



Response

of the Turkish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Turkey

from 16 to 17 January 2013

The Turkish Government has requested the publication of this response. The report of the CPT on its January 2013 visit to Turkey is set out in document CPT/Inf (2014) 7.

Strasbourg, 13 March 2014

**RESPONSE OF THE TURKISH GOVERNMENT
TO THE REPORT OF
THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND
INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)
ON ITS VISIT TO TURKEY FROM 16 TO 17 JANUARY 2013**

The views of the Turkish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Turkey from 16 to 17 January 2013 are set out below in the order adopted in the report. Extracts from the CPT's report are reproduced in bold typeface with paragraph references.

Paragraph 9

The CPT recommends that Abdullah Öcalan now be allowed open air time to the same extent as all other prisoners currently held at İmralı Prison

The following provisions are contained in Article 25 § 1 of the Law no. 5275 on the Execution of Sentences and Security Measures (LESSM), paragraphs (b) and (c):

“b) The convict shall be granted the right of spending time in the open air and engaging in outdoor exercises for one hour.

c) Prisoners serving aggravated life imprisonment may have their daily one-hour outdoor exercise and sports period extended and may be allowed to engage in limited contact with prisoners accommodated in the same unit, depending on the risk factors, security requirements and the efforts and good behavior they demonstrate in rehabilitation and educational activities.”

The provisions stated above provide a possibility whereby prisoners who have been sentenced to aggravated life imprisonment can be allowed extended time in the open air and outdoor exercises, taking into account the efforts and good conduct displayed by them in rehabilitation and educational activities. However, the mere fact that the convict has not received disciplinary penalties does not entail the consequence of an automatic increase in the rights enjoyed.

Nevertheless, pursuant to the legal provisions stated above, the Board of Administration and Observation of İmralı Prison has evaluated Abdullah Öcalan's status and decided that he be allowed to benefit from four hours of outdoor exercise per day (two times two hours), which is currently implemented.

Paragraph 15

The CPT wishes to receive confirmation that all prisoners who were transferred to İmralı Prison in 2009 are now allowed to associate during outdoor exercise, as they had previously been able to in other F-type prisons. Further, the Committee recommends that the large exercise yard be used for this purpose.

The CPT also recommends that Abdullah Öcalan be allowed to have contact with other prisoners during his outdoor exercise; as was indicated in the report on the 2010 visit, there can be no justification for denying such contact.

The prison regime provided for in Article 25 of the LESSM is applicable for prisoners serving aggravated life imprisonment in all prisons in Turkey, including İmralı F-Type High-Security Closed Prison.

In İmralı Prison, all prisoners including Abdullah Öcalan are accommodated in single rooms with separate adjacent yards. The prisoners enjoy outdoor exercises in their yard a total of four hours per day, two hours in the morning (from 08:30 to 10:30) and two hours in the afternoon (from 13:30 to 15:30).

Within the context of the social, cultural and sports activities prepared for the convicts, all prisoners held at the establishment, including Abdullah Öcalan, are able to associate and contact each other for a total of six hours per week; three hours for conversation meetings, and one hour each for basketball, volleyball and badminton/darts. In this context, Öcalan was able to come together with other inmates for a total of 14 hours from 15/04/2013 to 15/05/2013 in 5 hours of basketball, 4 hours of volleyball, 1 hour of badminton and 1 hour of darts activities.

Moreover, despite the program organized for them to take part in activities such as painting, handicrafts, table tennis, chess and checkers at least once every week, the inmates did not wish to participate in these activities.

Paragraph 16

As regards the programme of organized activities, the CPT encourages the Turkish authorities to enlarge the size of groups of inmates who can participate at any given time in the already existing out-of-cell activities of table tennis, painting/handicraft and board games.

Further, the Committee would like to receive, on a monthly basis for the next three months, a detailed account of all out-of-cell activities offered to prisoners at İmralı Prison and of all activities which have actually taken place (including an indication of the number of prisoners involved).

As stated above, importance is attached to sports, cultural and artistic activities in İmralı Prison. Effective participation of all inmates is encouraged and supported. Lists of in-cell and

out-of-cell activities including the inmates' participation are being provided on a monthly basis for the next three months as requested in the paragraph.

Paragraph 17

The CPT also wishes to draw the Turkish authorities' attention to Section 7 of the Recommendation Rec(2003) 23 on the Management by Prison Administrations of Life-Sentenced and Other Long-Term Prisoners (adopted by the Committee of Ministers of the Council of Europe on 9 October 2003), which emphasizes that life-sentenced prisoners should not be segregated from other prisoners on the sole ground of their sentence.

The Committee reiterates its recommendation that the Turkish authorities reconsider their policy vis-à-vis prisoners sentenced to aggravated life imprisonment, in the light of the above remarks, and amend the relevant legislation accordingly.

Pursuant to Article 25 of the LESSM, prisoners serving aggravated life sentences are entitled to many rights like other prisoners such as going into the open air, engaging in sports, vocational, social and cultural activities and receiving visits. These prisoners can associate with other inmates who are subject to the same regime. In this respect, it is considered that there are no circumstances contrary to the Recommendation cited above. Nevertheless, new proposals will be taken into account during subsequent legislative works.

Paragraph 19

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

There are no restrictions on the prisoners' meeting their lawyers within the context of the relevant legislation unless compelling reasons exist such as adverse weather conditions or technical problems that may arise in the vessel.

Paragraph 22

[The CPT] wishes to receive confirmation that every visit by prisoners' relatives at İmralı Prison now lasts for one hour.

Article 25 § 1 (f) of the LESSM reads: "The convict can receive visits from his spouse, ascendants and descendants, siblings and legal guardian in fifteen-day intervals, on the days, at the times and under the conditions specified, without exceeding one hour per day".

Relevant provisions of the Regulation on Visiting Prisoners are as follows:

"Visiting days and hours

Article 10: Visiting days and hours and the number of visitors received by a prisoner shall be determined by the management, taking into account the physical conditions and capacity of the establishment.

The duration of the visit shall not be set to be less than half an hour and more than one hour. The duration shall be counted from the time when the meeting has actually started.

Article 11: Convicts serving aggravated life sentences may only receive visits from their spouse, children, grandchildren, great-grandchildren, mother, father, grandmother, grandfather, great-grandfather, great-grandmother, siblings and legal guardian.

Article 12: Convicts serving aggravated life sentences may only receive one visitor at a time, among those persons specified in Article 11, on the days, at the times and under the conditions determined by the director of the establishment, in fifteen-day intervals and during a maximum period of one hour per day."

The following provisions have been contained in the Appendix to the CoE Committee of Ministers' Recommendation Rec(2006)2 to member states on the European Prison Rules:

"24.1: Prisoners shall be allowed to communicate as often as possible by letter, telephone or other forms of communication with their families, other persons and representatives of outside organizations and to receive visits from these persons.

...

24.4: The arrangements for visits shall be such as to allow prisoners to maintain and develop family relationships in as normal a manner as possible"

Visits in the establishment are organized in accordance with the recommendations quoted above.

As to the duration of visits, efforts are being made to achieve the statutory upper limit of one full hour per visit, having regard to the capacity of the visitor hall, the departure and arrival times of the vehicles serving the island. In this context, on 18 February 2013, while the convict spent 47 minutes, Abdullah Öcalan spent 45 minutes with their visitors. Taking into consideration the number and frequency of the inmates' visitors, efforts are made to allow the prisoners to make use of the maximum duration specified for visits. Relevant information will be provided upon any developments on this matter.

Paragraph 23

Further, bearing in mind that relatives often have to travel hundreds of kilometers (before taking the boat to the island), it is all the more important that prisoners be allowed to accumulate unused visiting periods. In this regard, the CPT notes with interest that, following a recent amendment to Section 52 (3)e of the LESSM, which will enter into force on 1 April 2013, sentenced prisoners who exhibit good behavior may be allowed to accumulate three consecutive unused closed/open visit entitlements and use them all at once. The Committee would like to receive confirmation that this provision will be effectively implemented in respect of all prisoners held at İmralı Prison.

Thanks to an amendment to Article 51 of the LESSM which came into force on 24 January 2013, sentenced prisoners are now able to accumulate a maximum of three consecutive unused visit entitlements and use them all at once as a reward. The Regulation on

Rewarding Prisoners, which came into force on 30 March 2013 lays down with detail the procedure and principles relating to the practice of rewarding prisoners. In Article 21 § 2, entitled “The reward of accumulating unused visit periods”, it has been stated that those who have been sentenced to an aggravated life sentence may also benefit from this reward, in conformity with Article 25 of the Law. Thus, it has been made clear that such prisoners can also enjoy this reward. Prisoners serving their sentences in the said establishment can take advantage of this provision, provided that they exhibit good conduct and behavior, worthy of reward.

Moreover, the reward of increasing weekly expenses by half, which has been introduced by the Regulation stated above, was awarded to all inmates held at İmralı Prison, pursuant to the decision of 29 April 2013 by the Board of Administration and Observation.

Paragraph 24

The CPT also notes that, with the entry into force on 1 April 2013 of the above-mentioned amendment to the LESSM, all sentenced prisoners in Turkey (including those serving a sentence of aggravated life imprisonment) who are married and exhibit good behavior may be granted extended visits by their spouse for a period of three to 24 hours every three months. The CPT would like to receive updated information on this matter regarding the prisoners held at İmralı Prison.

Following the amendment of 24 January 2013, Article 51 § 3 (a) of the LESSM now reads: “Prisoners serving sentences in closed penitentiary institutions who are married may be granted visits by their spouse in privacy and without close custody of prison officers, for a period of three to 24 hours every three months at the latest within the establishment or an annex thereof”. Articles 11 to 16 of the Regulation on Rewarding Prisoners specify in detail the implementation procedures and principles relating to the reward of extended visits by spouse. The said Regulation does not contain any provisions preventing the enjoyment of this reward by prisoners serving aggravated life sentences. Therefore, inmates held in the said establishment who are married are also eligible, provided that they display good conduct and behavior which call for a reward.

Paragraph 25

The CPT must reiterate once again its recommendation that Abdullah Öcalan be allowed to speak on the telephone with members of his family (calls being subject to monitoring and, if necessary, interrupted).

In accordance with the decision of 12 January 2009 by the Board of Administration and Observation of İmralı Prison, based on Article 88 § 2 (h) of the Rule on the Administration of Penitentiary Institutions and the Execution of Sentences and Security Measures, which reads “under no circumstances shall convicts who continue directing illegal armed organizations and who, by any means, convey instructions and messages to persons within and outside the establishment for this purpose be allowed to have phone conversations, which circumstance shall be established by a board decision”, Öcalan is not allowed to have phone conversations.

Paragraph 29

The CPT reiterates its recommendation that the Ministry of Justice take immediate steps – in co-operation with the Ministry of Health – to ensure that the principle of medical confidentiality is fully respected at İmralı Prison. More specifically, steps should be taken to ensure that:

- medical data are, as a rule, not accessible to non-medical staff;**
- all medical examinations of prisoners are conducted out of the hearing of prison officers.**

On 28 February 2013, two health officials have been appointed to the establishment, who were handed over the medical files and information of the prisoners. Non-medical staff are denied access to these information. Moreover, due diligence is shown to ensure that prison officers remain at an inaudible distance while the prisoners are examined by a doctor. Therefore, this recommendation has been considered fulfilled.

Paragraph 30

The CPT recommends that the Turkish authorities take the necessary measures to ensure that there is no repetition at İmralı Prison of such a prolonged period of solitary confinement of a prisoner. In the CPT's view, an uninterrupted period of solitary confinement as a disciplinary sanction should never exceed 14 days (see also paragraph 56 of the CPT's 21st General Report, CPT/Inf (2011) 28).

Since 2005, at different times and for various disciplinary offences, the disciplinary board ruled 13 solitary confinement sanctions in respect of the said convict, two of which were repealed by the prison enforcement judge. The remaining 11 sanctions were not executed at once but on various dates. The allegation that a total of 200 days of disciplinary penalties were executed all at once and without interruption does not reflect the truth. A list indicating the reasons, date of decision and execution of the said disciplinary sanctions is enclosed (Annex).

Paragraph 31

It is regrettable that visits by the prison monitoring board to İmralı Prison are not carried out more frequently, as required by law. The CPT wishes to recall that, pursuant to Section 7 of the Act on Prison Monitoring Boards of 14 June 2001, every prison shall be visited by the competent prison monitoring board at least once every two months.

Article 7 § 5, entitled “the working procedures and principles of monitoring boards” of the Law on Monitoring Boards for Prisons and Detention Centers reads: “The monitoring board may always visit the relevant penitentiary institutions and detention centers when deemed necessary, which shall not be less frequent than once every two months. The number

of visitors shall not be less than the quorum prescribed in paragraph 3". Efforts are shown to fully implement the said legal provisions.

Following the CPT's visit to İmralı Prison on January 2010, talks have begun with the relevant authorities to maintain at least one visit to the prison every two months by Bursa Prison Monitoring Board. Works on this issue are underway and further information on any possible positive development will be provided in due course.

In fact, the monitoring board mentioned above visited İmralı Prison three times in 2012, on 20 January, 5 July and 1 October, and once in 2013, on 14 January.

T.C.
ADALET BAKANLIĞI

İmralı F Tipi Yüksek Güvenlikli Kapalı Ceza İnfaz Kurumu Müdürüğü

HÜKÜMLÜNÜN DİSİPLİN CEZALARI

S. No	Adı ve Soyadı	Disiplin Cezası Türü	Süresi	Karar No	Karar Tarihi	Suç Türü	Yasal Kaldırma Tarihi	İnfaz Bağlama Tarihi	İnfaz Bitiş Tarihi
1	Abdullah ÖCALAN	Kınama		2005/1	04.12.2005	Kurumda Gereksiz Gırtlıq Yap.	19.12.2005	İnfaz Edildi	
2	Abdullah ÖCALAN	Hücreye Koyma	20 gün	2005/2	12.12.2005	Suç Örg. Eğit. ve Propaganda Faaliyetleri Yap. ve Yapılmamak	16.01.2007	27.12.2005	16.01.2005
3	Abdullah ÖCALAN	Kınama		2005/1	17.03.2006	Kurumda Gereksiz Gırtlıq Yap.	01.04.2006	İnfaz Edildi	
4	Abdullah ÖCALAN	Hücreye Koyma	20 gün	2006/2	07.08.2006	Suç Örg. Eğit. ve Propaganda Faaliyetleri Yap. ve Yapılmamak	07.08.2007	18.08.2006	07.08.2006
5	Abdullah ÖCALAN	Hücreye Koyma	20 gün	2006/3	23.11.2006	Suç Örg. Eğit. ve Propaganda Faaliyetleri Yap. ve Yapılmamak	Bursa 1. İnfaz Hükümetininin 12.12.2006 gün ve 2006/81 Es. 2006/82 Sayılı Kararı ile Kaldırıldı.		
6	Abdullah ÖCALAN	Hücreye Koyma	20 gün	2007/1	13.04.2007	Suç Örg. Eğit. ve Propaganda Faaliyetleri Yap. ve Yapılmamak	15.06.2008	26.04.2007	15.05.2007
7	Abdullah ÖCALAN	Hücreye Koyma	20 gün	2007/2	16.07.2007	Suç Örg. Eğit. ve Propaganda Faaliyetleri Yap. ve Yapılmamak	18.08.2008	29.08.2007	18.09.2007
8	Abdullah ÖCALAN	Hücreye Koyma	20 gün	2007/3	19.11.2007	Suç Örg. Eğit. ve Propaganda Faaliyetleri Yap. ve Yapılmamak	14.01.2009	25.12.2007	14.01.2008
9	Abdullah ÖCALAN	Hücreye Koyma	20 gün	2008/1	24.04.2008	Suç Örg. Eğit. ve Propaganda Faaliyetleri Yap. ve Yapılmamak	19.08.2009	30.05.2008	19.08.2008
10	Abdullah ÖCALAN	Hücreye Koyma	10 gün	2008/2	29.04.2008	Kurum Görevlilerine Hak Bulumak	30.08.2009	20.06.2008	30.06.2008
11	Abdullah ÖCALAN	Hücreye Koyma	20 gün	2008/3	27.05.2008	Suç Örg. Eğit. ve Propaganda Faaliyetleri Yap. ve Yapılmamak	22.07.2009	02.07.2008	22.07.2008
12	Abdullah ÖCALAN	Hücreye Koyma	10 gün	2008/4	17.09.2008	Suç Örg. Eğit. ve Propaganda Faaliyetleri Yap. ve Yapılmamak	14.11.2009	04.11.2008	14.11.2008
13	Abdullah ÖCALAN	Hücreye Koyma	20 gün	2009/1	13.01.2009	Suç Örg. Eğit. ve Propaganda Faaliyetleri Yap. ve Yapılmamak	32.10.2012	03.02.2010 14.09.2011	05.02.2010 02.10.2011
14	Abdullah ÖCALAN	Hücreye Koyma	10 gün	2009/2	30.08.2009	Kurum Görevlilerine Hak Bulumak	Bursa 1. İnfaz Hükümetininin 30.10.2009 gün ve 2009/109 Es. 2009/110 Sayılı Kararı ile Kaldırıldı.		
15	Abdullah ÖCALAN	Hücreye Koyma	20 gün	2009/3	19.11.2009	Suç Örg. Eğit. ve Propaganda Faaliyetleri Yap. ve Yapılmamak	10.12.2012	29.11.2011	19.12.2011

Annex