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## Committee against Torture

### List of issues prior to submission of the fifth periodic report of Turkey\*

#### Issues identified for follow-up in the preceding concluding observations

1. In paragraph 49 of its previous concluding observations (see CAT/C/TUR/CO/4), the Committee requested Turkey to provide further information regarding areas of particular concern identified by the Committee in paragraph 10 (c) on the use of counter-charges as a means of intimidating detained persons, or their relatives, into not reporting torture; in paragraph 14 on allegations of extrajudicial killings and ill-treatment in the course of counter-terrorism operations; in paragraph 26 (d) on measures to ensure that all returnees under the agreement of 18 March 2016 between the European Union and Turkey have the opportunity for an individual review and are protected from refoulement and collective returns; and in paragraph 44 (b) on the detention and prosecution of journalists and human rights defenders as a means of intimidating them or discouraging them from freely reporting. Noting that a preliminary reply on follow up to the Committee's letter of 31 August 2016 requested information on legal safeguards, investigations into allegations of torture and ill-treatment, and independence of the judiciary during the state of emergency concerning the information sought by the Committee was provided on 8 November 2016 (CAT/C/TUR/CO/4/Add.1), the Committee expresses its appreciation for the information provided. However, in view of that information, the Committee considers that the recommendations in paragraphs 10 (c); 14; 26 (d); and 44 (b) mentioned above have not been implemented (see paras. 34; 10, 14, 19, 38 and 39; 21-23; and 19; as well as paras. 4, 5, 6, 8, 10, 11, 12, 14, 21, 31, 37, 38, 39, 41 and 44; and paras. 17 and 18 regarding legal safeguards and the independence of the judiciary, of the present document).

#### Articles 1 and 4

2. With reference to the Committee's previous concluding observations (para. 18), please provide information on any amendments to article 94 of the Criminal Code that would align it with article 1 of the Convention by (a) identifying the motivational factors or reasons for committing acts of torture; and (b) including in the definition acts intended to intimidate, coerce or obtain information or a confession from a person other than the victim.

#### Article 2<sup>1</sup>

3. With reference to the request for additional information sent on 31 August 2016 by the Committee's Chairperson and its Rapporteur for Follow-up to Concluding Observations,

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\* Adopted by the Committee at its sixty-fifth session (12 November–7 December 2018).

<sup>1</sup> The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general commend No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the

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and recalling article 2, paragraph 2, of the Convention against Torture which states that “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,” please provide updated information on the declaration of the Government of Turkey to the United Nations Secretary-General on 21 July 2016 expressing its intention to take measures which may involve derogations of its obligations under a number of articles of the International Covenant on Civil and Political Rights, including articles 2, 3, 9, 10, 12, 13, 14, 17, 19, 21, 22, 25, 26 and 27.<sup>2</sup>

4. With reference to the Committee’s previous concluding observations (paras. 19 and 20), the recent amendments to the Code of Criminal Procedure that have given the police greater powers to detain individuals without judicial oversight during police custody, and the adoption of decrees with the force of law significantly affecting procedural guarantees of individuals, groups and organizations suspected of being involved in the attempted coup of 15 July 2016,<sup>3</sup> please provide information on steps taken to ensure that all detained persons are afforded all fundamental legal safeguards, by law and in practice, from the very outset of their deprivation of liberty and are brought before a judge without delay. In this connection, please provide information on the implementation of Decree Law No. 684 of 23 January 2017 reducing the maximum duration of detention without charge or judicial review which can be extended and whether it may amount to *de facto* incommunicado detention,<sup>4</sup> and on any steps taken to reduce the duration of police custody to a maximum of 24 to 48 hours, as stipulated in the Code of Criminal Procedure.<sup>5</sup> Also, please indicate whether suspects detained for terrorist offences have prompt access to a lawyer and how often the Law on the Fight against Terrorism (counter-terrorism law) has been invoked to deny access to a lawyer for the first 24 hours at the request of a prosecutor and by the decision of a judge.

5. With reference to reports that the emergency decrees enacted by the State party following the attempted coup suspended the operation of key safeguards against torture and ill-treatment, the Committee has received information alleging that individuals accused of terrorism related offenses and organized crime were detained without legal review for up to 30 days; that persons deprived of their liberty were detained for up to five days without the right to contact a lawyer, and that persons deprived of their liberty were denied the right to communicate confidentially with their lawyer. The Committee has also received information that individuals deprived of their liberty have been denied access to medical examinations. In light of these concerns, please provide information on measures taken since the state of emergency was lifted on 19 July 2018 to repeal or amend the relevant emergency decrees to ensure that everyone deprived of his or her liberty is afforded – in law and in practice – the right to access and communicate in confidence with a lawyer of his or her choice upon deprivation of liberty, the right to receive an independent medical examination, and the right to be presented before a judicial authority empowered to order his or her release promptly following deprivation of liberty. 6. Please provide information regarding any investigations into reports that persons were held incommunicado in the aftermath of the attempted coup of 15 July 2016, without access to lawyer or relatives, and without being formally charged, for periods lasting up to 30 days.<sup>6</sup> Please provide information regarding reliable reports of cases of abduction and enforced disappearance; whether there have been any investigations and prosecutions related to such alleged cases and their outcome. 7. Please indicate whether article 7 of the Law on the Establishment of the Law Enforcement Monitoring Commission of 20 May 2016 has entered into force, thereby enabling the establishment of a central registry system.<sup>7</sup>

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obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

<sup>2</sup> A/HRC/37/50/Add.1, paras. 24 and 57.

<sup>3</sup> A/HRC/37/50/Add.1, para. 58.

<sup>4</sup> A/HRC/37/50/Add.1, para. 65.

<sup>5</sup> A/HRC/37/50/Add.1, para. 67.

<sup>6</sup> A/HRC/37/50/Add.1, para. 26.

<sup>7</sup> CAT/C/TUR/CO/4/Add.1, para. 8.

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8. The Committee takes note of the follow-up information<sup>8</sup> provided by the State party on 8 November 2016 that (a) a new unit has been established within the Ministry of Justice to follow up on the allegations concerning torture and ill-treatment in detention centers in the aftermath of the attempted coup, (b) that the results of authorities' examinations will be shared with the public, and (c) that the Ministry of Interior has commissioned an investigation into allegations that detained soldiers were subjected to ill-treatment.<sup>9</sup> However, the Committee also received reports from the Special Rapporteur on Torture at the conclusion of his visit to the country from 27 November to 2 December 2016 that, "in the days and weeks following the failed coup, torture and other forms of ill-treatment were widespread, particularly at the time of the arrest by police and gendarmerie officials or military forces and subsequent detention in police or gendarmerie lock-ups as well as in unofficial detention locations". This information is consistent with allegations transmitted to the Committee that as of October 2016 more than 35,000 individuals had been detained in unofficial places of detention such as sports halls, subjected to physical and psychological abuse, and deprived of the right to communicate with their lawyers, and about accounts of torture and ill-treatment and other human rights violations at official places of detention, including the Istanbul Security Directorate, the Ankara Security Directorate, the Afyon police department in Western Turkey and the Tekirdag F-type prison. Please clarify the number of persons detained following the failed coup, particularly in unofficial places of detention, the number of complaints of torture and/or ill-treatment at both official and unofficial places of detention, and information on formal investigations, prosecutions, and their outcomes in relation to the above allegations.

9. In light of the information received by the Committee about the situation and treatment of Ms. Ziyet Saglam who is currently incarcerated at the Mersin/Tarsus Closed Penitentiary, and who allegedly has been subjected to severe torture upon detention in Syria and by OSO and National Intelligence Agency (MIT) officers in Azez, in Syria, and in Turkey where she was reportedly handed over to the Kilis Public Prosecutor's Office and placed in the Kilis Penitentiary, please provide updated information on the current situation and state of health of Ms. Ziyet Saglam and on any steps taken by the Human Rights Inquiry Committee of the Turkish Grand National Assembly or by any judicial bodies regarding her case, and on the outcome.

10. In light of the Special Rapporteur's conclusion that "the small number of investigations carried out by the authorities so far is grossly disproportionate to the alleged frequency of violations," the Committee notes with alarm a provision of Emergency Decree 667 which states that "individuals who make decisions and perform their duty in the context of this decree bear no legal, administrative, financial or criminal responsibility for those duties performed", as well as with regard to Decree Law No. 668 of 27 July 2017, which some observers have interpreted to suggest that perpetrators of torture or ill-treatment may be afforded impunity. Please provide additional information regarding the investigations into allegations of torture and ill-treatment committed in the aftermath of the attempted coup, including data on the number of allegations that have been investigated by the new unit of the Ministry of Justice and the investigation commissioned by the Ministry of Interior, the number of cases that these mechanisms have transmitted to prosecutors for further action, the number of criminal trials that have been opened for torture or ill-treatment, and the outcome of any such trials. Please clarify whether any officials have been convicted and sentenced to imprisonment for engaging in torture or ill-treatment of persons taken into custody on suspicion of involvement in the coup d'état or association with groups accused of supporting terrorism. Please provide information on the status of the investigation into the death of Gokhan Acikkolu, who was detained on July 23, 2016 and died on August 5, 2016 in the custody of the Istanbul police anti-terrorism department, into which the Istanbul Chief Prosecutor's office has reportedly launched an investigation. Pursuant to the adoption of Decision No. 1182 that put an end to the state of emergency on 19 July 2018, please provide information as regards the current validity of decree laws adopted during the state of

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<sup>8</sup> CAT/C/TUR/CO/4/Add.1, para. 107.

<sup>9</sup> CAT/C/TUR/CO/4/Add.1, para. 109.

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emergency and whether some and which ones have been converted to permanent legislation as well as which ones have been revoked.

11. Given that the state of emergency decrees apply not only to offences related to the failed coup but to all terrorist offences, including those occurring in the context of the violence in the south-east, please provide information on any formal investigation, prosecutions and their outcomes in relation to reports of torture and other forms of ill-treatment against male and female individuals suspected of being members or sympathizers of the PKK or other groups affiliated with the Kurdish insurgency or other terrorist groups. Consistent and numerous reports allege that torture and ill-treatment mostly took place upon apprehension and arrest, during transit to the detention location, as well as during initial phase of custody and interrogation in holding cells, were carried out predominantly by special operations teams of the police or by the gendarmerie and included severe beatings, kickings, punches, verbal assaults, threats of sexual violence, prolonged stress positions and handcuffing, and being deprived of adequate access to water, food and sleep, as well as one reported rape. Please provide information on complaints of torture or ill-treatment, any investigations or prosecutions and whether any officials have been punished, sanctioned, or disciplined for such actions.

12. With reference to the Committee's previous concluding observations (para. 9), and the significant disparity between the high number of allegations of torture and the relatively few cases of disciplinary sanctions, fines and cases of imprisonment that have resulted, please provide information on any measures to reduce this disparity.<sup>10</sup> The Committee reiterates its request to receive information on the six cases in which officials received sentences of imprisonment for ill-treatment between 2011 and 2013 and on cases involving allegations of torture that have been the subject of decisions of the European Court of Human Rights. Please provide information about the five "serious allegations" regarding torture and ill-treatment in relation to which investigations were conducted and disciplinary measures implemented.<sup>11</sup> Please provide information into the total number of investigations, prosecutions and trials carried out since 15 July 2016 in relation to allegations of torture and ill-treatment and on any redress accorded to victims.

13. Considering that the Law Enforcement Monitoring Commission, while looking into allegations of crimes committed by law enforcement officers from the Turkish National Police, the Gendarmerie and the Turkish Coast Guard Command<sup>12</sup> shall function as a permanent Board within the Ministry of the Interior, please indicate how any institutional or hierarchical connection between the investigators and the alleged perpetrators will be dealt with.<sup>13</sup>

14. Please provide information on the implementation of Law No. 6722 of 14 July 2016 that applies retroactively, grants counter-terrorism forces a perceived de facto immunity from prosecution for acts carried out in the course of their operations in the south-east of the country and provides for the executive authorities to give permission before any soldiers or civilians taking part in counter-terrorism operations can be prosecuted for any offences committed while carrying out their duties, thereby rendering investigations into allegations of torture or ill-treatment by the security forces involved very difficult.<sup>14</sup> Please indicate whether Law No. 6722 of 14 July 2016 has been revoked pursuant to the adoption of Decision No. 1182 putting an end to the state of emergency on 19 July 2018.

15. With reference to the Committee's previous concluding observations (para. 42), please indicate whether provisions in the addendum to Law No. 3359, which could arbitrarily restrict access to the provision of medical care, including medical examinations and rehabilitation services, for victims of torture and ill-treatment has been repealed.

16. With reference to the Committee's previous concluding observations (paras. 27 and 28), please indicate whether measures have been taken to ensure that the National Human

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<sup>10</sup> A/HRC/37/50/Add.1, para. 74.

<sup>11</sup> A/HRC/37/50/Add.1, para. 76.

<sup>12</sup> CAT/C/TUR/CO/4/Add.1, para. 9.

<sup>13</sup> CAT/C/TUR/CO/4/Add.1, para. 10.

<sup>14</sup> A/HRC/37/50/Add.1, para. 69.

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Rights and Equality Institution of Turkey,<sup>15</sup> which also performs the duties of the national mechanism for the prevention of torture, enjoys functional, structural and financial independence, whether the appointment of its members is in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and whether any commissioners have been appointed so far.<sup>16</sup> Also, please indicate whether the Human Rights and Equality Institution is operational, and has a dedicated structure and adequate resources to function effectively as a national preventive mechanism. Please provide information on any measures taken by the State party to strengthen the independence of the Turkish Human Rights and Equality Institution from the executive branch. Also, please indicate whether the reports of the Prison and Detention House Monitoring Boards, the Sub-Committee on Convicts and Detainees of the Turkish Grand National Assembly's Human Rights Inquiry Committee and of the Council of Europe's Committee for the Prevention of Torture, and the 2015 visit to Turkey by the Subcommittee on Prevention of Torture and other Cruel, Inhuman and Degrading Treatment or Punishment established pursuant to the Optional Protocol to the Convention against Torture have been made fully accessible to the public.

17. Also with reference to the above mentioned request for additional information of 31 August 2016 and given that the principle of rule of law and the independence of the judiciary applies also during states of emergency, please provide updated information about the State party's ability to ensure the independence of the judiciary and the administration of justice<sup>17</sup> in light of the announcement on 27 July 2016 by the Minister of the Interior that 1,684 judges and prosecutors had been jailed as a result of a decision by the Ankara prosecutor's office to detain 2,740 judges and prosecutors on suspicion of carrying out activities against national security, pursuant to summary proceedings and without the possibility of legally challenging decisions concerning permanent discharge of judges, prosecutors and civil servants pursuant to the adoption of Emergency Decree No. 667 issued by the Council of Ministers on 23 July 2016. Please provide information relating to reports that as at 20 March 2018, some 112,679 public servants had been dismissed for life from public service, including 7,037 academic staff and 4,662 judges and prosecutors, and that 1,763 already retired police officers and soldiers were stripped of their pensions and other State benefits. Also, please provide information on how many rulings on the appeals of judges and prosecutors against their dismissals have been issued by the Council of State, the supreme administrative court of Turkey, whose competence to hear direct appeals in such cases was clarified by Decree-Law No. 685 of 23 January 2017. How many members of the judiciary who were dismissed have requested reassessment before the General Assembly of the High Council of Judges and Prosecutors. Please provide detailed information disaggregated by profession, location and numbers, of civil servants, and in particular judges and prosecutors, who had previously been dismissed and have subsequently been reinstated in their duties.<sup>18</sup> In addition, please provide information on how the State party is coping with the reported delays in the administration of justice after the dismissal of such large numbers of civil servants, including judges and prosecutors, in particular in the wake of constitutional amendments approved by referendum on 16 April 2017 concerning appointment to the Council of Judges and Prosecutors and on its independence from the executive and legislative branches.

18. While appreciating the information provided by the State party that cases involving public officials who are alleged to be affiliated with or connected to organizations believed to have been involved in the coup are being examined on an individual basis and that review mechanisms do exist for the decisions to suspend or dismiss officials, and that some affected officials have been reinstated, the Committee remains seriously concerned by reports that as of mid-October 2016, 3,640 judges and prosecutors had been suspended from their functions without a fair hearing prior to the decision being taken. The Committee further notes with concern the December 8, 2016 decision of the European Network of Councils for the Judiciary (ENCJ) to suspend the observer status of the Turkish High Council for Judges and Prosecutors (HSYK) on the grounds that it "does not currently comply with the ENCJ

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<sup>15</sup> CAT/C/TUR/CO/4/Add.1, para. 16.

<sup>16</sup> A/HRC/37/50/Add.1, para. 90.

<sup>17</sup> A/HRC/37/50/Add.1, para. 62.

<sup>18</sup> CAT/C/TUR/CO/4/Add.1, paras. 89 and 99.

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Statutes and is no longer an institution which is independent of the executive and legislature ensuring the final responsibility for the support of the judiciary in the independent delivery of justice". The Committee also notes with alarm a report that the Deputy Chairman of the HYSK has suggested that dismissed judges and prosecutors may only be reinstated to their posts if they make confessions that provide beneficial information about members of organizations suspected of involvement in the attempted coup. In light of these concerns, please provide updated data on the number of judges and prosecutors that have been suspended or dismissed since July 2016 and the number that have been reinstated, including the number of those who applied for reinstatement to the General Assembly of the High Council for Judges and Prosecutors. Please also provide updated information about measures taken to modify the current procedures allowing for suspension or dismissal of judges and prosecutors to ensure that they comply with the UN Basic Principles on the Independence of the Judiciary, and in particular to ensure that all officials are provided an opportunity for a fair hearing prior to the determination and the possibility to seek an independent review of an adverse decision.

19. In its previous concluding observations, the Committee requested the State party to provide follow-up information on measures taken to refrain from detaining and prosecuting journalists and human rights defenders as a means of intimidating them or discouraging them from freely reporting on human rights issues.<sup>19</sup> The Committee notes the State party's comments rejecting allegations that it has detained journalists or human rights defenders as a means of intimidation. However, the Committee is deeply alarmed at credible reports that as of December 2016, 149 journalists and media workers were detained in Turkey, the vast majority in pretrial detention and at reports that 140 media outlets and 29 publishing houses had been closed under emergency decrees. The Committee is also alarmed by reports of the mass closure of approximately 375 non-governmental organizations in November 2016 and by reports that affected organizations were not given individualized justifications for their closure and had no opportunity to appeal the decision. Please provide updated information on the current status of proceedings against Taner Kilic, Chair of Amnesty International Turkey; Osman Kavala, founder and head of board of Anadolu Kultur; and Eren Keskin, Co-Chair of the Human Rights Association And other persons associated with human rights defense organizations who have been detained or had legal proceedings or reprisals brought against them. Please provide information on measures taken to ensure independent judicial review of the cases of detained journalists; on measures taken to ensure that media outlets and non-governmental organizations are able to appeal decisions ordering their closure before an independent judicial authority as well as data on the number of appeals granted and the outcome of such decisions; and on measures taken to ensure that journalists and human rights defenders are able to carry out their work free of intimidation and the threat of reprisal. Please provide information about the current status and whereabouts of Mr. Mehmet Altan and Mr. Sahin Alpay, two journalists who were held in pre-trial detention for so-called terrorism offences and alleged links to the attempted coup and others similarly detained. The Committee was also alarmed at reports that medical doctors who provided assistance to victims of torture were also subjected to intimidation and harassment and requests the State party's clarification on what has happened to such doctors and other medical personnel. Please provide information on how many have been permitted to continue or resume medical practice and assistance to victims of torture or ill-treatment. Also, please provide information on the current status of the Contemporary Lawyers Association (Cagdas Hukukcular Dernegi) and the Mesopotamia Lawyers Association (Mezopotamya Hukukcular Dernegi), that were closed on 22 November 2016 by emergency decree No. 677 and on the status and whereabouts of Mr. Selcuk Kozagacli, the head of the Contemporary Lawyers Association, who was arrested on 13 November 2017.

20. With reference to the Committee's previous concluding observations (paras. 45-46), please provide information on the State's efforts to combat gender-based violence, including measures to provide protection orders to women who are threatened by all forms of violence against women including so-called "honour killings" and domestic violence, and the number of cases of violence against women that are thoroughly and promptly investigated, and how many alleged perpetrators are prosecuted or disciplined and with what results. Please provide

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<sup>19</sup> CAT/C/TUR/CO/4/Add.1, paras. 52-54.

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information on the State party's efforts to ensure that women who apply for protective orders receive meaningful protection in practice and how many officials who deny such women effective protection are disciplined, and in what ways. Please clarify whether victims of violence against women are able to access shelters and whether victims obtain redress, including fair and adequate compensation. Please clarify measures to provide effective training on gender-based violence to law enforcement personnel, judges, and state officials who are in direct contact with the victims.

### **Article 3**

21. With reference to the Committee's previous concluding observations (paras. 23-25), please provide information on steps taken by the State party to comply with article 3 of the Convention, including by developing a new asylum system consistent with international standards, on granting access to asylum procedures and conducting individual review applications, on any steps taken to lift the geographical limitations to the 1951 Convention by withdrawing its reservations and on any procedures put in place for the timely identification of victims of torture among asylum seekers. Please provide information on the results of any investigations into the shooting incidents at the southern border in April 2016. In addition, please provide information on the implementation of the agreement between the European Union and Turkey on the "migrant crisis", which took effect on 20 March 2016. In its Concluding Observations and Recommendations of 13 May 2016, the Committee requested the State party to provide follow-up information on measures taken to ensure that all persons returned to the State party pursuant to the 18 March 2016 agreement between the European Union and Turkey have an opportunity for individual review and are protected from refoulement and collective returns. The Committee appreciates the information provided by the State party that returnees have a right to apply for international protection from deportation and that it does not engage in mass evaluation or mass deportation. The Committee requests the State party to provide data on the number of persons returned to the State party pursuant to the 18 March 2016 agreement who have applied for international protection, the number that have been granted protection, and the number who have been denied protection and the countries to which they have been deported.

22. Please provide information about the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might be subject to torture if returned to their country of origin.

23. Please indicate the number of refoulements, extraditions and expulsions carried out during the reporting period, including on the basis of diplomatic assurances or the equivalent thereof, and any instances in which the State party has offered such diplomatic assurances or guarantees.

### **Articles 5-9**

24. Please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention.

25. Please inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties.

26. Please clarify the mutual judicial assistance treaties or agreements that the State party has entered into with other entities, such as countries, international tribunals or international institutions, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture and ill-treatment.

27. Since the State party's previous report was considered by the Committee, please indicate whether the State party has rejected, for any reason, the request of a State for the extradition of an individual suspected of having committed torture and whether it has started prosecution proceedings against such an individual as a result. If so, please provide information on the status and outcome of such proceedings.

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## Article 10

28. With reference to the Committee's previous concluding observations (paras. 28 and 29), please provide information on:

(a) The development of mandatory in-service training programmes to ensure that all public officials, in particular law enforcement, the gendarmerie, prison staff, medical personnel employed in prisons and psychiatric institutions are acquainted with the provisions of the Convention, including the absolute prohibition of torture;

(b) Whether the medical personnel and all relevant staff are specifically trained to identify cases of torture and ill-treatment in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol);

(c) Whether any methodologies have been adopted to assess the effectiveness and impact of such training, in particular with regard to the Istanbul Protocol.

## Article 11

29. Please provide information on measures taken to deal with the overcrowding of places where persons are deprived of their liberty throughout the country, at times reportedly rising up to more than 200 per cent,<sup>20</sup> in the wake of the failed coup and in light of the massive influx of detainees and the significant increase in the number of pre-trial detainees, which was estimated at 224,878 in June 2017.<sup>21</sup> Also, please provide information on steps taken to reduce overcrowding in facilities where it has persisted for several years<sup>22</sup> and on the status of the announced construction of several new detention facilities. In addition, please provide information on consideration of alternatives to detention,<sup>23</sup> in line with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules).

30. Please provide information on steps to reduce the duration of detention in police holding cells which has reportedly at times been extended for up to 30 days to a maximum of seven days announced on 2 March 2017 at the Human Rights Council and aiming at its complete revocation;<sup>24</sup> to improve material conditions in all police holding cells, including cleanliness, heating, bedding, overcrowding, reducing the constant bright lighting, 24-hour video surveillance, adequate access to toilet facilities<sup>25</sup> and access to sunlight and fresh air.<sup>26</sup>

31. Please provide information in relation to reports of strip searches and invasive body searches in places of detention alleged to have been conducted frequently in a disrespectful manner, both on inmates and visitors, and on the significant increase in the frequency of such searches after the failed coup.<sup>27</sup> Please provide information on reports that searches on inmates are performed upon arrival in the prison, before and after transfers or other temporary exiting of the premises such as for medical treatment, and sometimes even inside the detention centres and cells, without prior warning or apparent justification.<sup>28</sup> Also, please provide information on any investigations and prosecutions in relation to reports of occasional abuse and degrading treatment of persons arrested, including verbal assaults and threats, slaps, and invasive body searches, as well as male guards sexually threatening or harassing female detainees during transfers and denying them privacy during medical examinations.<sup>29</sup>

32. With reference to the Committee's previous concluding observations (paras. 35 and 36) please provide updated information on any measures taken to repeal article 47 of the

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<sup>20</sup> A/HRC/37/50/Add.1, para. 39.

<sup>21</sup> A/HRC/37/50/Add.1, para. 36.

<sup>22</sup> A/HRC/37/50/Add.1, para. 39.

<sup>23</sup> A/HRC/37/50/Add.1, para. 40.

<sup>24</sup> A/HRC/37/50/Add.1, para. 54.

<sup>25</sup> A/HRC/37/50/Add.1, para. 55.

<sup>26</sup> A/HRC/37/50/Add.1, para. 56.

<sup>27</sup> A/HRC/37/50/Add.1, para. 33.

<sup>28</sup> A/HRC/37/50/Add.1, para. 33.

<sup>29</sup> A/HRC/37/50/Add.1, para. 31.

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Criminal Code, on steps taken to repeal section 25, paragraph 1, of the Law on the Execution of Sentences and Security Measures, as well as on any other measures taken to alleviate the restrictive conditions of detention for persons sentenced to aggravated life imprisonment.

33. With reference to the Committee's previous concluding observations (paras. 37-38), please indicate whether formal regulations have been adopted explicitly authorizing civil society organizations, including human rights non-governmental organizations, medical professionals and members of local bar associations to undertake independent visits to places of detention. Please indicate whether the numerous national bodies that are formally mandated to monitor detention locations and other places of deprivation of liberty have financial and functional independence and are able to function properly in practice,<sup>30</sup> including those that were dismantled by decree after the July 2016 coup.<sup>31</sup> Please provide updated information about reports that the State party's prison monitoring boards have been discontinued by a 1 September 2016 decree.

### **Articles 12 and 13**

34. With reference to the Committee's previous concluding observations (para. 10), mentioning, inter alia, "counter-charges" such as "resisting" or "insulting" police officers against individuals lodging complaints of torture, ill-treatment and police brutality as well as the possibility of being charged with additional criminal offences, please provide information on any steps taken to remedy this situation pursuant to the information contained in the report of the Special Rapporteur on torture during interactions with inmates, lawyers and civil society organizations that most victims of torture or other forms of ill-treatment did not file complaints with the authorities for fear of retaliation against them or their families and the willingness or ability of the judicial authorities to adequately investigate and adjudicate claims, as well as information that many of those who had filed formal complaints had reported that no follow-up had been undertaken by the prosecution and the judiciary.<sup>32</sup>

35. Please provide information with regard to the 38 judgments issued by the Constitutional Court finding a violation of the prohibition of torture between 2014 and 2016.<sup>33</sup>

36. Please clarify and comment on information that the Prosecutor's Office in Trabzone issued a document on 5 January 2017 stating that there were no grounds to investigate and prosecute a torture complaint resulting from measures taken under the state of emergency decrees, due to the immunity effectively given to State officials under those decrees, which would amount to de fact impunity for torture and ill-treatment at the hands of State officials.<sup>34</sup>

37. With reference to the Committee's previous concluding observations (para. 11), please provide information on the results of any investigations into allegations of torture and ill-treatment by security forces, including police abuse, in Cizre between December 2015 and March 2016 made by 52 persons and whether any of the perpetrators or their accomplices, including persons in positions of command, were prosecuted and whether remedies and redress were provided to the victims.

38. With reference to the Committee's previous concluding observations (paras. 13 and 14) and taking note of the information provided by the State party in its follow-up reply (CAT/C/TUR/CO/4/Add.1, paras. 46-48), please provide information about the outcome of the judicial investigations undertaken by the Chief Public Prosecutor's Office of Cizre with a view to determining the perpetrator(s) of the alleged killing by police snipers of Masallah Edin and Zeynep Taskin on 8 September 2015 in the Cudi neighbourhood of Cizre. Also, please provide information about the outcomes of the investigations into six additional cases launched by the Chief Public Prosecutor's Office of Cizre into allegations of torture, ill-treatment and abuse by security officials. The Committee reiterates its request to receive information on any investigations into the killing by security forces of Ahmet Kaymaz and

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<sup>30</sup> A/HRC/37/50/Add.1, para. 89.

<sup>31</sup> A/HRC/37/50/Add.1, para. 91.

<sup>32</sup> A/HRC/37/50/Add.1, para. 71.

<sup>33</sup> A/HRC/37/50/Add.1, para. 73.

<sup>34</sup> A/HRC/37/50/Add.1, para. 85.

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his 12 year-old son Ugur during a counter-terrorism operation in November 2004, which was the subject of a decision of the European Court of Human Rights.

39. In light of the statement made by of the Special Rapporteur on Torture following his visit to the country that prosecutors have followed up on the complaints of individuals accused of terrorism or sympathizing with the PKK in the Southeast who alleged that they had been subjected to torture or ill-treatment in custody, , please provide the Committee with updated information on the progress of investigations undertaken into allegations of torture or ill-treatment in connection with security operations in the southeast.

40. With reference to the Committee's previous concluding observations (paras. 22 and 23), please provide updated information into any investigations, prosecutions and adjudications of outstanding cases of alleged enforced disappearances and of any compensation provided to the victims.

41. With reference to the Committee's previous concluding observations (paras. 15 and 16), please provide information on any investigations and prosecutions regarding excessive use of force by the police, including the expanded power to use firearms against demonstrators, pursuant to the legislative amendments to the Domestic Security Package. Please indicate whether police officials were provided with training on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials in the context of demonstrations after the adoption of the amendments to the Domestic Security Package.

42. Please indicate whether the law enforcement complaints system has been rendered more effective and swift since the adoption of the Law on the Establishment of the Law Enforcement Monitoring Commission.<sup>35</sup>

43. Please provide updated information on the status of the State party's investigations into the alleged torture and killing of journalist Jamal Khashoggi at the consulate of the Kingdom of Saudi Arabia in Istanbul on October 2, 2018.

#### **Article 14**

44. Please provide information on redress and compensation measures, including the means of rehabilitation ordered by the courts and actually provided to any victims of torture or their families since the consideration of the previous report, including in application of the Law on Compensating Losses Due to Terrorism and Counter-Terrorism<sup>36</sup>. This should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also provide information on any ongoing reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning.

45. Please provide information on how persons who have suffered violations, including torture and ill-treatment, under the emergency decrees can obtain compensation in view of the 9 August 2016 ruling of the Constitutional Court that it was not competent to review the emergency decrees.<sup>37</sup> Please provide information regarding allegations of torture and ill-treatment that cannot be reviewed by the Commission for Examination of the State of Emergency Procedures created on 23 January 2017 by Decree Law No. KHK/685.<sup>38</sup>

#### **Article 15**

46. Please provide information regarding allegations that large numbers of persons arrested after the failed coup, including in relation to violence in the south-east, were exposed to brutal interrogation techniques aimed at extracting forced confessions or coercing detained persons to incriminate others, in contravention of articles 148, 206 (2) (a) and 217 (2) of the Code of Criminal Procedure.<sup>39</sup> Please provide information relating to consistent reports that

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<sup>35</sup> CAT/C/TUR/CO/4/Add.1, paras. 9 and 43.

<sup>36</sup> CAT/C/TUR/CO/4/Add.1, para. 41.

<sup>37</sup> A/HRC/37/50/Add.1, para. 82.

<sup>38</sup> A/HRC/37/50/Add.1, para. 83.

<sup>39</sup> A/HRC/37/50/Add.1, para. 13.

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the aim of torture and ill-treatment was to coerce victims, in addition to confessing, to denounce others from a list of names and photographs of suspected members of terrorist organizations and that many persons reported to have been arrested on the basis of false accusations or denunciations made against them under torture.<sup>40</sup>

47. Please provide information on concrete measures taken to ensure respect, both in law and practice, for the principle of inadmissibility of evidence obtained through torture. Please provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.

#### **Article 16**

48. Please provide information on:

(a) Steps to improve the material conditions of detention, including providing heating in detention facilities throughout the day and not only at night;<sup>41</sup>

(b) Whether consideration has been given to increasing the number of phone calls and family visits for inmates charged with terrorist-related offences;<sup>42</sup>

(c) Whether separation is maintained between pre-trial detainees and convicts and whether adults in detention are separated from juveniles;<sup>43</sup>

(d) Whether steps have been taken to improve access to education and recreational activities for pre-trial juvenile detainees and whether inmates under high-security regimes will be allowed to work;<sup>44</sup>

(e) Measures taken to ensure that detention facilities are provided with sufficient number of general practitioners, dentists, psychiatric and psychological practitioners;<sup>45</sup> that prisoners requiring medical treatment are promptly transferred to medical facilities without waiting for a group of prisoners requiring the same medical treatment to be formed;<sup>46</sup> and that specific programmes are developed for the management of contagious diseases, HIV/AIDS and drug addiction.<sup>47</sup>

49. Please provide information regarding allegations that large numbers of persons arrested in connection with the attempted coup have been held in prolonged solitary confinement.<sup>48</sup> Also, please provide information on how the State party has provided adequate access to food, water and medical treatment as well as measures taken to alleviate the reported serious overcrowding in many facilities in the wake of the attempted coup.<sup>49</sup>

50. With reference to the Committee's previous concluding observations (paras. 47 and 48), please provide information on the measures taken to effectively investigate and prosecute alleged incidents of abuse of army conscripts by fellow soldiers during and provide data on non-combat deaths recorded in the military during the reporting period, as well as information on cause of death. Please indicate whether examinations of complaints against military personnel are carried out by an independent body. The Committee reiterates its request to receive information on any investigation into the death of army conscript Ugur Kantar in October 2011.<sup>50</sup>

51. With reference to the Committee's previous concluding observations (paras. 33 and 34), please provide updated information on cases of death in custody, the causes of those

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<sup>40</sup> A/HRC/37/50/Add.1, para. 31.

<sup>41</sup> A/HRC/37/50/Add.1, para. 44.

<sup>42</sup> A/HRC/37/50/Add.1, para. 46.

<sup>43</sup> A/HRC/37/50/Add.1, para. 47.

<sup>44</sup> A/HRC/37/50/Add.1, para. 42.

<sup>45</sup> A/HRC/37/50/Add.1, para. 49.

<sup>46</sup> A/HRC/37/50/Add.1, para. 50.

<sup>47</sup> A/HRC/37/50/Add.1, para. 51.

<sup>48</sup> Submission by the International Commission of Jurists (ICJ) and the Human Rights Joint Platform (IHOP), para. 55.

<sup>49</sup> Submission by the International Commission of Jurists (ICJ) and the Human Rights Joint Platform (IHOP), para. 60.

<sup>50</sup> CAT/C/TUR/Q/4, para. 35.

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deaths and whether all instances of death in custody have been promptly and impartially investigated by an independent body.

52. Please provide information on the legal framework for admitting a patient to a medical institution, including protections from involuntary admissions.

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