

Recommendations on the prevention of torture, developed by the participants of the OSCE Civil Society Workshop, Vienna, 7-9 April 2014¹

To OSCE participating States:

On legislation

1. Those participating States that have not yet ratified the Optional Protocol to the Convention against Torture (OPCAT) should do so without further delay.
2. Those participating States that have not yet ratified the International Convention for the Protection of All Persons from Enforced Disappearance should ratify it.
3. Participating States should enact legislation to effectively incorporate their obligations under relevant ratified international treaties, including by making the offense of torture and ill-treatment punishable as an offense under criminal law and ensuring the definition of torture and ill-treatment is in accordance with international norms enshrined in CAT, ICCPR, CPRD, ECHR, etc.
4. Participating States should adopt legislation extending protection from torture and ill-treatment to persons from the moment of their apprehension by State actors or non-State actors acting on behalf of the State.
5. Participating States should adopt legislation to provide effective protection to alleged victims of torture and ill-treatment and witnesses in cases of torture and ill-treatment.
6. Participating States should ensure in law and in practice that victims of torture and ill-treatment obtain redress and have an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible, including access to free legal, medical and psychological assistance.
7. Participating States should adopt legislation on prevention of torture and ill-treatment in the healthcare system, based on international norms and best practices, including, inter alia, on forced psychiatric treatment and forced treatment for transgender persons.
8. Participating States should adopt legislation incorporating universal jurisdiction for crimes of torture and ill-treatment.
9. Participating States should ensure effective democratic oversight of intelligence operations.
10. Participating States should stop invoking the state secrets privilege and the importance of the fight against terrorism to shield themselves from accountability for torture and ill-treatment, both in legislation and practice.

¹ The OSCE civil society workshop was held in Vienna on 7-9 April 2014 and was organized jointly by ODIHR and the Civic Solidarity Platform with the support of the 2014 Swiss OSCE Chairmanship. The workshop brought together almost 50 representatives of civil society organisations from North America, West and Central Europe, including Belarus, Moldova, Ukraine and Russia. Participants of the workshop in Vienna discussed three themes: prevention of torture; protection of privacy and personal data; and combating discrimination and hate crime. It was a second in a series of four regional civil society workshops that are taking place in 2014 in Belgrade, Vienna, Tbilisi and Dushanbe. The outcomes of the workshops will be compiled in a set of recommendations addressed to OSCE institutions and OSCE participating States which will be adopted as an outcome document of the Parallel Civil Society Conference on the eve of the Ministerial Council in Basel in December 2014.

On implementation

11. Those participating States that have not yet established National Preventive Mechanisms under OPCAT should do so without further delay.
12. Participating States should ensure effective functioning of National Preventive Mechanisms and strengthen them, including by providing a firm legal basis guaranteeing their independence and by appropriate training of monitors. States should also ensure the effective functioning of other forms of monitoring of places of detention and closed institutions (including psychiatric and social care institutions), including by civil society organizations.
13. Participating States should ensure effective participation of NGOs in monitoring places of detention and closed institutions, including pre-trial and police detention facilities and psychiatric and social care institutions, and provide a firm legal basis for such monitoring.
14. Participating States should create conditions conducive to effective engagement of NGOs in providing legal assistance and rehabilitation for victims of torture and ill-treatment.
15. To ensure that the work of doctors and other medical personnel in detention facilities is truly independent, participating States should not subordinate medical services in detention facilities to the Ministry of the Interior or the administrations of the penitentiary system. Participating States should ensure that medical services are available to all the detainees at all times.
16. Participating States should establish effective mechanisms to investigate allegations of torture and ill-treatment in accordance with international standards of effective investigation and address the problem of impunity for the use of torture, including by cooperating with other States in the investigation and persecution of person, suspected of authorizing, participating, committing, or attempting to commit torture and ill-treatment.
17. Participating States should ensure that no person is expelled, returned or extradited to countries he or she is at risk of being subjected to torture or ill-treatment, and create effective domestic mechanisms, including judicial review, to prevent the transfer of people to such countries.
18. Participating States should take steps to ensure appropriate recording of events in places where torture and ill-treatment are most prevalent (for example, audio and video monitoring of police stations).
19. Participating States should prohibit convictions only on the basis of confessions.
20. Participating States should take legislative and practical steps to ensure the prevention of torture and ill-treatment during the policing of demonstrations, including introduction of a requirement that officers policing demonstrations wear name tags and mandatory human rights education and training programmes for police and personnel working in places of detention.
21. Participating States should conduct effective training programmes for all personnel working in places of detention and closed institutions, including psychiatric and social care institutions.
22. Participating States should implement effective export control mechanisms for goods that can be used for the purposes of torture.
23. Participating States that exercise de-facto control over territories that are de-jure recognized by the international community as part of the territory of another state, should accept full responsibility

and be held accountable for ensuring the implementation on these territories of all OSCE human dimension commitments and in doing so should fully cooperate with OSCE institutions, other inter-governmental human rights bodies, and local and international civil society organisations. This should include providing unimpeded access to representatives of international monitoring missions of the OSCE and other international bodies to these territories. This in no way should be interpreted as legal recognition of annexation or changes of borders.

24. Equally importantly, participating States that exercise de-facto control over territories that are de-jure recognized by the international community as part of the territory of another state, should effectively implement decisions of international judicial and other bodies concerning human rights cases and situations on these territories.
25. Participating States should refrain from persecuting, harassing, stigmatizing, or putting pressure on non-governmental organisations, human rights defenders and anti-discrimination activists working in the field of prevention and investigation of torture. Instead, they should cooperate, provide support and create favourable conditions for their work.
26. Participating States should support the role of the media in creating a culture of absolute non-acceptance of torture. States can be assisted in this task by the OSCE Representative on Freedom of the Media. This should include applying highest ethical standards of journalism and avoidance of bias and racial and religious stereotypes in the coverage of cases of terrorism suspects.
27. Participating States should increase their cooperation with ODIHR and provide it with political, financial and personnel support for effective implementation of its existing and new programmes in the prevention of torture.
28. Voluntary reports by participating States on torture prevention during meetings of the Human Dimension Committee would be most welcome. Such sessions of the HDC should be open to specialised NGO representatives from these states that should be able to make their own contribution to the discussion.
29. OSCE participating States should comply with the 2012 Monaco OSCE Parliamentary Assembly resolution, and all implicated States should effectively investigate their roles in the CIA rendition and secret detention programmes. ODIHR and other OSCE institutions should assist participating States in doing this.

To OSCE political bodies and institutions:

30. OSCE political bodies and institutions and participating States should comprehensively review, consolidate and update existing commitments related to torture, and in the process recognize enforced disappearance as a crime and a form of torture. These revised commitments should include a particular focus on the prevention of torture in the context of the fight against terrorism.
31. All OSCE institutions working on issues relating to torture should coordinate their efforts in an effective manner.
32. ODIHR should develop Guidelines on prevention of torture and ill-treatment, including such issues as the functioning of National Preventive Mechanisms, participation of NGOs in monitoring of places of detention and closed institutions and instruments for evaluating the prevalence of torture and ill-treatment in participating States. ODIHR should establish a permanent expert panel to develop and promote these Guidelines.

33. ODIHR should carry out a study addressing the particular needs, risks and vulnerabilities of specific persons and groups when deprived of their liberty, including women, LGBTI individuals, members of religious minorities, asylum seekers and migrants, persons with physical and mental disabilities, HIV positive individuals, drug users undergoing substitution therapy, etc. ODIHR should develop recommendations to participating States, based on results of the study.
34. With support from the Chairmanship and the participating States, ODIHR should develop and begin to implement a programme for monitoring detention facilities and closed institutions, including psychiatric hospitals, temporary accommodation centres for children, temporary allocation centres for migrants, and military units as part of its work to monitor implementation of the OSCE's human dimension commitments.
35. ODIHR should conduct a comparative study of national systems for assessing the effectiveness of the work of the police and develop recommendations to participating States on this subject based on best practices.
36. ODIHR should conduct a comparative study of participating States' domestic legislation with the goal of identifying provisions creating risks of the use of torture and ill-treatment.
37. As part of its monitoring of implementation of human dimension commitments, ODIHR should systematically conduct human rights assessment and monitoring missions on territories of participating States which are de-facto controlled by other States and include prevention of torture and ill-treatment as a key component of such monitoring.
38. OSCE counter-terrorism and police training programme should be reviewed and reformed to ensure that human rights promotion and protection, including against torture and ill-treatment, should be at the core of police training efforts.
39. Torture prevention should be made a core component of annual OSCE Police Meetings.
40. OSCE rule of law programs should prioritize work on the judicial system's role in preventing torture.
41. OSCE should create a network of participating States' National Preventive Mechanisms and civil society organizations involved in monitoring places of detention and closed institutions to share best practices.
42. OSCE Human Dimension Committee should hold a special session on torture prevention, discussing the outcomes of the SHDM on torture prevention and inviting the UN Special Rapporteur on Torture and representatives of other international bodies to discuss possible OSCE interaction with them.

To the OSCE Chairmanship-in-Office:

43. The OSCE Chairmanship should organise the process of preparing updated OSCE commitments on torture that would include enforced disappearance as a form of torture and a particular focus on the prevention of torture in the context of fighting terrorism.
44. The OSCE Chairmanship should aim to develop an OSCE action plan to combat torture. A perception paper on torture prevention, produced by the OSCE Chairmanship with input from civil society, could be a first step in this direction.
45. The OSCE Chairmanship should encourage participating States to develop realistic national action plans for the prevention of torture, including strict deadlines and measurable criteria of progress.