**REPUBLIC OF TURKEY – MINISTRY OF JUSTICE / Information Note regarding “General Comment No. 1 (2017) on the implementation of article 3 of the Convention against Torture in the context of article 22”**

The draft text forwarded by the UN Committee against Torture, dated 2 February 2017 and entitled “***General Comment No. 1 (2017) on the implementation of article 3 of the Convention in the context of article 22***” and General Comment No. 1 entitled “***General comment on the implementation of Article 3 of the Convention in the context of Article 22***” which had been adopted on 21 November 1997 have been examined thouroughly, and some suggestions on the draft text are listed below;

Firstly the purpose of this draft text has been written at the beginning of the text as “on the basis of its experience in considering individual communications under Article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the Convention), addressing allegations of violation by States parties of **article 3 of the Convention**, the Committee against Torture (hereinafter referred to as the Committee) at its 55th to 58th sessions in 2015 and 2016 discussed and agreed to **revise** its General Comment No. 1 entitled “***General comment on the implementation of Article 3 of the Convention in the context of Article 22***” which had been adopted on 21 November 1997 (A/53/44, Annex IX).

Within this framework, at its 59th session, in November - December 2016, the Committee began the drafting process of the **revised General Comment**, taking into account the recommendations for the consultation process in the elaboration of general comments made by the Chairpersons at their 27th meeting in San José de Costa Rica, from 22 to 26 June 2015 (A/70/302, paragraph 91).

In this context,

1.Para 18/(f) and (g) subparagraphs mention “effective training”. That is not appropriate and thus the term “effective” should be deleted considering sufficiency and proportionality principles of international law and the technical capacity of particularly least developed countries,

2. In para 21, the wording should be changed and the second sentence of this para should be read as follows; “*Once their health fragility and need for treatment may create concrete danger of his/her life has been medically certified, they should not be removed to a State where adequate medical services for their rehabilitation linked to their torture-related trauma are not available or not guaranteed*.”

3. Para 22 should be reevaluated and rewritten in line with states’ conventional obligations and should not extend them or create new extra-conventional obligations via General Comment,

4. In para 30/(a) (iii) should be replaced by “*Access to a lawyer free of charge when necessary and where applicable*” considering the technical capacity of particularly least developed countries,

5. Also in para 30/a (iv) and (v) the term “independent” should be deleted considering probability of implementation problems particularly in public doctors who are working at public medical facilities,

6. Also in para 30/(g) there is reference to the Rome Statute’s some articles, but bearing in mind that some states (including Turkey) are not a state party to the Rome Statute that the reference should be deleted in General Comment via indicating only names of these crimes in the text,

7. In para 43, the phrase of “*financial assistance*” should be deleted or should be added before the phrase starting with “where applicable” since it may create huge financial burden particularly in the large number of refugee and asylum seeker movements towards some states like Turkey,

8. In para 48/(e) the term “sexual orientation and gender identity” should be deleted or replaced with the term “sex” which is approved and accepted by the international legal literature.

Finally, the section (IV) should be reevaluated and rewritten in line with states conventional obligations.