

International Initiative Analysis 4

Evaluation of CPT reports on Imrali Island Prison



International Initiative
“Freedom for Abdullah Ocalan–Peace in Kurdistan”

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About us

On the 15th February 1999 the president of the Kurdistan Workers' Party, Abdullah Ocalan, was handed over to the Republic of Turkey following a clandestine operation backed by an alliance of secret services directed by their corresponding governments.

Disgusted by this outrageous violation of international law several intellectuals and representatives of civil organisations launched an initiative for the release of Abdullah Ocalan. With the opening of a central coordination office in March 1999 the "International Initiative Freedom for Abdullah Ocalan – Peace in Kurdistan" started its work.

The International Initiative regards itself as a multi-national peace initiative working for a peaceful and democratic solution of the Kurdish question with Kurds and Turks peacefully living together.

Even after his imprisonment Abdullah Ocalan is still regarded as the undisputed leader by a majority of the Kurdish people. Hence it seems reasonable to assume that the solution of the Kurdish question in Turkey will be closely linked to his fate in the future. Many Kurds see him as a safeguard for peace and democratisation. Therefore the Ocalan case needs a feasible perspective for a solution. The International Initiative is committed to play its part by intense lobbying and public relations work. Regular publishing and a balanced policy towards the public are a central part of its work.

About this document

With our series "International Initiative Analysis" we provide insight into topics regarding the Kurdish issue, human rights developments in Turkey and the Middle East and the situation of Abdullah Ocalan.

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Evaluation of CPT reports on Imrali Island Prison

Despite serious efforts of the Turkish state to show itself as being compliant with CPT's recommendations the opposite is the case.

CPT has visited the Imrali Island Prison where Abdullah Öcalan is held on 5 occasions those being:

March 1999 When Mr Öcalan was as yet taken to the island and the previous inmates of the Island prison were transferred to the mainland and one of its building had been hastily converted into a sole-inmate high-security prison.

September 2001 This was a follow-up visit to İmralı Closed Prison, in order to “.... review the treatment and conditions of detention of Abdullah Öcalan, who remains the establishment's sole inmate.”

February 2003 The visit was one which appeared to the Committee “to be required in the circumstances” (cf. Article 7, paragraph 1, of the Convention). It was triggered by persistent reports to the effect that relatives and lawyers of Abdullah Öcala have been experiencing considerable difficulties in gaining access to the prison on the island of İmralı in order to visit him.

May 2007 In this year evidence had been found indicating that he was been poisoned. The objectives of this visit as specified by CPT were:

- to examine the action taken on the recommendations, comments and requests for information made by the CPT after previous visits to Imralı High-Security Closed Prison, and, in particular, following the visit in February 2003;
- to examine more specifically the situation concerning access to Imralı Island for both family members and lawyers of the prisoner Abdullah Öcalan;
- to examine the possible impact on the prisoner's conditions and treatment, and on his contact with his lawyers, of the entry into force, on 1 June 2005, of the Law on the Enforcement of Sentences and Preventive Measures (LES) (including as regards the disciplinary procedure);
- to ascertain Abdullah Öcalan's state of health after eight and a half years spent as the sole inmate of Imralı High-Security Closed Prison.

January 2010 The main objective of the 2010 visit was to verify on the spot whether the key recommendation referred to above had been implemented and, in particular, (a) whether and to what extent Abdullah Öcalan was effectively able to associate with other prisoners and (b) whether he had been offered a wider range of activities.¹

Evaluation

There is a need to first of all deal with the new F-Type Prison that has allegedly been constructed on the Imrali Island. There is no doubt that a certain building has been built adjacent to the existing prison as an extension of that building. This new section has been designed in such a way that up to nine inmates can be accommodated in single-person cells.

However in its March 1999 visit report CPT describes the promises given by Turkish authorities in relation to building a new prison on the island with 100 inmates in “due course”:

47. In anticipation of Mr Öcalan’s conviction, plans were already being made to build a new, high-security, prison on the island, which might in due course have a capacity of up to 100 prisoners. From drawings shown to the delegation, it appeared that material conditions in the 1 or 3 person cells would be of a good standard.

However, the draft internal regulations for the new prison provided to the delegation that the regime will be impoverished. Contact between prisoners in different rooms and dormitories will not be permitted (Article 10). Further, little is foreseen in the way of organised activities for prisoners (save outdoor exercise); Article 8 of the draft regulations stipulates that “prisoners may be provided by the prison administration, on request, with the material required for such manual pastimes as the administration does not consider objectionable”, and there is a vague reference in Article 20 to “training by a teacher, social worker or religious instructor at the prisoner’s request”.

While this was the promise given to the CPT back in 1999 after 4 visits and in each report outlining its key recommendations over and over again there was no improvement until November 2009. In order to improve things further CPT decided to set in motion Article 10, paragraph 2 of the Convention² twice (2006 and 2008). The response of the Turkish authorities to the May 2007 report was evaluated in CPT’s meeting in March 2008 and concluded that it was a manifest refusal to implement the recommendations. The Committee hence decided to set in motion the procedure under Article 10, paragraph 2 of the Convention. On 12 June 2008 suddenly the promise of 1999 was remembered by the Turkish authorities and they informed the Committee their intention to construct a new detention facility which is described in paragraph 4 of the January 2010 visit report. This was discussed in the high-level talks that included Ministry of Defense, as well as Justice and a high level member of the General Staff and the CPT in October 2008.

¹The report is available at <http://www.cpt.coe.int/documents/tur/2010-20-inf-eng.pdf>

²“If the party fails to co-operate or refuses to improve the situation in the light of the Committee’s recommendations, the Committee may decide after the Party has had an opportunity to make known its views, by a majority of two thirds of its members to make a public statement on the matter.”

Construction was completed in summer of 2009 and on 17 November five prisoners serving the same sentence as Mr Öcalan (aggravated life sentence) from Bolu and Kirikkale F-Type prisons were brought to Imrali.

Some of the findings mentioned in the January 2010 report are:

10. The new detention facility suffered from one major structural deficiency, namely poor access to natural light in all the cells.³ [...] “Even in the cell of Abdullah Öcalan, in which parts of the door to the exercise yard had recently been replaced by a glass opening⁴ (at the request of the prisoner), access to natural light remained insufficient.

The CPT recommends that the Turkish authorities take the necessary steps to improve access to natural light in all the cells at Imralı Prison, in the light of the above remarks. This will require making modifications to the walls surrounding the exercise yards. ”

The Turkish authorities reply is the following:

“Access to open-air has been increased from two hours to four hours a day for the prisoners held in Imrali. But convict Öcalan was sentenced twice to solitary confinement punishment, he is not deemed as a convict who displays good conduct. Therefore he is allowed out to open air for two hours a day.

Besides there has been no complaints to date from the prisoners held in Imrali ...that their room did not receive sufficient sunlight. Moreover, ...Öcalan has complained that his room received too much sunlight.”

The Turkish authorities also dispute height of the wall that surrounds the exercise yard in front of the cells, and claim it is 6m not 7m.

In paragraph 14 CPT points out that from November 2009 (when prisoners were first brought in) to January 2010 (time of visit) neither of the two hobby rooms had in fact been used by the prisoners.

In paragraph 19 the Committee recommends that all recently arrived prisoners be allowed to associate during outdoor exercise as in other F-Type prisons. Further, the Committee says it fails to see why Öcalan is denied all contact with other prisoners during outdoor exercise. There is not specific reply given to this question by the Turkish authorities. But as to merging the exercise yards that can not be accessed from anywhere else but the particular cell the Turkish authorities basically give the reply of it being unpractical.

In paragraph 21 the Committee reiterates once again its recommendation that Abdullah Öcalan should also receive a TV set just like the other inmates. In paragraph 28 there is a recommendation that just like other inmates in Imrali being able to make calls A. Öcalan should also be able to make a benefit of this right.

In paragraph 16 however the Committee underlines the following:

“As regards the other prisoners at Imralı Prison, it is a matter of serious concern that, compared to the regime previously applied to them, the above-mentioned arrangements constituted a regime which was much more restricted than that provided at Bolu and Kirikkale F-type Prisons.

³This is a new finding marking a distinct deterioration

⁴This measure was taken for medical reasons

The prisoners previously held at Bolu F-type Prison indicated that, prior to their transfer to Imralı Prison, they had been offered four hours of outdoor exercise every day, without direct supervision, together with two other prisoners in a common exercise yard. In addition, they had apparently been offered three hours of out-of-cell activities per week with up to ten prisoners (conversation, sport and library).

The situation was even more favourable at Kırıkkale F-type Prison, which had been visited by the CPT during the last periodic visit to Turkey in 2009⁷. Thus, the Committee could itself verify that, in that establishment, prisoners of the same category (i.e. those serving an aggravated life sentence) were usually allowed to associate freely and without direct supervision with two other prisoners during outdoor exercise for twelve hours a day in summer and for nine hours a day in winter. In addition, the prisoners concerned were offered between three and seven hours of association per week with other prisoners (including sports and conversation), usually in groups of up to ten prisoners. To sum up, the prisoners could spend up to ninety hours per week out of their cells together with other prisoners. ”

It is important to note that the following paragraph 26 is included in the past two visit reports:

“In the report on the 2007 visit, the CPT expressed misgivings about the systematic prohibition of confidential contacts between Abdullah Öcalan and his lawyers (under Section 59, paragraph 4, of the Law on the Execution of Sentences). Since this issue is the subject of a complaint which is currently pending before the European Court of Human Rights, the Committee will refrain from making further remarks about the precise modalities of the meetings with the lawyers (including the systematic recording of all conversations) and the manner in which the lawyers are reportedly subjected to a search before every visit.”

The Committee in paragraph 20 sets a medium-term goal for the Turkish authorities :

“...be to ensure that all prisoners at Imralı Prison are able to spend a reasonable part of the day, eight hours or more, outside their cells engaged in purposeful activities of a varied nature.”

And indeed the committee concludes in its final paragraph (36):

“On the basis of the delegation’s findings and the additional information provided by the Turkish authorities in their letter of 24 February 2010, the CPT has reached the conclusion that the conditions of detention of Abdullah Öcalan have improved as compared to the situation found the 2007 visit. The prisoner’s integration “into a setting where contacts with other inmates and a wider range of activities are possible” is now under way (cf. paragraph 3). In addition, the Committee noted that there had been a marked improvement with regard to access to Imralı island for Abdullah Öcalan’s lawyers and family members.

Consequently, the CPT has decided to close the procedure under Article 10, paragraph 2, of Convention, which had been set in motion in March 2008. However, it will continue to monitor closely the situation of Abdullah Öcalan (as well as that of the

other prisoners at Imrali Prison), and will not hesitate to re-open the above-mentioned procedure if it becomes apparent that the above-mentioned improvements are not sustained.”

When we compare Imrali Island Prison to all other F-Type prisons, we can clearly see that in every regard (number of hours of association with the other inmates, architecture or the amount of time the exercise yard is available) it is just *called* an F-Type although it does not possess such qualities.

CPT’s evaluation that Mr Öcalan’s situation has improved is certainly true. As Mr Öcalan’s situation since 1999 has been a very special imprisonment conditions, he has been alone for more than 10 years and has been receiving disciplinary punishments which made the solitary confinement even worse than it already was. Bringing five other prisoners into the island could not have been bad for Mr Öcalan as even the knowledge of other people being in there must be comforting. However as the CPT underlines the other five prisoners’ conditions have become much worse compared to where they previously came from.

We have seen that the only way Turkey actually undertook improvements was when there was the presence of some kind of a pressure, just like Article 10, paragraph 2. However this can not only be left to CPT to handle. The plans to make the Island prison into a F-type prison has existed since March 1999 but it took the CPT until November 2009 for this to come true. And since the last visit report which was a year ago, Mr Öcalan is only able to have 5 hours of contact a week with the other inmates while CPT has recommended that he spends 8 hours per day outside of his cell in the medium-term. Therefore it looks almost certain that Turkish authorities will continue to do what they do best: play the cat and mouse game and do as little improvements as possible and only do them when under great threats. A prison does not become an F-Type prison just because it is named so. Hence there is much attention and political and juridical pressure required to improve the standards. Since what was an exception intended for Mr Öcalan is influencing many others as well.

Summary

Current detention situation

The improvements noted by CPT were not improvements of an otherwise normal prison situation. Before 2010 Imrali Island prison was the prison in Europe with the most serious long-term isolation, constituting a blatant violation of Council of Europe’s principles. Since 2010 the isolation regime imposed on Mr Ocalan has not at all been ended. On the contrary, a deeper isolation than in any F-type prison is now imposed on the whole group of six prisoners at Imrali island. The prison continues to be the prison in Turkey with the lowest standards.

The isolation is defined by

- Insufficient contact with other prisoners (3 hours a week compared to 90 hours for other prisoners)
- Being locked up for 22 hours a day in an isolation cell

On top of the isolation, the additional restrictions for Mr Ocalan are:

- Massive restriction of letter communication
- Ban on telephone communication
- Massive restrictions for client-lawyer communication
- No access to TV

Turkey's compliance with CPT recommendations

Turkey obviously does still not comply with CPT's recommendations. Even a record number of reports on one single prison did not move Turkey to create prison conditions according to Council of Europe's standards. Therefore CPT's recommendations alone are not enough, political bodies in the council of Europe have to take action.



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