



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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1 June 2012

Your Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the initial report of Turkmenistan (CAT/C/TKM/1) by this Committee, at its 46th session, held from 9 May to 3 June 2011. At the end of that session, the Committee's Concluding Observations (CAT/C/TKM/CO/1) were transmitted to your Permanent Mission. In paragraph 29 of those Concluding Observations, the Committee requested, pursuant to its rules of procedure, that the State party provide, within one year (by June 2012) further information regarding areas of particular concern identified by the Committee in paragraphs 9, 14, 15 (b) and (c) (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's Concluding Observations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. A Word electronic version of the reply should be sent to the Secretariat of the Committee against Torture (cat@ohchr.org). Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Turkmenistan on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Your Excellency, the assurances of my highest consideration.

Felice D. Gaer

Rapporteur for Follow-up on Concluding Observations
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

**Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/TKM/CO/1)**

TURKMENISTAN

(...)

C. Principal subjects of concern and recommendations

(...)

Fundamental legal safeguards

9. While noting article 26 of the Code of Criminal Procedure on legal assistance, the Committee expresses its serious concern 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, as referred to in paragraphs 13 and 14 of the Committee's general comment No. 2 (2008) on the implementation of article 2 by States parties, from the very outset of detention. The Committee is concerned 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. It is reported that detainees are frequently denied access to a lawyer and that violence is inflicted by police officers to extract confessions during that period of time. The Committee notes with concern reports that torture and ill-treatment of minors is widespread at the moment of apprehension and during pretrial detention (CRC/C/TKM/CO/1, para. 36) (arts. 2, 11 and 12).

The Committee recommends that the State party:

(a) Ensure that all detainees are afforded, in practice, all fundamental legal safeguards from the very outset of their detention, including the rights to prompt access to a lawyer and a medical examination by an independent doctor, to contact family members, to be informed of their rights at the time of detention, including about the charges laid against them, and to appear before a judge promptly;

(b) 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) Ensure that all detainees, including minors, are included in a central register of persons deprived of liberty and that the register can be accessed by lawyers and family members of those detained and others as appropriate;

(d) 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.

(...)

Monitoring and inspection of places of detention

14. While noting the detention monitoring activities by the Office of the Procurator-General, the Committee is deeply concerned that there is no access for international monitoring bodies, either governmental or non-governmental, to detention facilities in Turkmenistan. The Committee notes that the State party cooperates with the International Committee of the Red Cross (ICRC), which provides assistance with humanitarian law and in other ways. However, the Committee notes with concern that the State party has not granted ICRC access to detention facilities, despite a number of recommendations made by international bodies, including the General Assembly in its resolutions 59/206 and 60/172, and as noted by the Secretary-General (A/61/489, para. 21). The Committee also expresses regret at the long outstanding requests for a country visit by the nine special procedures mandate holders of the Human Rights Council, in particular those of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on Arbitrary Detention (arts. 2, 11 and 16).

The Committee urges the State party:

(a) To establish a national system that independently, effectively and regularly monitors and inspects all places of detention without prior notice;

(b) To grant, as a matter of great urgency, access to independent governmental and non-government organizations, in particular ICRC, to all detention facilities in the country;

(c) To strengthen further the cooperation with United Nations human rights mechanisms, in particular by permitting visits from the Special Rapporteur on torture and the Working Group on Arbitrary Detention, in conformity with the terms of reference for fact-finding missions by special rapporteurs and special representatives (E/CN.4/1998/45), as soon as possible.

(...)

Enforced disappearances and incommunicado detention

15. The Committee is concerned about a number of persons who have been arrested and sentenced at closed trials without proper defence and imprisoned incommunicado, and the lack of information from the State party on progress made in ascertaining their fate and whereabouts. These persons include Gulgeldy Annaniazov, Ovezgeldy Ataev, Boris Shikhmuradov, Batyr Berdyev, and those imprisoned in connection with the

assassination attempt on the former President in 2002, raised, inter alia, by the Special Rapporteur on torture (A/HRC/13/42, paras. 203-204; E/CN.4/2006/6/Add.1, para. 514). In particular, the Committee is concerned about the lack of: (a) effective, independent and transparent investigations into allegations of such practices, and prosecutions and convictions of perpetrators, where appropriate; and (b) due notification of the results of such investigations to the relatives of individuals who have disappeared, including confirmation of their place of detention and whether they are alive. This lack of investigation and follow-up raises serious questions with respect to the State party's willingness to fulfil its obligations under the Convention and constitutes a continuing violation of the Convention with respect to the relatives of the victims (arts. 12 and 13).

The Committee urges the State party:

(...)

(b) As a matter of priority, to inform the relatives of those who have been detained incommunicado of their fate and whereabouts, and facilitate family visits;

(c) To take prompt 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 the victims of the outcomes of such investigations and prosecutions;

(...)

29. The Committee requests the State party to provide, within one year, follow-up information in response to the Committee's recommendations contained in paragraphs 9, 14, and 15 (b) and (c) of the present document and to provide the information requested in the dialogue with State's representatives.

(...)
