



TÉLÉCOPIE • FACSIMILE TRANSMISSION

DATE: 23 February 2018

A/TO: His Excellency  
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A handwritten signature in black ink, appearing to read 'Natacha Foucard'.

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OBJET/SUBJECT: **COMMUNICATION FROM SPECIAL PROCEDURES**

Please find attached a communication sent by the Special Rapporteur on torture and other  
cruel, inhuman or degrading treatment or punishment.

We would be grateful if this letter could be transmitted at your earliest convenience to  
His Excellency Mr. Mevlüt Cavusoglu, Minister for Foreign Affairs.



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**Mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL TUR 5/2018

23 February 2018

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolution 34/19.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received since my 2016 country visit to Turkey concerning the **alleged torture and ill-treatment of persons in police custody and the lack of effective investigation into these allegations of torture.**

According to the information received:

Since July 2016, more than 150,000 persons have passed through police custody accused of terrorist offenses, membership in armed groups, or involvement in the attempted coup in July 2016. The highest number of detentions concern persons suspected of links with the Gülenist Movement and/or the armed Kurdistan Workers' Party.

*Allegations of torture and ill-treatment*

I received reports that since the end of my official visit to Turkey in December 2016, a large number of individuals accused of terrorism and/or of being linked to the July 2016 attempted coup suffered acts of torture and other cruel, inhuman or degrading treatment or punishment, in police custody. The acts of brutality described ranged from severe beatings, electrical shocks, exposure to icy water, sleep deprivation, threats and insults to being stripped naked, and sexual assault. Such torture and ill-treatment seemed to be aimed at extracting forced confessions or coercing detainees to denounce or incriminate other individuals.

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His Excellency  
Mr. Mevlüt Cavusoglu  
Minister for Foreign Affairs

It was further reported that the forensic medical evaluation of the detainees who alleged torture was not systematically carried out and that when it was, detainees were brought for routine medical reports. Whenever these examinations were undertaken, the presence of police officers during the medical appointments made it impossible for the victims to discuss freely and confidentially their alleged treatment in custody with the doctors. The medical reports could therefore not be used to help the alleged victims get appropriate treatment or obtain redress in court.

*Lack of effective measures to investigate and prosecute allegations of torture and other ill-treatment*

No serious measures appear to have been taken by the authorities to investigate credible allegations of torture or to hold perpetrators accountable. In particular, there has been no public statement on the part of the Ministries of Justice and of Interior about any conclusions of investigations into allegations of ill-treatment, nor have there been any prosecutions or disciplinary actions against law enforcement officials responsible for such abuse. It was further reported that some of the complaints alleging torture were dismissed by prosecutors citing a 'state of emergency decree (Article 9, of Decree no. 667)' according to which public officials are said to bear no criminal responsibility for actions undertaken in the context of the state of emergency.

Without prejudging the accuracy of the information made available to me, I would like to express grave concern over the allegations of torture and ill-treatment received and remind the Government of Turkey its obligation of ensuring the absolute protection against torture as entailed in articles 2 and 16 of (CAT), which Turkey ratified on 2 August 1988, as well as Article 7 of the International Covenant on Civil and Political Rights (ICCPR) to which Turkey is a party since 23 September 2003. The universal prohibition of torture and other ill-treatment has become a peremptory norm of international customary law. It is non-derogable and, therefore, continues to apply in situations of internal political instability or any other public emergency. No justification whatsoever may ever be invoked to justify its perpetration.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.

2. Please provide detailed information on all cases where allegations of torture have been made and the full details of any penal, disciplinary, administrative or other measures taken by your Excellency's Government in compliance with its duty to investigate, prosecute and punish all acts of torture committed by or with the involvement of its officials. If no legal proceedings have taken place please explain why, and how this is consistent with the relevant international legal obligations of Turkey.
3. Please provide detailed information about the measures taken by your Excellency's Government to effectively protect, in law, procedures and practice, individuals from ill-treatment and torture while in police custody.
4. Please indicate what measures, if any, have been taken by your Excellency's Government in compliance with its duty to provide redress, compensation and rehabilitation to victims of torture and other forms of ill-treatment.

I would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

As per usual practice, this communication and Your Excellency's Government's response will feature in the periodic report to the Human Rights Council for its consideration.

I intend to publicly express my concerns in the near future as, in my view, the information upon which my concerns are based is sufficiently reliable to indicate a matter warranting serious attention. I also believe that the wider public should be alerted to these concerns and their human rights implications. Any public expression of concern on my part will indicate that I have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of my highest consideration.



Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

**Annex**  
**Reference to international human rights law**

While I do not wish to prejudge the accuracy of the information received, I would like to draw the attention of your Excellency's Government to the relevant international norm and standards that are applicable to the issues brought forth by the situation described above.

The absolute prohibition of torture constitutes one of the few universally recognized peremptory norms of international law. It is one of the most fundamental norms of international law, and its violation is listed among the most serious international crimes, including crimes against humanity and war crimes.

The prohibition of torture and other cruel, inhuman or degrading treatment or punishment has been codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), as well as in article 7 of the International Covenant on Civil and Political Rights (ICCPR), which Turkey ratified on 23 september 2003. The human right to be free from torture and other ill-treatment is non-derogable and, therefore, continues to apply in situations of internal political instability or any other public emergency. No justification may ever be invoked to justify the perpetration of torture and other ill-treatment.

I further would like to remind your Excellency's Government that article 12 of the CAT requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that acts of torture have been committed. Articles 5 and 7 require States party to the Convention to establish jurisdiction and to prosecute suspected perpetrators of torture. It is therefore a concern of the utmost gravity that no investigation or prosecution has been initiated against the perpetrators and no redress, compensation and rehabilitation has been afforded to the victims.

Moreover, article 15 provides that "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made", and article 14(3)(g) of the International Covenant on Civil and Political Rights states that the accused "should not be compelled to testify against himself or to confess guilt."

Finally the reviewed Standard Minimum Rules for the Treatment of Prisoners (as amended and adopted by the UN General Assembly on 5 November 2015 and renamed the "Mandela Rules") provide inter alia in Rule 34 that "If, in the course of examining a prisoner upon admission or providing medical care to the prisoner thereafter, health-care professionals become aware of any signs of torture or other cruel, inhuman or degrading treatment or punishment, they shall document and report such cases to the competent medical, administrative or judicial authority. And that "proper procedural safeguards

shall be followed in order not to expose the prisoner or associated persons to foreseeable risk of harm”.