



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

Distr.: General  
20 January 2011

Original: English

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**Committee against Torture**

**Forty-fifth session**

1–19 November 2010

**Consideration of reports submitted by States parties under  
article 19 of the Convention**

**Concluding observations of the Committee against Torture**

**Turkey**

1. The Committee against Torture considered the third periodic report of Turkey (CAT/C/TUR/3) at its 959th and 960th meetings, held on 3 and 4 November 2010 (CAT/C/SR.959 and 960), and adopted the following concluding observations and recommendations at its 975th meeting (CAT/C/SR.975).

**A. Introduction**

2. The Committee welcomes the submission of the third periodic report of Turkey but regrets that it was submitted four years late, which hinders the Committee from ongoing analysis of the implementation of the Convention.

3. The Committee also welcomes that the report was submitted in accordance with the new optional reporting procedure of the Committee consisting of replies by the State party to a list of issues prepared and transmitted by the Committee. The Committee expresses its appreciation to the State party for agreeing to report under this new procedure which facilitates the cooperation between the State party and the Committee. The Committee appreciates that the replies to the list of issues were submitted within the requested deadline. The Committee welcomes the constructive dialogue conducted with the high-level delegation and its efforts to provide explanations during the discussion of the report.

**B. Positive aspects**

4. The Committee welcomes that, in the period since the consideration of the second periodic report, the State party has ratified or acceded to the following instruments:

- (a) International Covenant on Economic, Social and Cultural Rights, in 2003;

(b) International Covenant on Civil and Political Rights, in 2003, and its Optional Protocols, in 2006;

(c) Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, in 2004;

(d) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in 2004;

(e) Convention on the Rights of Persons with Disabilities, in 2009.

5. The Committee notes with appreciation the State party's comprehensive reforms in the field of human rights and ongoing efforts to revise its legislation in order to ensure stronger protection of human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. The Committee welcomes in particular:

(a) The amendment to article 90 of the Constitution according to which international treaties on human rights and fundamental freedoms prevail over national laws in case of conflict;

(b) The adoption of the new Criminal Procedure Code (Law No. 5271) in 2005 and the new Penal Code (Law No. 5237) in 2004. In particular, the Committee welcomes the provisions regarding:

(i) Increased penalties for the crime of torture (3–12 years imprisonment) (Penal Code, art. 94);

(ii) Criminal liability for any individual who prevents or restricts the right of access to a lawyer (Criminal Procedure Code, art. 194);

(iii) The right of the suspect or accused to appoint one or more lawyers at any stage of investigation (Criminal Procedure Code, art. 149);

(iv) The obligatory assistance of a lawyer when an order for pretrial detention is made (Criminal Procedure Code, art. 101(3));

(c) Elements of the constitutional reform package adopted in September 2010 pursuant to a national referendum which provides, inter alia, for:

(i) The right of petition as a constitutional right which establishes an Ombudsman institution (Constitution, art. 74);

(ii) The right to appeal to the Constitutional Court with regard to fundamental rights and freedoms (Constitution, art. 148);

(iii) The guarantee that civilians will not be tried before military courts, except in times of war (Constitution, arts. 145 and 156).

6. The Committee also 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:

(a) The announcement of a "zero tolerance for torture" on 10 December 2003;

(b) The preparation of a Second National Action Plan in the Fight against Trafficking;

(c) The standing invitation extended to United Nations special procedures mechanisms and State party's acceptance of visits by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering

terrorism (2006), the Working Group on Arbitrary Detention (2006), and the Special Rapporteur on violence against women, its causes and consequences (2008);

(d) The commitment by the State party to ratify the Optional Protocol to the Convention, which it signed in 2005, and to establish a national preventive mechanism in consultation with representatives of civil society, which will be part of a national human rights institution to be established in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

## C. Principal subjects of concern and recommendations

### Torture and impunity

7. 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, notwithstanding information provided from the State party that combating torture and ill-treatment has been a “priority item” and 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 which are required by article 12 of the Convention and at the pattern of failure to conduct these. 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).

**The State party should take immediate measures to end impunity for acts of torture. In particular, the State party should ensure that all allegations of torture are investigated promptly, effectively and impartially. In connection with prima facie cases of torture and ill-treatment, the State party should ensure that the alleged suspect is subject to suspension or reassignment during the process of investigation, to avoid any risk that he or she might impede the investigation or continue any impermissible actions in breach of the Convention. The State party should also ensure that guidelines are in place to determine when articles 256 and 86 of the Penal Code will be required to prosecute ill-treatment instead of article 94. Further, the State party should immediately establish effective and impartial mechanisms to conduct effective, prompt and independent investigations into all allegations of torture and ill-treatment, and ensure that perpetrators of torture are prosecuted under article 94 (“torture”) and 95 (“aggravated torture”) so as to ensure that torture is punished by appropriate penalties as required by article 4 of the Convention.**

### Absence of effective, prompt and independent investigations into complaints

8. The Committee is concerned at the continuing failure of authorities to conduct effective, prompt and independent investigations into allegations of torture and ill-treatment. In particular, the Committee is concerned at reports that prosecutors face obstacles in effectively investigating complaints against law enforcement officers and that any such investigations pursued are commonly conducted by law enforcement officers themselves, a procedure which lacks independence, impartiality and effectiveness, notwithstanding Circular No. 8 of the Ministry of Justice pursuant to which investigations

concerning allegations of torture and ill-treatment shall be conducted by the Public Prosecutor and not by law enforcement officers. In this respect, the Committee is further concerned at the lack of clarity surrounding the current system of administrative investigation into allegations of police abuse, which lacks impartiality and independence, and that prior authorization for investigating the highest level law enforcement officers is still permitted under the Criminal Procedure Code. The Committee is also concerned by reports that independent medical documentation of torture are not entered into evidence in court rooms and that judges and prosecutors only accept reports by the Ministry of Justice's Forensic Medicine Institute. Furthermore, while noting the project launched in 2006 to introduce an "Independent Police Complaints Commission and Complaints System for the Turkish Police and Gendarmerie", the Committee is concerned that no independent police complaints mechanism is yet in place. The Committee is concerned about a pattern of delays, inaction and otherwise unsatisfactorily handling by authorities of the State party of investigations, prosecutions and conviction of police, law enforcement and military personnel for violence, ill-treatment and torture offences against its citizens (arts. 12 and 13).

**The Committee calls on the State party to strengthen ongoing efforts to establish impartial and independent mechanisms to ensure effective, prompt, and independent investigations into all allegations of torture and ill-treatment. As a matter of priority, the State party should:**

(a) **Strengthen the efficiency and independence of public prosecution by increasing the number, authority and training of investigating prosecutors and judicial police;**

(b) **Ensure preservation of evidence until the arrival of the prosecutor and instruct courts to consider the possibility of tampered or missing evidence as central factors in trial proceedings;**

(c) **Ensure that prosecutors and judicial officers read and evaluate all medical reports documenting torture and ill-treatment from medical personnel and forensic doctors, irrespective of institutional affiliation, who are competent and have specialized training on the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol);**

(d) **Establish an independent police complaint mechanism, as planned for by the Ministry of Interior;**

(e) **Amend article 161, paragraph 5, of the Criminal Procedure Code, as amended by article 24 of Law No. 5353 of 25 May 2005, in order to ensure that special permission is not needed to prosecute high level officials accused of torture or ill-treatment. To the same effect, the State party should repeal article 24 of Law No. 5353.**

#### **Failure to investigate disappearances**

9. The Committee is concerned at the lack of information from the State party on progress made in the investigation into cases of disappearances. In particular, the Committee is concerned at: (a) the number of outstanding cases of disappearances identified by the Working Group on Enforced and Involuntary Disappearances (63 cases as of 2009), and (b) at the lack of information on progress in investigating disappearances cases for which the State party has been found in violation of articles 2, 3 and 5 under the European Convention of Human Rights (*Cyprus v. Turkey* and *Timurtas v. Turkey* of the European Court of Human Rights). The Committee is further concerned at the lack of: (a) information on the effective, independent and transparent investigations into such cases,

and, if appropriate, prosecutions and convictions of perpetrators; and (b) due notification of the results of such investigations and prosecutions to family members of individuals who have disappeared. This lack of investigation and follow-up raises serious questions with respect to the State party's failure to meet its obligations under the Convention and, as concluded by the European Court of Human Rights, constitutes a continuing violation with respect to relatives of the victims (arts. 12 and 13).

**The State party should take prompt measures to ensure effective, transparent and independent investigations into all outstanding cases of alleged disappearances, including those cited by the European Court of Human Rights (*Cyprus v. Turkey* and *Timurtas v. Turkey*) and those identified by the Working Group on Enforced and Involuntary Disappearances. As appropriate, the State party should carry out prosecutions. The State party should notify relatives of the victims of the outcomes of such investigations and prosecutions. The Committee furthermore calls upon the State party to consider signing and ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.**

#### **Extrajudicial killings**

10. The Committee is concerned at the scant information provided by the State party with respect to the implementation of the recommendation by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for the State party to undertake impartial, thorough, transparent and prompt investigations and fair trials in relation to the alleged roles of security forces in incidents of killings in Kiziltepe and Semdinli in 2004 and 2005 respectively (arts. 12 and 13).

**The State party should undertake prompt, thorough and independent investigations into all alleged cases of extrajudicial killings by security and law enforcement officers and ensure that perpetrators are brought to justice and punished with penalties appropriate to the nature of their crimes.**

#### **Restrictions on fundamental legal safeguards**

11. The Committee is concerned at restrictions in the enjoyment of fundamental legal safeguards against torture and ill-treatment as a result of the introduction of new laws and amendments to the 2005 Code of Criminal Procedure. In particular, the Committee is concerned: (a) at the denial of a suspect's right to contact a lawyer until 24 hours after arrest under the Law on Combating Terrorism (Law No. 3713); (b) at the denial of legal aid for suspects accused of offences carrying a sentence of less than five years of imprisonment (Law No. 5560); (c) at the absence of a statutory right to an independent medical examination; and (d) that the statutory right to immediate access to a medical doctor is restricted to convicted prisoners (art. 94, Law No. 5275). The Committee is concerned at reports of the presence of a public official during the medical examination of a detainee notwithstanding that this is forbidden by law unless the medical personnel so requests for reasons of personal security. (art. 2)

**The State party should ensure by law and in practice that all detainees are guaranteed the right to have prompt access to a lawyer, to notify a family member and to an independent medical examination from the very outset of their detention. The State party should ensure that it upholds patient-doctor confidentiality during such medical examinations.**

**Overarching considerations regarding implementation**

12. The Committee regrets that, despite its request for statistical information in its list of issues prior to reporting and in the oral dialogue with the State party, most of the information requested was not provided. In particular, the absence of comprehensive or disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement, security and prison personnel, expulsions of immigrants and asylum-seekers, access to detention records, trial duration, rehabilitation and compensation, and trafficking and sexual violence, severely hampers the identification of non-compliance with the Convention requiring attention.

**The State party should compile and provide the Committee with statistical data – disaggregated by gender, age, ethnicity and minority status, geographical location and nationality – relevant to the monitoring of the Convention at the national level and comprehensive information on complaints, investigations, prosecution and convictions of cases of torture and ill-treatment, expulsions, length of trials of alleged perpetrators of torture and ill-treatment, rehabilitation and compensation (including financial indemnification), trafficking and sexual violence, and on the outcomes of all such complaints and cases.**

**Excessive use of force by law enforcement officers and the use of counter-charges to intimidate persons reporting torture and ill-treatment**

13. While noting the acknowledgement by the representative of the State party of excessive use of force by law enforcement authorities and information on measures taken to eradicate such practice, including by inscribing identification numbers on the helmet of police officers during demonstrations, the Committee remains concerned at reports indicating an increase in the excessive use of force and ill-treatment of demonstrators by police outside official detention places. In particular, the Committee is concerned at reports of fatal shootings by the police and gendarmerie as well as at reports of the arbitrary application of the June 2007 revisions to the Law on Powers and Duties of the Police (Law No. 2559) authorizing the police to stop any person and request to see his/her identification, which, it is alleged, have led to an increase in violent confrontations. 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, in particular under article 265 on “using violence or threats against a public official to prevent them from carrying out their duty”, article 125 on “defaming the police”, article 301 on “insulting Turkishness”, and article 277 on “attempting to influence the judicial process”. 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).

**The State party should promptly implement effective measures to put an end to excessive use of force and ill-treatment by law enforcement authorities. The State party should, in particular:**

(a) **Ensure that domestic laws, rules of engagement and standard operating procedures relating to public order and crowd control are fully in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, in particular the provision that lethal use of firearms may only be made when strictly unavoidable in order to protect life (Principles, para. 9);**

(b) **Introduce a monitoring system on the implementation of Law on Powers and Duties of the Police (Law No. 2559) and to prevent its arbitrary use by police;**

(c) **Ensure that State officials do not use the threat of counter-charges, such as those under articles 265, 125, 301 and 277 of the Penal Code, as a means to intimidate detained persons, or their relatives, from reporting torture and review convictions during the reporting period under such articles, with a view to identifying any wrongly used for such purposes, and ensure that all valid claims reporting torture were subject to an independent investigation and prosecution, as warranted.**

#### **Reparation and compensation, including rehabilitation**

14. The Committee is concerned at the lack of comprehensive information and statistical data on reparation and compensation, including rehabilitation, for victims of torture and other cruel, inhuman or degrading treatment or punishment in the State party, as required by article 14 of the Convention (art. 14).

**The State party should strengthen its efforts in respect of reparation, compensation and rehabilitation and provide victims of torture and other cruel, inhuman or degrading treatment or punishment with fair and adequate reparation and compensation, including rehabilitation. The State party should consider developing a specific programme of assistance in respect of victims of torture and ill-treatment.**

#### **Non-refoulement and detention of refugees, asylum-seekers and irregular foreigners**

15. The Committee welcomes information provided by the representative of the State party that three draft laws relating to asylum, a specialized unit dealing with asylum matters and foreigners are about to be submitted to the Parliament. It also notes the issuance of Circulars Nos. 18/2010 (illegal migration) and 19/2010 (asylum and migration) by the Ministry of Interior in March 2010. The Committee nevertheless is concerned that the draft asylum law retains the geographical limitation to the Convention relating to the Status of Refugees, which excludes non-European asylum-seekers from protection under the Convention. It is furthermore concerned at the system of administrative detention of foreigners apprehended due to their illegal entry or stay, or attempts to depart from the State party illegally, in “foreigners’ guesthouses” and other removal centres with limited access to the national procedure for temporary asylum. The Committee is furthermore concerned at reported cases of deportations and refoulement despite the risk of torture. In this respect, the Committee is concerned at the reported lack of access by asylum-seekers to legal aid, shortcomings in the asylum appeal system, lack of suspensive effect of deportation proceedings during the consideration of asylum requests, and at curtailed access to the Office of the United Nations High Commissioner for Refugees (UNHCR) and lawyers to visit individual asylum-seekers in detention. The Committee is furthermore seriously concerned at reported ill-treatment and serious overcrowding in “foreigners’ guesthouses” and other removal centres (art. 3).

**The State party should take prompt and effective measures to ensure compliance with its obligation under article 3 of the Convention not to return any person facing a risk of torture and ensure that all individuals in need of international protection have fair and equal access to asylum procedures and are treated with dignity. The Committee calls upon the State party to:**

- (a) **Ensure access by independent monitoring bodies to “foreigners’ guesthouses” and other places of detention and pursue, without delay, with the construction of new shelters that provide safe and healthy living conditions;**
- (b) **Consider lifting the geographical limitation to the Convention relating to the Status of Refugees by withdrawing its reservation to the Convention;**
- (c) **Ensure that all recognized refugees have access to international protection provided by UNHCR;**
- (d) **Ensure effective access to the asylum procedure for apprehended foreigners kept in detention and introduce suspensive effect of deportation proceedings during consideration of asylum requests;**
- (e) **Ensure access of UNHCR personnel, in line with Ministry of Interior circular on asylum-seekers and refugees, to persons in detention who wish to apply for asylum, so as to ensure their right to do so;**
- (f) **Ensure access of lawyers to asylum-seekers and refugees in detention so as to ensure their right to challenge decisions concerning their asylum application or other aspect of their legal status before appropriate legal tribunals.**

#### **Monitoring and inspections of places of detention**

16. While noting information provided by the representative of the State party on the role of the Human Rights Inquiry Commission of the Parliament and welcoming that visits by human rights defenders to places of detention are permitted, the Committee regrets the absence of a formal regulation that allows for independent monitoring and visits by representatives of civil society to such places. The Committee also regrets the lack of information on the implementation of main recommendations and findings by the institutions referred to in paragraphs 58–68 in the State party’s report that are authorized to inspect places of detention (arts. 2, 11 and 16).

**The State party should provide information on formal regulations allowing independent visits to places where persons are deprived of their liberty by civil society representatives, lawyers, medical personnel, and members of local bar associations. The State party should also provide the Committee with detailed information on follow-up measures and activities pursuant to findings and recommendations by State institutions, including those referred to in paragraphs 58–68 of the State party’s report.**

#### **Detention conditions**

17. The Committee is seriously concerned at reported overcrowding in places of detention in the State party and notes the frank acknowledgment by the representative of the State party that the situation is “unacceptable”. In view of information provided by the State party on a total occupancy rate of 120,000 prisoners, half of whom are prisoners on remand, the Committee is concerned at the lack of consideration of alternative measures to deprivation of liberty by judicial authorities and at excessively long pretrial detention, especially of those tried in the new heavy penal courts. The Committee furthermore notes with concern information that certain privileges relating to group activities of prisoners can be restricted for persons accused of, or convicted for, terrorist or organized crime offences and held under solitary confinement in F-type prisons. While welcoming that recording of interrogations can be requested by the judge as evidence in criminal proceedings, the Committee is concerned that at present only 30 per cent of police stations are equipped with

video surveillance cameras and that such cameras are alleged to fail in many cases. The reported lack of funding to reduce overcrowding by means of the construction of new penitentiary institutions, the high number of vacancies of prison personnel (approximately 8,000) referred to by representative of the State party, the shortage of medical personnel and reported shortcomings in access to health care of ill prisoners in the State party, are also matters of concern to the Committee. The Committee further notes with concern that information on detention facilities can be subject to restrictions under the Law on the Right to Access Information (Law No. 4982) (arts. 2 and 16).

**The State party should take immediate measures to bring an end to the endemic problem of excessive pretrial detention and overcrowding in places of detention. Furthermore, it should continue its efforts to improve the infrastructure of prisons and police stations so as to provide protection against abuses. In particular, the State party should:**

(a) **Encourage members of the judiciary to consider and implement alternative means to deprivation of liberty as a penal sanction, including by introducing necessary legislation to this effect;**

(b) **Install video surveillance cameras throughout police stations and make video recording of interrogations of all persons questioned a standard procedure;**

(c) **Undertake a legal review of articles 15-28 of the Law on the Right to Access Information (Law No. 4982) with a view to assessing their compatibility with the legal obligations under the Convention;**

(d) **Continue efforts to fill the vacancies in penitentiary institutions so as to ensure adequate staffing of prisons;**

(e) **Limit restrictions of privileges relating to group activities of prisoners in solitary confinement regimes to exceptional and well-defined situations only;**

(f) **Address the shortage of medical personnel and ensure access to health care of ill prisoners, including by deferring sentences if necessary.**

#### **Registration of detainees**

18. The Committee is concerned at reports that suspects are held in police custody without being officially registered and, in this respect, notes with concern the vague provision in law that registration of detainees shall occur “within a reasonable time” upon arrest (art. 2).

**The State party shall ensure prompt registration of persons deprived of their liberty and specify in law the maximum time for when official registration pursuant to apprehension shall take place.**

#### **Violence against women**

19. The Committee is concerned at numerous and ongoing reports of rape, sexual violence and other forms of gender-based acts of torture and ill-treatment committed by security agencies, detention officials and law enforcement officers. While noting training and awareness raising programmes undertaken by the State party to address and prevent such acts, the Committee regrets the lack of information on measures taken to ensure accountability of perpetrators, including investigations, prosecutions and convictions of the perpetrators, as well as information on reparation and compensation, including rehabilitation, for victims as required by article 14 of the Convention.

**The State party should take prompt measures to prevent all acts of torture and ill-treatment, including rape and other forms of sexual violence, of women deprived of their liberty and ensure accountability of all perpetrators of such acts by undertaking prompt investigations into complaints, and, as appropriate, prosecutions and convictions with appropriate penalties of perpetrators. The State party should ensure that all victims of gender-based acts of torture and ill-treatment are provided with adequate reparation and compensation, including rehabilitation.**

#### **Domestic violence and honour killings**

20. While noting the amendments to the Family Protection Law No. 4320 in 2007 and to the Penal Code in 2005 intended to enhance protection of women against violence and the adoption of a National Action Plan to Combat Domestic Violence Against Women and various training programmes for law enforcement officers, the Committee remains concerned at the reported extent of physical and sexual violence against women. The Committee is concerned at reports that women are rarely inclined to report ill-treatment and violence against them to the police and at the inadequate number of available shelters for women victims of violence, in spite of relevant provisions in the Municipal Law of 2005. In addition, the Committee is concerned at the lack of information on reparation and compensation, including rehabilitation, for victims as required by article 14 of the Convention. The Committee is furthermore concerned at reports of the failure of State authorities to investigate honour killings, and at the lack of comprehensive official statistics on honour killings as well as on domestic violence. Also, the Committee is concerned that under article 287 of the Penal Code judges and prosecutors can order a virginity test in rape cases against the will of the woman (arts. 2 and 16).

**The State party shall continue and strengthen its efforts, including in cooperation with the Council of Europe, the European Union and United Nations human rights mechanisms, to prevent and protect women from all forms of violence. The State party should:**

- (a) Undertake all necessary measures to facilitate and encourage women to exercise their right to lodge complaints on domestic violence to the police, including in the building and staffing of shelters, hotlines and other protective measures;**
- (b) Ensure prompt and effective investigations into all allegations of honour killings and violence against women and ensure that perpetrators are brought to justice and punished with penalties appropriate to the nature of their crimes;**
- (c) Ensure that victims are provided adequate reparation and compensation, including rehabilitation;**
- (d) Introduce a comprehensive system of data collection and statistics on violence against women, including on domestic violence and honour killings, disaggregated by age, ethnicity and minority status, and geographical location.**

#### **Children in detention**

21. While welcoming the 2010 amendments to the Law on Combating Terrorism which prohibits trial on charges of terrorism of juveniles who attend illegal meetings and demonstrations or distribute propaganda material for outlawed organizations and reduce of penalties applied to those accused of terrorism-related offences, the Committee is concerned at reports that children continue to be detained in unrecorded adult pre-charge facilities following arrest during demonstration, including in the Anti-Terrorism Branch of

Security Directorate rather than in the Children's Branch. Further, the Committee is concerned at reports of ill-treatment of children while held in unofficial places of detention and that interrogations have occurred without legal assistance or the presence of an adult or legal guardian. While noting information from the representative of the State party that most sentences do not exceed two years' imprisonment, the Committee is concerned at reports that children allegedly continue to be sentenced to long periods of imprisonment (art. 16).

**The State party should develop and implement a comprehensive system of alternative measures to ensure that deprivation of liberty of children is used only as a measure of last resort, for the shortest period possible and in appropriate conditions. The State party should ensure that detention of children is subject to regular review so as to make certain that no child is subject to any form of ill-treatment during detention and that no child is held in unrecorded places of detention. In addition, the State party should strengthen awareness and application of international human rights standards relating to juvenile justice for members of the juvenile courts and increase the number of such courts. Additionally, the Committee urges the State party to consider raising the age of criminal responsibility, currently set at 12 years, to comport with international standards.**

#### **Corporal punishment**

22. The Committee, while noting the amendment to the Civil Code in 2002 which removed parents' right of correction, is concerned at the lack of an explicit prohibition of corporal punishment in the home and in alternative settings in the domestic legislation, and reports that corporal punishment is widely used by parents and is still considered to have educational value in schools (art. 16).

**The Committee should clarify beyond doubt the legal status of corporal punishment in schools and penal institutions and, as a matter of priority, prohibit it in the home, alternative settings and, if appropriate, schools and penal institutions.**

#### **Treatment of persons requiring psychiatric care**

23. The Committee notes with concern the lack of information provided in the State party's report on conditions in rehabilitation centres with respect to offenders requiring psychiatric care. While noting information by the representative of the State party on five rehabilitation centres for detainees with psychiatric problems currently within penitentiary institutions, the Committee is concerned at the lack of information on the conditions of these facilities, including the full and effective exercise of the fundamental safeguards of such detainees. The Committee is furthermore concerned at the lack of information on general conditions, legal safeguards and protection against ill-treatment of persons in psychiatric facilities and mental hospitals, and notes with concern the high number of electroconvulsive treatment (ECT) administered in mental hospitals and clinics indicated in the State party's report (para. 306). Further, the Committee regrets the lack of information on access to such facilities by independent monitoring mechanisms (art. 16).

**The State party should undertake a serious review of the application of electroconvulsive treatment (ECT), and should end any other treatment which could amount to acts prohibited under the Convention, of persons requiring psychiatric care. The State party should ensure by law and in practice fundamental legal safeguards for all persons requiring psychiatric care, whether in psychiatric facilities, mental hospitals or penitentiary institutions. The State party should furthermore allow access to psychiatric facilities and**

**mental hospitals by independent monitoring mechanisms in order to prevent any form of ill-treatment.**

#### **Statute of limitation**

24. The Committee notes the increase in the statute of limitation for the crime of torture to 15 years, and to 40 years when acts of torture results in death, in the new Penal Code of 2005. Nevertheless, the Committee is concerned that the State party maintains a statute of limitation for the crime of torture (arts. 2, 12 and 13).

**The State party should amend its Penal Code to ensure that acts of torture are not subject to any statute of limitation.**

#### **Training**

25. While welcoming information provided by the representative of the State party that training for law enforcement officers and gendarmerie includes training on the Istanbul Protocol, the Committee regrets the lack of information on whether and how public inspectors of prisons and other places of detention receive such training. Furthermore, the Committee regrets the lack of information on any training of members of the Village Guards or immigration officials regarding the absolute prohibition of torture (art. 10).

**The State party should further develop and strengthen ongoing educational programmes to ensure that all officials, including judges and prosecutors, public inspectors of places of detention, law enforcement personnel, security officers, members of the Village Guards and prison and immigration officials, are fully aware of the provisions of the Convention, the absolute prohibition of torture and that they will be held liable for any actions in contravention of the Convention.**

26. The Committee invites the State party to ratify the Optional Protocol to the Convention and the core United Nations human rights treaties to which it is not yet a party as well as the Rome Statute on the International Criminal Court, the Convention on the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

27. The State party is requested to disseminate widely the report submitted to the Committee, summary records and the Committee's concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.

28. The Committee requests the State party to provide, within one year, follow-up information in response to the Committee's recommendations contained in paragraphs 7, 8, 9 and 11 of the present document.

29. The Committee invites the State party to present its next periodic report in accordance with its reporting guidelines and to observe the page limit of 40 pages for the treaty-specific document. The Committee also invites the State party to submit an updated common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN.2/Rev.6), and to observe the page limit of 80 pages for the common core document.

30. The State party is invited to submit its next periodic report, which will be the fourth report, by 19 November 2014.