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Report

**to the Turkish Government
on the visit to Turkey
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)**

from 28 to 29 April 2016

The Turkish Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2018) 12.

Strasbourg, 20 March 2018

Copy of the letter transmitting the CPT's report

Ms Yonca Gündüz Özçeri
Deputy Director General for the
Council of Europe and Human Rights
Ministry of Foreign Affairs
TR - Ankara

Strasbourg, 25 July 2016

Dear Ms Gündüz Özçeri,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of Turkey drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Turkey from 28 to 29 April 2016. The report was adopted by the CPT at its 90th meeting, held from 4 to 8 July 2016.

The recommendations and comments made by the CPT are set out in bold type in the report. The CPT requests the Turkish authorities to provide **within three months** a response containing an account of action taken by them to implement the Committee's recommendations in paragraphs 12, 13 and 15 and a reply to the request for information in paragraph 16.

As regards the request for information in paragraph 17, the Committee wishes to receive information **on an ongoing basis**.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Mykola Gnatovskyy
President of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

I. INTRODUCTION

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Turkey from 28 to 29 April 2016.

The visit was carried out by Mykola Gnatovskyy, President of the CPT and Head of Delegation, and Hans Wolff, member of the CPT. They were supported by Michael Neurauter, Head of Division in the Committee’s Secretariat.

2. The visit, which focused on Imralı F-Type High-Security Closed Prison (hereinafter: “Imralı Prison”), was one which appeared to the CPT “to be required in the circumstances” (see Article 7, paragraph 1, of the Convention)¹. The main purpose of the visit was to review on the spot the measures taken by the Turkish authorities to implement the recommendations made by the Committee in the report on its previous visit to the prison in January 2013.² In this connection, particular attention was paid to the communal activities offered to the prisoners and the application in practice of their right to receive visits from relatives and lawyers.

Since the 2013 visit, the CPT pursued its dialogue with the Turkish authorities in particular regarding the issue of access to the island for relatives and lawyers. Given that no progress had been made in the implementation of its recommendations, the Committee decided to carry out a follow-up visit to Imralı Prison and to have high-level consultations with the Turkish authorities.

3. During the visit to Imralı Prison, the delegation interviewed individually and in private each prisoner and examined their administrative and medical files. In addition, it had consultations with the management and staff of the prison, as well as with the medical co-ordinator of the prison and the doctor on duty at the time of the visit.

At the end of the visit, the delegation held consultations regarding the findings of the visit with Bekir Bozdağ, Minister of Justice, and Enis Yavuz Yıldırım, Director General of Prisons and Detention Centres, as well as with other senior officials, both of the Ministries of Justice and Foreign Affairs.

4. Throughout the visit, the delegation received excellent co-operation from the national authorities and the management and staff of the prison. The CPT would like to express its gratitude to the Armed Forces for providing the delegation with transportation by helicopter. It would also like to thank its liaison officer, Ms Yonca Gündüz Özçeri, Deputy Director General for the Council of Europe and Human Rights, from the Ministry of Foreign Affairs for the assistance provided before and during the visit.

¹ The CPT has previously carried out six visits to Imralı Prison (in March 1999, September 2001, February 2003, May 2007, January 2010 and January 2013). All visit reports and related Government responses have been made public and are available on the CPT’s website: <http://www.cpt.coe.int/en/states/tur.htm>

² See CPT/Inf (2014) 7.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

5. In March 2015, five of the six prisoners who had been held at Imralı Prison at the time of the 2013 visit, were replaced by another group of five prisoners. In December 2015, two of these prisoners were transferred to other F-type prisons in Turkey. Thus, at the time of the 2016 visit, a total of four prisoners (including three sentenced to aggravated life imprisonment and one serving a normal life sentence) were being held in the establishment.

6. At the outset, the CPT wishes to stress that its delegation received no allegations – and found no other indications – of ill-treatment of prisoners by prison officers at Imralı Prison. As during the 2013 visit, inmates indicated that they were treated correctly by the management and staff of the prison.

7. The delegation once again gained a favourable impression of the health-care services at Imralı Prison.³ The CPT welcomes the fact that arrangements have been made to reinforce continuity of care. In particular, an end had been put to the practice of deploying a different duty doctor to the island every week. Instead, the same four full-time doctors rotated on a weekly basis (with one week of work on the island and three weeks off). It is also noteworthy that the senior public health doctor who had been appointed as medical co-ordinator of the prison after the 2010 visit continued to exercise his functions (including by visiting the prison on a regular basis). Further, in line with specific recommendations made by the Committee in the report on the 2013 visit, steps have been taken to ensure the confidentiality of medical consultations and medical files.

8. Arrangements have been made since the last visit to significantly improve the material conditions of detention for Abdullah Öcalan. Three single cells have been merged into an apartment-type accommodation, with a total surface of some 40 m², comprising a bed and library room, a living room (equipped with a table, chair, sofa and a television set) as well as a bathroom (with shower, sink and toilet). In addition, Abdullah Öcalan was offered access to a larger adjacent outdoor exercise yard (measuring some 50 m²).

Material conditions for the other inmates remained unchanged since the last visit; they were satisfactory and do not call for any particular comments.

9. Notwithstanding the above-mentioned improvements, it is a matter of serious concern that most of the specific recommendations made by the Committee in the report on the 2013 visit regarding two issues, namely the regime (and, more specifically, communal activities) and prisoners' contacts with the outside world, have not been implemented in practice.

³ In paragraph 27 of the report on the 2013 visit, the CPT highlighted a number of significant improvements regarding the provision of health care at Imralı Prison.

10. As regards the regime, the CPT acknowledges the fact that Abdullah Öcalan now benefits from the same entitlement to outdoor exercise as the other prisoners held in the establishment, i.e. four instead of two hours per day.

However, despite the assurances given by the then-Minister of Justice during a meeting with the then-President of the CPT on 12 February 2013, all prisoners were still obliged to take outdoor exercise alone (in a small yard adjacent to their cell). This constitutes a clear discrimination against the prisoners compared to those serving an aggravated life sentence in other F-type prisons in Turkey. As was the case in 2013, prisoners transferred to Imralı Prison indicated to the delegation that they had previously been able to associate with other prisoners of the same category during outdoor exercise every day.⁴

11. Further, the situation has only slightly improved in terms of prisoners' association. All prisoners were now allowed to associate all together in *collective* activities for six instead of five hours per week, including three hours of conversation, one hour of volleyball, one hour of basketball and one hour of badminton/darts.

In all other respects, the situation remained unchanged. All prisoners continued to be offered three additional activities for a total of three hours per week (including one hour of painting/handicrafts, one hour of table tennis and one hour of board games). However, as was the case in 2013, prisoners were not allowed to participate in these additional activities all together, but only in pairs. All the prisoners indicated to the delegation that, due to this restriction, they categorically refused to take part in any of the additional activities.

12. To sum up, out of 168 hours per week, all prisoners were held in solitary confinement for a total of 159 hours (including 24 hours per day at weekends). Such a state of affairs is not acceptable.

In the CPT's view, there can be no legitimate security consideration to justify the imposition of the above-mentioned restrictions regarding prisoners' association during outdoor exercise and other organised activities. This was also acknowledged by various interlocutors met by the delegation.

During the end-of-visit talks, the Minister of Justice affirmed to the delegation that he would take measures with a view to improving the regime of all prisoners held at Imralı Prison.

The CPT recommends that the Turkish authorities take steps to ensure that all prisoners held at Imralı Prison are allowed to associate all together during daily outdoor exercise, as well as during all other out-of-cell activities. Further, the Committee recommends once again that the existing large yard be used for outdoor exercise.

⁴ For further details, see paragraph 14 of the report on the 2013 visit.

13. More generally, the CPT wishes to stress once again that the detention regime of prisoners sentenced to aggravated life imprisonment, which comprises draconian restrictions and a prohibition of contacts with other (life-sentenced) prisoners,⁵ is fundamentally flawed and should be revised not only at Imralı Prison, but in the prison system as a whole.

As a matter of principle, the imposition of such a regime should lie with the prison authorities and always be based on an individual assessment of the prisoners' situation, and should not be the automatic consequence of the type of sentence imposed.⁶ Further, prisoners sentenced to aggravated life imprisonment should not be segregated from other (life-sentenced) prisoners on the sole ground of their sentence.⁷ **The CPT reiterates its recommendation that the Turkish authorities carry out a complete overhaul of the detention regime of prisoners sentenced to aggravated life imprisonment, in the light of the above remarks, and amend the relevant legislation accordingly.**

14. As regards prisoners' contacts with the outside world, no progress has been made since the 2013 visit. Quite on the contrary, in some respects the situation has even deteriorated. First of all, not a single visit by a lawyer⁸ has taken place since 27 July 2011. Further, although Abdullah Öcalan had received six visits from his siblings in 2014, he has not been able to receive any such visit since 6 October 2014. Moreover, Abdullah Öcalan received a total of 16 visits from members of Parliament in 2014 and seven in early 2015. However, no such visits have taken place since 5 April 2015.

The delegation was informed by the management that a formal decision had been taken by the Board of Administration and Observation of Imralı Prison on 29 June 2015 to impose a total ban on telephone calls on all prisoners held in the prison. The individual decisions, which referred to identical security reasons, were subsequently approved by the competent enforcement court on 30 July 2015. All appeals against the court decisions were rejected by the appeal court on 21 August 2015.

15. The CPT wishes to stress once again that it cannot give credence to the explanations repeatedly given by the Turkish authorities that all requests for visits from lawyers since 27 July 2011 and all requests for visits from relatives since 6 October 2014 could not be carried out due to "*force majeure*" (i.e. a "technical failure of the vessel" or "adverse weather conditions").⁹ From the consultations which the delegation held with the Minister of Justice at the end of the visit, it transpired that the Turkish authorities continued to uphold a policy decision not to allow Abdullah Öcalan to receive any visits by lawyers, due to the perceived risk that visits, which are recorded and monitored by a member of staff, may be abused in order to transmit messages to instigate terrorist activities. As was the case in 2013, these restrictions were being applied without any legal basis in Turkish law.

⁵ On the basis of Section 25, paragraph 1, of the Law on the Execution of Sentences and Security Measures and relevant Ministry of Justice circulars.

⁶ See paragraph 17 of the report on the 2013 visit and paragraphs 74 to 82 of the CPT's 25th General Report.

⁷ See Section 7 of Committee of Ministers' Recommendation Rec (2003) 23 on the Management by Prison Administrations of Life-Sentenced and Other Long-Term Prisoners.

⁸ With the exception of three visits which Abdullah Öcalan received in 2014 from a lawyer in the capacity as "prisoner guardian".

⁹ According to official reports provided by the Turkish authorities, 97 requests to visit Abdullah Öcalan were submitted in 2014 by lawyers, 17 by relatives and 15 by the prisoner guardian. In 2015, there had been 97 such requests by lawyers, 47 by relatives and five by the prisoner guardian, and, in 2016 (until April), 34 visits were requested by lawyers, 15 by relatives and none by the prisoner guardian.

During the meeting with the Minister of Justice, the delegation acknowledged that, unlike in the case of the detention regime (see paragraph 12), there may be valid security reasons to introduce certain restrictions vis-à-vis prisoners to the exercise of their right to have contacts with the outside world. However, a balance must be struck between such security considerations and the human rights of the prisoners concerned. The delegation reiterated the CPT's position that whenever, in exceptional cases, access to a specific lawyer was denied on the grounds that he/she was allegedly being used as a means of transmitting instructions linked to terrorist or other criminal acts, access to another independent lawyer must be guaranteed.

The Minister of Justice indicated that the Turkish authorities were working on a suitable solution without the need to change the existing legislation.

With reference to Articles 3 and 10, paragraph 2, of the Convention, the CPT once again calls upon the Turkish authorities to take the necessary steps – without any further delay – to ensure that all prisoners at Imralı Prison are able, if they so wish, to receive visits from their relatives and lawyers.

16. All prisoners were in principle entitled to send and receive letters. However, the delegation received some complaints from prisoners that their letters had frequently been censored or intercepted by the prison's "correspondence reading commission".

The CPT would like to receive the following information in respect of each the four prisoners currently held at Imralı Prison, covering the period 1 January 2015 to the present time:

- **the number of letters the prisoner had requested to be sent out and the number of letters which have actually been dispatched;**
- **the number of letters received by the prison and the number of letters which have been withheld by the correspondence reading commission.**

17. Finally, the CPT notes that Imralı Prison has been visited by the competent prison monitoring board (Bursa Prison Monitoring Board No. 2) three times in 2014 (in March, June and September), three times in 2015 (March, June and October) and once so far in 2016 (February). As was the case at the time of the 2013 visit, members of the Board regularly held interviews with prisoners in private, including with Abdullah Öcalan.

The CPT would like to receive henceforth copies of the reports on all visits carried out by Bursa Prison Monitoring Board No. 2 to Imralı Prison.