



2015 OSCE Human Dimension Implementation Meeting

Side event: Implementation of the Istanbul Protocol in Kazakhstan, Kyrgyzstan and Tajikistan (25 September 2015)¹

The United Nations Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, commonly known as the Istanbul Protocol, was drawn up by renowned legal, medical and human rights experts and organizations to provide a set of guidelines for the medical and psychological examination of alleged victims of torture and other forms of ill-treatment. In 1999, it became an official United Nations document.

The strict adherence of forensic experts and other medical, psychological and psychiatric professionals, who are tasked with examining detainees, to the principles of the Istanbul Protocol can serve as an important tool to combat impunity.

Kyrgyzstan and **Tajikistan** have made significant progress regarding the implementation of the standards contained in the Istanbul Protocol in recent years.

In **Kyrgyzstan**, the Ministry of Health, the Prosecutor General and the NGO Coalition against Torture in Kyrgyzstan jointly elaborated the Manual on Effective Documentation of Violence, Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on the basis of principles enshrined in the Istanbul Protocol. In December 2014, the Ministry of Health obliged medical personnel – when conducting examinations of detainees -- to document torture and other ill-treatment in line with the Manual. The Ministry of Health also adopted a complex plan aimed at ensuring that the principles and procedures outlined in the Manual take root within the Ministry's health service. In cooperation with the Ministry, the Coalition against Torture has conducted a series of trainings for professionals including forensic experts, psychiatrists and other medical personnel.

In December 2012, the Minister of Health and Social Welfare of **Tajikistan** established a Working Group consisting of government and NGO representatives to introduce the standards of the Istanbul Protocol into internal documents of forensic experts. In November 2014, the Ministry of Health adopted a form reflecting the principles contained in the Istanbul Protocol for use by medical personnel when examining detainees and recording torture or ill-treatment. Starting in March 2015, the form was forwarded to medical institutions obliging medical personnel to use it when examining detainees at the onset of detention, i.e. before police fills in the detention record. Since 2012, the NGO Human Rights Centre, a member of the Coalition against Torture in Tajikistan, and the US-based NGO Physicians for Human Rights have jointly conducted trainings on standards of the Istanbul Protocol for 150 professionals, including forensic experts, psychiatrists, medical personnel of closed institutions, legal professionals and members of the Monitoring Group set up under the Ombudsman's Office.

The NGO coalitions against torture in **Kyrgyzstan** and **Tajikistan** are currently monitoring the situation to assess the impact of these recent steps made by the respective Ministries of Health.

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Kazakhstan lags behind these two Central Asian countries when it comes to the implementation of the Istanbul Protocol. Although state forensic experts in Kazakhstan have participated in trainings on the Istanbul Protocol, the authorities have yet to oblige medical personnel to abide by them.

While the above mentioned moves by **Kyrgyzstan's** and **Tajikistan's** Ministries of Health are welcome, the human rights groups jointly conducting this side event are concerned that many detainees in both countries do not have access to medical personnel of the Ministry of Health. Instead, they are examined by medical personnel who are not independent of the detention facility where the detainee is held.

For example, in **Kyrgyzstan** some IVS have their own medical attendants – employees of the Ministry of Internal Affairs -- and medical personnel in SIZOs are employed by the Government Service for the Execution of Punishments that runs pre-trial detention facilities and prisons. In **Tajikistan** medical personnel examining detainees in Dushanbe's temporary police detention facility (IVS) and in the capital's Anti-Corruption Agency are employed by the Ministry of Internal Affairs and the Anti-Corruption Agency respectively. Medical personnel in investigation isolation facilities (SIZO) are supervised by the Ministry of Health but are employees of the penitentiary administration of the Ministry of Justice, which runs the SIZOs. The NGO coalitions against torture in these countries have documented many cases where medical personnel from these facilities did not document injuries thoroughly and impartially.

Kazakhstan and **Kyrgyzstan** have taken important steps in the right direction by introducing the institution of independent forensic experts. However, we are concerned that their conclusions are usually not attributed equal evidentiary weight in court, compared to those of state forensic experts and that the law does not oblige them to follow the standards of the Istanbul Protocol.

RECOMMENDATIONS

We urge:

- **Kazakhstan** to follow the example of **Kyrgyzstan's** and **Tajikistan's** Ministries of Health by obliging all medical personnel of that Ministry to follow the standards of the Istanbul Protocol when examining detainees and documenting the findings. The **authorities of all three countries** should additionally oblige all other medical personnel to also follow the standards of the Istanbul Protocol when examining detainees and documenting the findings.
- The authorities of **all three countries** to ensure that personnel carrying out medical examinations in temporary police detention facilities (IVS) and investigation isolation facilities (SIZO) are truly independent from the agencies running the detention facilities.
- **Tajikistan** should introduce the institution of independent forensic experts and **all three countries** should ensure that the conclusions of independent experts are attributed equal evidentiary weight in court.