regrets the State party's failure to provide information on measures it has taken to implement the recommendation in paragraph 15(b) of the concluding observations, which calls on the State party to inform the relatives of those who have been detained incommunicado, including those imprisoned in connection with the assassination attempt on the former president in 2002, of their fate and whereabouts and to facilitate family visits. The Committee is alarmed to learn that the family members and lawyers of several of these individuals, including Boris Shikhmuradov, Konstantin Shikhmuradov, Batyr Berdyev, and Rustam Dzhumayev still have not been able to learn their fate or whereabouts or to visit them. Turkmenistan's response suggests that these individuals "are held in places of deprivation of liberty." Please provide updated information on the specific whereabouts of these individuals and whether they are alive. Please also provide information on the whereabouts of Gulgeldy Annaniyazov and whether the State party has acted to release him from detention as called for by the UN Working Group on Arbitrary Detention (A/HRC/WGAD/2013/).

The Committee further regrets the State party's failure to indicate whether it is taking measures to ensure prompt, impartial and thorough investigations into all outstanding cases of alleged disappearances, to provide remedy as appropriate and to notify relatives of victims of the outcomes of such efforts, as recommended by the Committee in paragraph 15(c) of the concluding observations. Please provide updated information on any investigations into allegations of enforced disappearance undertaken since the Committee's consideration of Turkmenistan's report.



Accept, Excellency, the assurances of my highest consideration.

A handwritten signature in cursive script, reading "Felice D. Gaer".

Felice D. Gaer

Rapporteur for Follow-Up on Concluding Observations  
Committee against Torture