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23 April 2017

Re: Submission in the matter of Nekane Txapartegi (V. ref. 214'976-MAK)

Dear Ms. Motz and Mr. Peter:

In response to your request, the International Rehabilitation Council for Torture Victims (IRCT) provides its expert opinion on the relevance and reliability of the medico-legal reports produced by Prof. Dr. Onder Ozkalipci and Prof. Dr. Thomas Wenzel following the standards and principles of the Istanbul Protocol¹ and submitted in the matter of Nekane Txapartegi (V. ref. 214'976-MAK).

The IRCT is an independent, international health-based organisation that promotes and supports the rehabilitation of torture victims and their access to justice. We comprise of 151 independent rehabilitation centres in 74 countries, making the IRCT the world's largest membership-based organisation to work in the field of torture rehabilitation.

The IRCT was one of the original organisations involved in the creation of the Istanbul Protocol, which is the internationally accepted standard for the effective medico-legal (physical and psychological) investigation into allegations of torture and ill-treatment. We continue to be a key provider of technical assistance and expertise on medico-legal investigation and documentation of torture following the Istanbul Protocol to health and legal professionals and policy-makers worldwide, including to several state authorities and inter-governmental bodies of the European Union and the United Nations.

a. Background on impunity and the international obligation to investigate torture according to the Istanbul Protocol

¹ Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). 2004. HR/P/PT/8/Rev.1.

The United Nations Special Rapporteur on torture has found that torture continues to be widely practised in the majority of states, with impunity being one of its root causes.² The IRCT's experience corroborates this finding. Every year, the IRCT's global network of rehabilitation centres treats approximately 100,000 torture survivors worldwide, while only a few torture perpetrators are prosecuted. This gap between the high number of torture survivors and the low number of prosecutions is demonstrative of the worldwide breadth of impunity.

Impunity for torture exists despite the broad range of positive obligations placed on states to address torture. Under the United Nations Convention against Torture, states including Spain and Switzerland are obliged to criminalize torture, to establish broad jurisdictions, to investigate all allegations and suspicions of torture, to document torture, to bring perpetrators of torture to justice, and to provide redress to torture victims.³

Because of the gravity of the international crime of torture, states are obliged to undertake *ex officio* prompt, impartial, and effective investigations of torture whenever there are reasonable grounds to suspect that torture has occurred, even absent an allegation of torture or other ill-treatment or any formal complaint.⁴ A prompt, impartial, and effective investigation means that it must be undertaken in full compliance with the Istanbul Protocol.⁵ The European Court of Human Rights has held that state investigations that do not comply with the Istanbul Protocol do not fulfil the state obligation to investigate torture effectively, promptly, and impartially.⁶

The existence of impunity in a state suggests that the state is either unable or unwilling to fulfil their international obligations on torture. One of the factors fostering impunity is that perpetrators may undertake torture in a manner designed to evade detection or

² Interim report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 10 August 2010 (A/65/273), p.6.

³ United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (entered into force 26 June 1984), articles 12, 13 and 14; Inter-American Convention to Prevent and Punish Torture, articles 1, 6 and 8; American Convention on Human Rights, articles 5 and 8.

⁴ UN Convention against Torture, article 12; Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations (adopted on 30 March 2011), Section V, §1 and 3.

⁵ Interim report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 10 August 2010 (A/65/273), pp.2 and 10.

⁶ European Court of Human Rights, *Bati v. Turkey* (3 June 2004, App. nos. 33097/96 and 57834/00) §§133-137; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, CPT standards, CPT/Inf/E (2002) 1-Rev. 2013, chap. VII.

conviction. Moreover, torturers know of the difficulty of proving torture and, as state agents, are often in a position to find ways of avoiding accountability.⁷

This places torture victims at a substantial disadvantage, particularly when they remain in the custody of the state and may fear reprisals. In addition, due to the physical and psychological trauma caused by torture, victims may be unable or unwilling to disclose their ill-treatment, to do so in a chronological and coherent manner, or to do so in a single interview.

Substantial stigma also attaches to torture victims, especially those of sexual torture, and may heighten the symptoms of post-traumatic stress disorder that they experience such as dissociation and avoidance. Those particular symptoms may psychologically prevent sexual torture victims from disclosing or discussing their experience. The stigma of torture and sexual torture further hinders the ability of torture victims to present testimony and adds to the challenge of fighting impunity for torture.

b. Spain's compliance with its international obligations

International and regional human rights bodies and regional human rights jurisprudence document a long-standing pattern of torture and impunity in Spain, particularly when an individual is held in incommunicado detention.⁸ These bodies have criticised Spain for its failure or unwillingness to conduct prompt, impartial, and effective investigations into torture or to prosecute the perpetrators of torture.⁹ The European Court of Human Rights has found on numerous occasions that Spain violated Article 3 on the prevention of torture of the European Convention on Human Rights due to its failure to conduct thorough, effective, and impartial investigations into allegations of torture and ill-treatment, most recently in May 2016.¹⁰

⁷ Interim report of the UN Special Rapporteur on torture (A/65/273), pp.2 and 10.

⁸ See for example: UN Committee against Torture Concluding observations on the sixth periodic report of Spain, CAT/C/ESP/CO/6 (2015) at §19; Conclusions and recommendations of the Committee against Torture (2002), CAT/C/CR/29/3, §10; Report of the Committee against Torture to the UN General Assembly (1998), A/53/44, §127-132.

⁹ UN Committee against Torture Concluding observations on the sixth periodic report of Spain, CAT/C/ESP/CO/6 (2015) §19. Amnesty International, Alternative report to the Committee against Torture at its 54th session, 20 April to 15 May 2015, p.9; Amnesty International Country Report on Spain, 2016/17. See: <https://www.amnesty.org/en/countries/europe-and-central-asia/spain/report-spain/>

¹⁰ *Beortegui Martinez v Spain* [2016] ECHR 476 (31 May 2016), §47. See also: *Beristain Ukar v Spain* (Application 40351/05) (2011), §34; *San Argimiro Isasa v Spain* (Application 2507/07) (2010), §44-45.

Because of the state's documented failure to investigate torture promptly, effectively, and impartially – i.e., in compliance with the Istanbul Protocol, the absence of investigations in Spain should not be interpreted to suggest that torture has not occurred. In its May 2016 decision on Spain, the European Court of Human Rights held that as a result of the lack of an effective and prompt investigation by Spain into allegations of torture, though there was no clear evidence, it must be concluded that torture had actually taken place.¹¹ Otherwise, the impunity of the state would be allowed to negate its other obligations on torture, violating the United Nations Convention Against Torture and the dignity of survivors.

Even if a state fails to investigate torture properly or bring perpetrators to justice, the state remains obliged to provide redress and rehabilitation to victims as well as to ensure that any statement extracted as a result of torture is not invoked as evidence in any proceedings, including administrative, asylum, criminal or extradition proceedings.¹² Following from the European Court of Human Rights' May 2016 decision on Spain, the failure of Spain to investigate allegations of torture or ill-treatment in a manner compliant with the Istanbul Protocol places considerable doubt on the reliability of convictions there in cases where torture is alleged to have been perpetrated prior to a confession being extracted.¹³ The principle that torture or other ill-treatment should never be used to extract information or confessions from detained persons has been the subject of judgments in recent years in Spain and, in some cases, the previous conviction has been overturned.¹⁴

¹¹ *Beortegui Martinez v Spain* [2016] ECHR 476 (31 May 2016).

¹² UN Convention against Torture, article 15 as interpreted by the Committee against Torture in its General Comment no. 2, (CAT/C/GC/2), §6. The principle is also reflected in: 1975 Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 12; UN General Assembly resolution 13/19 dated 15 April 2010 (UN Doc. A/HRC/Res/13/19), §7; and the Human Rights Committee, General Comment no. 32, (CCPR/C/GC/32), §6 and §41. UN Committee against Torture: *P.E. v France* (Communication no. 193/2001), §6.3; *G.K. v Switzerland* (Communication no. 219/2002), §6.10.

¹³ See for example: European Committee for the Prevention of Torture (CPT) report on a visit to Spain in 2011, CPT/Inf (2013) 6, in the section on incommunicado detention states that: "From the information gathered, it appeared that the aim of the alleged ill-treatment was to get the detained person concerned to sign a declaration (i.e. a confession) before the end of the incommunicado detention and to have the declaration confirmed before the court hearing (§14).

¹⁴ Amnesty International's Country Report on Spain (2016/17) notes: "In July, the Supreme Court partially annulled the conviction by the High Court of Saïoa Sánchez for an act of terrorism in December 2015... Her appeal to the Supreme Court claimed that the High Court refused to investigate whether the statement of one of the defendants, Iñigo Zapirain, implicating her in the offence, had been made under duress. The Supreme Court ordered a new hearing, asking that the Istanbul Protocol be followed to assess the veracity of the statement of Iñigo Zapirain. The ruling took account of the concerns expressed by international human rights bodies about impunity and lack of thorough and effective investigations, as well as about shortcomings in the quality and accuracy of forensic investigations. See further examples: Sentence no. 45/2008 and Sentence no. 27/2010 of the Audiencia Nacional.

c. The Istanbul Protocol as the internationally accepted standard for the investigation and documentation of torture and ill-treatment

1. Relevance of the Istanbul Protocol

To address the global prevalence of torture and the common denial of the existence of torture by those responsible, several organisations, including the IRCT, came together in 1996 to develop standards on how to investigate and document torture effectively. This worldwide process took three years and involved more than seventy-five health, legal, and human rights experts.

The result of this process was the Istanbul Protocol, which is the first set of international standards and principles for the prompt, impartial, and effective investigation and documentation of torture and ill-treatment. The Istanbul Protocol's overarching *Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (The Istanbul Principles)* were adopted by the United Nations General Assembly in 2000.

The Istanbul Protocol and its Principles have since been applied in international, regional and national courts, endorsed by the United Nations and its main political bodies, and implemented by states. For instance, the European Court of Human Rights has specifically referred to the standards provided by the Istanbul Protocol as setting the benchmark for assessing the credibility of documentary medical and mental health evidence and expert opinions.¹⁵ The European Court of Human Rights also has rejected medical reports that do not comply with the Istanbul Protocol as unreliable.¹⁶

The Istanbul Protocol provides the international standard for how a state should execute its obligation to investigate allegations of torture or other ill-treatment. It reflects both the existing obligations of states under international treaty and customary international law and sets out specific guidelines on how states should conduct effective legal and medico-legal physical and psychological investigations into allegations of torture or other ill-treatment.¹⁷ It provides a rigorous methodology for documenting physical and

¹⁵ European Court of Human Rights: *Salmanoğlu and Polatta v. Turkey* (Application no. 15828/03) §89; *Böke and Kandemir v. Turkey* (Application nos. 71912/01, 26968/02 and 36397/03) §48.

¹⁶ European Court of Human Rights: *Salmanoğlu and Polatta v. Turkey* (Application no. 15828/03) §85-95.

¹⁷ Interim Report of the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, 23 September 2014, A/69/387, §23. Inter-American Court of Human Rights: *Vargas-Areco v.*

psychological signs of torture and therefore is used to assess whether the state has satisfied its obligation to investigate promptly, impartially, and effectively.¹⁸

The Istanbul Protocol enshrines and promotes the internationally accepted scientific, medical, and mental health forensic standards, methodology, and practices on the evaluation of torture or other ill-treatment. It guides medical and mental health experts on how to gather relevant and reliable evidence of torture, reach accurate conclusions on the degree of consistency of allegations of torture with the medical and psychological findings, and produce high-quality medico-legal reports to inform the work of decision-making bodies. The Protocol guides trained health professionals on how to issue a relevant and reliable opinion as to the degree of consistency and inconsistency between the physical and psychological findings and an individual's claims of past torture as well as assess other relevant contributing factors.

For instance, according to the Istanbul Protocol and internationally accepted scientific practice, a mental health expert's findings on the degree of consistency of psychological evidence with an individual's allegations of torture should be based on a variety of factors. Mental health experts undertaking an Istanbul Protocol investigation not only take into account the statements made by an alleged victim of torture, but also the individual's personal biographical history, previous health records, narrative description of ill-treatment, consistency between verbal and non-verbal communication, coherence in the events described, consistency between the events described and the emotion and resonance with which they are expressed, acute symptoms, social life, and circumstances.¹⁹

The Istanbul Protocol directs mental health professionals to not only diagnose the mental health status of an individual alleging torture, but also to consider and discuss how each specific symptom may or may not originate from the alleged torture experience, drawing upon and explaining when certain symptoms may be content-specific to torture as well as scientifically determining the most likely origin of symptoms and disorders. For instance, in his report, Prof. Dr. Wenzel discusses the individual symptoms that Ms. Txapartegi is experiencing and the likely origin of those symptoms as well as the likely cause of Ms.

Paraguay (Merits and Reparations), (26 September 2006, No. 155), §§91-94. Inter-American Commission for Human Rights: Ana, Beatriz and Celia Gonzalez Perez v. Mexico (Merits), (4 April 2001, Case 11.565), §§39-41.

¹⁸ European Court of Human Rights: Salmanoğlu and Polattaş v. Turkey (Application no. 15828/03), §79-80 and §89; Muradova v. Azerbaijan (Application no. 22684/05) §101. Inter-American Court for Human Rights: Vargas-Areco v. Paraguay (Merits and Reparations), (26 September 2006, No. 155), §§91-94.

¹⁹ Interim Report of the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, 23 September 2014, A/69/387.

Txapartegi's post-traumatic stress disorder. Contrary to the reasoning of the Swiss asylum and extradition authorities, in order to diagnose post-traumatic stress disorder, an individual must have experienced a traumatic event that involved life-threatening experiences and produced intense fear or horror. Post-traumatic stress disorder cannot be caused by general insecurity or a general situation reflecting persecution.²⁰

In making a final conclusion from an Istanbul Protocol evaluation on the consistency of the physical and psychological findings with an individual's allegations of torture, the Istanbul Protocol guides experts to assess every sequela – lesion or symptom – for consistency and inconsistency with the alleged torture event; assess the consistency and inconsistency of groups of sequelae with the alleged torture event; provide an overall assessment on the consistency and inconsistency of all of the physical findings and of all of the psychological findings with the alleged torture event; and then assess comprehensively all physical and psychological findings together to conclude on their overall consistency or inconsistency with the individual's allegations of torture.²¹

In their evaluation process and in reaching a final conclusion, medical and mental health experts also consider any signs of malingering or over-endorsement, the individual's affect and its consistency with the content of the evaluation, any contradictions, and the concordance between all of the physical and psychological findings separately and altogether. Where suspicions arise as to the veracity of allegations, experts may examine these through accepted medical and mental health methods. Where inconsistencies arise, experts are obliged to note these as well as determine whether these inconsistencies and the clinical picture suggest a false allegation of torture.²²

2. Reliability of medico-legal reports produced in compliance with the Istanbul Protocol

Medico-legal reports conducted in compliance with the standards and principles of the Istanbul Protocol present relevant and reliable findings on torture and therefore should be considered by decision-makers as compelling evidence on the issue of whether torture or other ill-treatment has or has not been perpetrated, including by asylum and extradition

²⁰ Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). 2004. HR/P/PT/8/Rev.1, §253.

²¹ Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). 2004. HR/P/PT/8/Rev.1, §187.

²² Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). 2004. HR/P/PT/8/Rev.1, §105.

authorities in relevant proceedings.²³ As noted earlier, the European Court of Human Rights has specifically referred to the standards provided by the Istanbul Protocol as setting the benchmark for assessing the credibility of documentary medical and mental health evidence and expert opinions and rejected as unreliable state medical reports that do not comply with the Istanbul Protocol.²⁴

To assess the reliability of medico-legal reports produced in compliance with the Istanbul Protocol, decision-making bodies should establish whether the person providing the medico-legal report is in fact an expert.²⁵ The expert must possess certain qualifications ensuring the rendering of an informed and reasoned conclusion such as particular knowledge, skill, experience, training, or education.²⁶ Whereas Prof. Dr. Ozkalipci teaches in the field of medico-legal evaluation of torture allegations, has published several articles, book chapters, and a medical atlas on the physical findings of torture, has personally examined several hundred individuals alleging torture and ill-treatment, was one of the Project Coordinators and principle authors of the Istanbul Protocol, and is generally considered a preeminent specialist in the field, he would qualify under this standard as an expert on medico-legal evaluations conducted in compliance with the Istanbul Protocol.

Prof. Dr. Wenzel is similarly considered a preeminent specialist in the field of medico-legal evaluation under the Istanbul Protocol. Prof. Dr. Wenzel teaches in the field of medico-legal evaluation of torture and is the co-founder and former chair of the World Psychiatric Association Scientific Section on Psychological Aspects of Torture and Persecution. In addition, Prof. Dr. Wenzel is presently the coordinator of the European Union funded ARTIP (“Awareness Raising and Training for the Istanbul Protocol”) project, which is one of the world’s leading programs to promote and train on the Istanbul Protocol. He has also trained and advised the Austrian Victims of Crime Support Organisation (Weisser Ring), the Austrian Psychotherapists Board, the Austrian Ministry of the Interior, Justice and Ministry of Defense, the UK Ministry of Defense IHAT team and numerous rehabilitation centres for torture victims, and authored or co-edited over 200 articles and books.

²³ Interim Report of the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, 23 September 2014, A/69/387, §52. European Court of Human Rights: *Salmanoğlu and Polatta v. Turkey* (Application no. 15828/03) §89; *Böke and Kandemir v. Turkey* (Application nos. 71912/01, 26968/02 and 36397/03) §48.

²⁴ European Court of Human Rights: *Salmanoğlu and Polatta v. Turkey* (Application no. 15828/03) §89-95; *Böke and Kandemir v. Turkey* (Application nos. 71912/01, 26968/02 and 36397/03) §48.

²⁵ Interim Report of the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, 23 September 2014, A/69/387, §49.

²⁶ European Court of Human Rights: *Muradova v. Azerbaijan* (Application no. 22684/05) §116-119.

If the author of a medico-legal report produced following the Istanbul Protocol is accepted as an expert, the probative value of the medico-legal report should depend on the degree of certainty that the decision-making body attaches to the opinion in comparison to the existence of other reliable supporting or conflicting expert opinions.²⁷ In this case, however, we should consider that the European Court of Human Rights has found state medical reports that do not follow the Istanbul Protocol to be unreliable²⁸ and has specifically found Spain to have violated Article 3 on the prevention of torture of the European Convention on Human Rights on numerous occasions due to its failure and unwillingness to conduct thorough, effective, and impartial investigations into allegations of torture and ill-treatment.²⁹

The European Asylum Support Office in its guidelines to case officers similarly instructs that where there is a relevant medical or psychological expert report it should be considered as “clear evidence confirming that the person concerned experienced something so traumatic, that his/her ability to remember, recall past events, keep track of the subject and give a structured account of it may be seriously hindered, even impossible.” Where Prof. Dr. Ozkalipci and Prof. Dr. Wenzel are preeminent experts in the Istanbul Protocol and the medico-legal evaluation of individuals alleging torture and their medico-legal evaluation and reports follow the Istanbul Protocol, absent allegations of prejudice or unprofessionalism, the Swiss asylum and extradition authorities should consider the reports of Prof. Dr. Ozkalipci and Prof. Dr. Wenzel as relevant and reliable and therefore as compelling evidence on the issue of whether torture or other ill-treatment has or has not been perpetrated.

3. Inconsistencies noted in testimonies and medico-legal reports

To conclude, the IRCT wishes to address the occurrence of inconsistencies and discrepancies that often arise in the testimony of victims of torture.

The European Asylum Support Office in its guidelines to case officers notes that traumatic experiences may also lead to fear and lack of trust, which could affect the amount and quality of information the applicant is willing to provide and that “the case officer should be cautious when making negative credibility findings on the basis of the applicant’s

²⁷ Interim Report of the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, 23 September 2014, A/69/387, §49.

²⁸ European Court of Human Rights: *Salmanoğlu and Polatta v. Turkey* (Application no. 15828/03) §85-95.

²⁹ *Beortegui Martinez v Spain* [2016] ECHR 476 (31 May 2016), §47. See also: *Beristain Ukar v Spain* (Application 40351/05) (2011), §34; *San Argimiro Isasa v Spain* (Application 2507/07) (2010), §44-45.

statements.”³⁰ In addition, in the IRCT’s experience of working with torture victims, trauma resulting from torture frequently leads to mental health problems such as post-traumatic stress disorder, anxiety and depression disorders, which make it extremely difficult for the victim of torture to disclose their ill-treatment, to do so in a chronological and coherent manner, or to do so in a single interview – even in a clinical setting such as during rehabilitation counselling.

Torture victims who remain in the custody of the state, may distrust state officials, and may fear reprisals, find it particularly difficult to disclose and discuss the torture events and other forms of ill-treatment inflicted upon them. In addition, because of the substantial stigma that attaches to torture victims – and especially victims of sexual torture – they are often ashamed and further unwilling or fearful to disclose or discuss every aspect of the torture event and their experience even to the health professionals from IRCT’s member centres who are providing them counselling and other services.

Scientific research also has shown that victims of sexual violence and sexual torture have greater incidences of dissociation and avoidance, which are part of the post-traumatic stress disorder symptomology.³¹ These reactions may make it impossible for them to disclose all relevant details or indeed cause them – without choice – to offer incomplete or inconsistent accounts of the past torture. Dissociation and avoidance occur when certain situations, such as external reminders, trigger distressing memories or thoughts. Reminders of torture (such as being interviewed by a state official or having to recall violent events in the context of an asylum claim) can often induce incidences of dissociation and avoidance as well as significant anxiety and even panic attacks. Most of the time, these manifestations cannot be controlled, leading the victim to unintentionally negate or overlook traumatic events of their past.³² The purpose is not to be uncooperative or dishonest, but is in fact an uncontrollable way for the victim to cope with their trauma.³³

Research on this specific issue in the context of asylum proceedings has found that discrepancies are common, especially (although not exclusively) when the person has

³⁰ European Asylum Support Office (EASO), Practical Guide: Evidence Assessment (2015), §2.4.1.2.

³¹ Finkelstein M. and Solomon Z. (2009). Cumulative Trauma, PTSD and Dissociation Among Ethiopian Refugees in Israel, *Journal of Trauma & Dissociation*, 10:1; American Psychiatric Association, *Diagnostic and statistical manual of mental disorders* (4th ed), Washington DC: 1994.

³² Herlihy J. and Turner S. (2006) Should Discrepant Accounts Given by Asylum Seekers be Taken as Proof of Deceit. *Torture*, 16:2, pp.81-92; Herlihy J., Jobson L., Turner S. (2012) Just Tell Us What Happened to You: Autobiographical Memory and Seeking Asylum. *Applied Cognitive Psychology*, 26:5, pp.661-76.

³³ As recognised in *The United States v. Rasmieh Odeh* in the US Court of Appeals, Sixth Circuit.

post-traumatic stress disorder. One particular research study underlined the danger of concluding that asylum seekers are fabricating their histories, solely on the basis of discrepancies between interviews, and the risk that reaching such conclusions increases the number of incorrect judgments. It concluded that such inconsistencies should not be relied on as indicating a lack of credibility in an asylum claim involving a victim of past trauma.³⁴

In light of the scientific understanding, asylum authorities as well as international courts and regional bodies have acknowledged the need to adopt in their decision-making process this understanding of the way traumatic experiences, specifically torture and sexual torture, and post-traumatic stress disorder may affect the ability of asylum applicants to disclose or discuss their torture experience, to do so in a chronological and coherent manner, or to do so in a single interview.³⁵

The IRCT remains at the disposition of the Court should there be any further questions.

Yours sincerely,

James Lin
Istanbul Protocol Programme Coordinator
The International Rehabilitation Council for Torture Victims (IRCT)

³⁴ Herlihy J., Scragg P., & Turner S. (2002). Discrepancies in autobiographical memories: Implications for the assessment of asylum seekers: Repeated interviews study. *British Medical Journal*, 324 (7333): 324–327.

³⁵ UN Committee against Torture: *Ismail Alan v. Switzerland* (CAT/C/16/D/21/1995); *Tala v. Sweden* (CAT/C/17/D/43/1996) §10.3; *Kisoki v. Sweden* (CAT/C/16/D/41/1996), §9.3; *Falcon Rios v. Canada* (CAT/C/33/D/133/1999, §8.5. *Prosecutor v. Alfred Musema* (Appeal Judgment), ICTR-96-13-A, §20; *Prosecutor v. Kunarac, Kovac and Vukovic*, IT-96-23-T and IT-96-23/1-T (Trial Judgment), §§564 and 679. Australian Government, *Guidance on the Assessment of Credibility*, Migration Review Tribunal, Refugee Review Tribunal, March 2012, §4.3.