



CPT/Inf (2007) 2

**Responses of the Turkish Government  
to the report of the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)  
on its visit to Turkey**

**from 9 to 21 September 1990**

The Turkish Government has authorised the publication of these responses. The report of the CPT on its September 1990 visit to Turkey is set out in document CPT/Inf (2007) 1.

Strasbourg, 11 January 2007



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**First interim report from the Turkish Authorities  
concerning paragraph 89 of the CPT's  
report on the September 1990 visit to Turkey  
(Received on 2 May 1991)**

Action taken by the Turkish Authorities  
on the recommendations of the European Torture Committee

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment visited Turkey from 9 to 21 September. In its report on the visit the Committee recommended a number of steps to prevent physical and psychological ill-treatment during remand and interrogation at the Ankara and Diyarbakır Police Headquarters. The Committee's recommendations were forwarded to the Authorities concerned.

The steps taken by the appropriate authorities in compliance with the Committee's recommendations are summarised below. The relevant documents are appended.

I. Action taken by the Ministry of the Interior

1. On 9 April 1991 the Directorate of Security of the Ministry of the Interior wrote to the Offices of the Governors of Ankara and Diyarbakır Provinces requesting that during interrogation members of the security forces should behave in such a way as to avoid giving rise to allegations of torture and that, even in the event of isolated incidents of this kind, legal action should systematically be taken against those responsible (Appendix I).
2. On 3 April 1991 the Directorate of Security of the Ministry of the Interior requested the Office of the Head of the Public Order Division (Appendix II) to draw up a code of practice for the conduct of interrogations and circulate it to all the security force units concerned.
3. On 1 May 1991 the Code of Practice for Interrogations (Appendix III) and Code of Practice for Remand in Custody (Appendix IV) drawn up by the Public Order Division of the Directorate of Security were circulated to the offices of all provincial governors under the signature of the Deputy Undersecretary to the Minister of the Interior (Appendix V).
6. The Directorate of Security of the Ministry of the Interior has informed the Ministry of Foreign Affairs that under the present system training institutions for prospective police officers of all ranks provide courses on "interrogation techniques", that officers graduating from those institutions take up their duties after receiving training in "interrogation techniques" and that officers assigned to interrogation units are periodically required to attend further training courses on the subject.
7. In a letter dated 1 May 1991 (Appendix VI) the Directorate of Security of the Ministry of the Interior requested the Police Inspection Department to bear in mind the recommendations of the European Committee for the Prevention of Torture in the course of its inspections.

II. Action taken by the Ministry of Justice

1. In instructions (Appendix VII) sent to the Offices of the Ankara Chief Public Prosecutor, the Chief Public Prosecutor at the Ankara State Security Court, the Diyarbakır Chief Public Prosecutor and the Chief Public Prosecutor at the Diyarbakır State Security Court, the Directorate of Criminal Affairs of the Ministry of Justice reminded those bodies of Turkey's obligations with regard to the prevention of torture under the Constitution, the United Nations Declaration of Human Rights and the European Convention on Human Rights. They were instructed to ensure that:

- a. allegations of torture and ill-treatment were immediately referred to the appropriate authorities for investigation and that the Ministry was informed of the results of the investigation;
- b. medical examinations were conducted and the relevant medical certificates obtained before and immediately after interrogation;
- c. in cases covered by Section 15, final paragraph, of Suppression of Terrorism Act No. 3713 of 12 April 1991, the matter was referred to the appropriate administrative authority so that the necessary steps might be taken under the Proceedings against Civil Servants Act; that the Ministry was informed of the matter and that the closest attention was paid to all these points. The instructions were signed by the Minister of Justice, Mahmut Oltan Sungurlu.

APPENDIX I A

REPUBLIC OF TURKEY

MINISTRY OF THE INTERIOR

Directorate of Security  
Central Division

ANKARA

No: A-5/77-7692  
Subject: Human Rights

TO: OFFICE OF THE GOVERNOR OF DIYARBAKIR PROVINCE

Re: a. our letter No. A-5/286-26079-250749 of 27 September 1990  
b. letter No. ÇTAK-II-5803093 of 5 March 1991 from the Ministry of Foreign Affairs  
c. our letter No. A-5/77-7692-081267 of 1 April 1991.

As you will know, a delegation of the European Committee for the Prevention of Torture visited Turkey from 9 to 21 September 1990 and, in the course of its visit, conducted a number of investigations in your province.

The report drawn up on the delegation's visit and adopted by the Committee has been forwarded to our Ministry by the Ministry of Foreign Affairs.

1. The Committee lays the strongest emphasis on paragraph 89 of the report, which it wishes to see implemented within three months. Paragraph 89 reads as follows: "in the light of all the information gathered, including its own on-site observations, <the Committee> has concluded that detectives of the Political Departments of the Ankara and Diyarbakır Police frequently resort to torture and/or other forms of severe ill-treatment, both physical and psychological, when holding and questioning suspects. These practices must cease." The Committee recommends that the Turkish authorities immediately take such the steps as they consider appropriate to remedy the situation in those Departments and that the Committee be informed of the steps so taken.

In paragraph 185 of the report, which refers to Article 10, paragraph 2 of the Convention, the Turkish authorities are requested to provide the Committee within three months with an account of the action taken to implement the recommendation set out in the aforementioned paragraph.

2. The Committee also emphasises the recommendation set out in paragraph 122 of the report and requests that it be implemented within six months. Paragraph 122 reads as follows: "the Committee recommends that the authorities immediately review the state of cellular accommodation in Ankara Police Headquarters, Diyarbakır Police Headquarters and the Interrogation Centres of the Political Department of the Diyarbakır Police and the Departmental Command of the Diyarbakır Gendarmerie Regiment, with a view to either its immediate improvement in the light of the remarks made in paragraphs 118 and 121 or its withdrawal from service."

3. Photocopies of the paragraphs of the report containing the Committee's recommendations, which must be implemented, are appended to this letter.

The Convention to which Turkey is party requires us to comply with the recommendations of the European Committee for the Prevention of Torture. In addition, in keeping with the Turkish Government's exemplary efforts in human rights matters at international level, it is necessary to ensure that the security forces behave during interrogation in such a way as to avoid giving rise to allegations of torture. Even in the event of isolated incidents of this kind, legal action must be taken systematically against those responsible. You are requested to read carefully the photocopies of the paragraphs setting out some of the Committee's main recommendations as indicated in this letter and appended thereto, to take the steps requested and remedy the deficiencies in question, and to provide an account of this action as soon as possible for transmission to the Committee.

FOR THE MINISTER

(Signed)

Hamdi ARDALI  
Provincial Governor  
Deputy Undersecretary

Appendices: 17.

DISTRIBUTION:

Offices of the Governors of Ankara and Diyarbakır Provinces.



APPENDIX I B

REPUBLIC OF TURKEY

MINISTRY OF THE INTERIOR

Directorate of Security  
Central Division

ANKARA

No: A-5/77-7692  
Subject: Human Rights

TO: OFFICE OF THE GOVERNOR OF ANKARA PROVINCE

Re: a. our letter No. A-5/286-26079-250749 of 27 September 1990  
b. letter No. ÇTAK-II-5803093 of 5 March 1991 from the Ministry of Foreign Affairs  
c. our letter No. A-5/77-7692-081267 of 1 April 1991.

As you will know, a delegation of the European Committee for the Prevention of Torture visited Turkey from 9 to 21 September 1990 and, in the course of its visit, conducted a number of investigations in your province.

The report drawn up on the delegation's visit and adopted by the Committee has been forwarded to our Ministry by the Ministry of Foreign Affairs.

1. The Committee lays the strongest emphasis on paragraph 89 of the report, which it wishes to see implemented within three months. Paragraph 89 reads as follows: "in the light of all the information gathered, including its own on-site observations, <the Committee> has concluded that detectives of the Political Departments of the Ankara and Diyarbakır Police frequently resort to torture and/or other forms of severe ill-treatment, both physical and psychological, when holding and questioning suspects. These practices must cease." The Committee recommends that the Turkish authorities immediately take such steps as they consider appropriate to remedy the situation in those Departments and that the Committee be informed of the steps so taken.

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The Convention to which Turkey is party requires us to comply with the recommendations of the European Committee for the Prevention of Torture. In addition, in keeping with the Turkish Government's exemplary efforts in human rights matters at international level, it is necessary to ensure that the security forces behave during interrogation in such a way as to avoid giving rise to allegations of torture. Even in the event of isolated incidents of this kind, legal action must be taken systematically against those responsible. You are requested to read carefully the photocopies of the paragraphs setting out some of the Committee's main recommendations as indicated in this letter and appended thereto, to take the steps requested and remedy the deficiencies in question, and to provide an account of this action as soon as possible for transmission to the Committee.

FOR THE MINISTER

(Signed)

Hamdi ARDALI  
Provincial Governor  
Deputy Undersecretary

Appendices: 17.

DISTRIBUTION:

Offices of the Governors of Ankara and Diyarbakır Provinces.

APPENDIX II

REPUBLIC OF TURKEY

MINISTRY OF THE INTERIOR

Directorate of Security  
Central Division

ANKARA

No.: A-5/77-7692  
Subject: Human Rights

03/04/1991

TO: OFFICE OF THE HEAD OF THE PUBLIC ORDER DIVISION

As you know, the Turkish Government, in keeping with its policy of securing full protection of human rights, ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on 26 February 1988.

Under the terms of the Convention a delegation of the European Human Rights Committee visited Turkey from 9 to 21 September 1990 to gather information on human rights.

The report setting out the delegation's findings on human rights in Turkey, which was adopted by the Committee, has been forwarded to our Ministry by the Ministry of Foreign Affairs.

The Committee, as it is entitled to under the Convention to which Turkey is party, has made a series of recommendations intended to remedy the deficiencies it found in our country in the matter of human rights. One of the recommendations listed under A. a. is as follows: "A code of practice for the conduct of interrogations to be drawn up and published".

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment, to which Turkey is party, requires us to comply with the recommendations made by the Committee as a result of its visit. As the conduct of interrogations is a matter for your division, you are requested to draw up a code of practice for the conduct of interrogations along the lines recommended by the Committee, to circulate it to all the security force units concerned and to inform me of the results as soon as possible.

FOR THE MINISTER

Hamdi ARDALI  
Provincial Governor  
Deputy Undersecretary

APPENDIX III

CODE OF PRACTICE FOR INTERROGATIONS

DEFINITION OF INTERROGATION

Method of investigation used in connection with the commission of an offence for the purpose of establishing the truth concerning the witnesses, victims and accused and thereby preventing erroneous assessment.

A. PURPOSE

To obtain the answers to the questions:

- a. Who?
- b. Why?
- c. Where?
- d. By what means?
- e. When?
- f. How?

B. PLACE OF INTERROGATION

C. INTERROGATOR'S QUALIFICATIONS

- a. Thorough knowledge of the subject
- b. Experience
- c. Understanding of the psychology of guilt
- d. Patience and cool-headedness

D. INTERROGATION RULES

- a. The persons present must be seated.
- b. The subject must be introduced in a calm atmosphere.
- c. Notes must be taken and explanations of contradictory answers requested.
- d. Use must be made of information contained in the archives.
- e. Information must be obtained from other units.
- f. The person being interrogated must not be allowed to ask questions.
- g. No discussion must take place.
- h. Questioning must be conducted without a break.
- i. If it becomes clear that another offence has been committed in addition to that under investigation, the second offence must be investigated after the interrogation concerning the first has been completed.
- j. Operations such as arrests or searches may have to be carried out immediately in the light of the information obtained during interrogation. The teams concerned must be on standby.
- k. Where necessary, confrontations or identifications must be arranged.

E. INTERROGATION METHODS

- a. The direct approach (if the suspect confesses of his or her own accord)
- b. The friendly, understanding approach (mild behaviour showing understanding of the suspect's position)
- c. The cause-and-effect method
- d. The indirect approach
- e. Concoction of a hypothetical/imaginary account (written reply)
- f. The cold approach
- g. Playing off of suspects against each other.

F. DUTIES TO BE PERFORMED AFTER INTERROGATION

- a. Transcription of statements
- b. Assessment and coordination
- c. Referral to the courts.

1. In the performance of your duties remember that the person you are interrogating, irrespective of the offence committed, enjoys constitutional rights.
2. It is imperative that interrogators read this code of practice immediately before the interrogation.
3. Comply with the code of practice for interrogations in order to protect the interrogation process and the statutory rights of the person interrogated and the interrogator.
4. Persons undergoing interrogation must on no account be subjected to torture or ill-treatment.

APPENDIX IV

CODE OF PRACTICE FOR REMAND IN CUSTODY

1. With a view to improving conditions as far as possible in the remand cells used for the temporary holding of suspects during remand in custody:

- a. Existing remand cells [should] be fitted with a sufficient number of solid, firmly fixed benches enabling suspects to rest;
- b. In cases where the physical characteristics of remand cells are adequate, permission [should] be given for detainees to be issued with blankets where weather conditions so demand;

2. Following a review of the state of remand cells, and with a view to such improvements as are dictated by the decisions of the commissions concerned:

- a. As regards standards in relation to the physical characteristics of cells, the Committee suggests that a one-person cell should be approximately 7m<sup>2</sup> in area (2m or more between walls, 2.5m or more between floor and ceiling);
- b. It is naturally considered desirable for all cells (including those used for temporary holding purposes) to possess lighting and be adequately ventilated;
- c. Improvements [should] be made to toilet and washing facilities for detainees;

Work [must] start with a view to providing existing remand cells with the above-mentioned characteristics and a standard design in this respect [must] be applied to future buildings;

3. As regards administrative procedures:

- a. Periods of custody must be strictly complied with;
- b. Bearing health requirements in mind, provision [should] be made for suspects to wash and meet their other needs under staff escort;
- c. Persons remanded in custody [should] be examined by a doctor as before, and suspects [should] also be examined by a doctor when taken to court;
- d. The duties referred to in the above paragraphs may be performed by a civil service doctor or Forensic Institute doctor; however, at the detainee's request, if it is not considered likely to jeopardise the investigation, the examination may be conducted by a private doctor (who may be chosen from the list of doctors drawn up by the officials concerned);
- e. Medical examinations of detainees should be conducted in private and all due security precautions taken for the purpose.

APPENDIX V

REPUBLIC OF TURKEY

MINISTRY OF THE INTERIOR

Directorate of Security

ANKARA  
01/05/1991

URGENT TELEGRAM

TO: OFFICES OF ALL PROVINCIAL GOVERNORS

1. In accordance with the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, to which Turkey is party, a delegation of the European Committee for the Prevention of Torture conducted a fact-finding visit to Turkey from 9 to 21 September 1990 and drew up a report on our country. In its report the Committee recommends that a code of practice for the conduct of interrogations and a code of practice setting out the human rights rules to be complied with in respect of persons remanded in custody be drawn up and circulated to the units concerned.

The codes of practice drawn up in compliance with the Committee's recommendations are appended. Please ensure that all staff are informed of and comply with the requirements set out in these codes of practice.

2. Please ensure that copies are made of the codes of practice and posted up at the entrance to the rooms used for interrogations.

3. Letter to the Office of the Governor of Ankara Province, urgent telegrams to the offices of the 72 provincial governors.

4. Directorate of Security, Central Division, No. A-5 (77-106-7692-9927).

FOR THE MINISTER

Hamdi ARDALI  
Provincial Governor  
Deputy Undersecretary

Appendices: 3

(Signed)

30 April 1991 Head of Unit: M. Dađlı  
30 April 1991 Head of Section: E. Çöl  
30 April 1991 Head of Division: A.N. Canca  
30 April 1991 Deputy Director: H. Çapkin



APPENDIX VI

REPUBLIC OF TURKEY

MINISTRY OF THE INTERIOR

Directorate of Security

Central Division

ANKARA

No.: A-5/

01/05/1991

Subject: Human Rights

TO: OFFICE OF THE HEAD OF THE POLICE INSPECTION DEPARTMENT

As you know, Turkey ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in February 1988.

Under the terms of the Convention a delegation of the European Committee for the Prevention of Torture conducted a fact-finding visit to Turkey from 9 to 21 September 1990. In the appended report setting out its observations, the delegation made a number of recommendations on human rights matters.

In order to ensure that the security forces comply with the recommendations in the report, you are requested to bear those recommendations in mind in the course of your inspections.

FOR THE MINISTER

(Signed)

Hamdi ARDALI  
Provincial Governor  
Deputy Undersecretary

Appendices: 85

APPENDIX VII

REPUBLIC OF TURKEY

MINISTRY OF JUSTICE

DIRECTORATE OF CRIMINAL AFFAIRS

No: CIGM-3.5.11.1978

ANKARA

Subject: Report of the European Committee for the Prevention of Torture

1/5/1991

URGENT

TO:

18701-OFFICE OF THE ANKARA CHIEF PUBLIC PROSECUTOR

18702-OFFICE OF THE CHIEF PUBLIC PROSECUTOR AT  
THE ANKARA STATE SECURITY COURT

18703-OFFICE OF THE CHIEF PUBLIC PROSECUTOR  
AT THE DIYARBAKIR STATE SECURITY COURT

18704-OFFICE OF THE DIYARBAKIR CHIEF PUBLIC PROSECUTOR

I. As you know, the Turkish Constitution provides in Article 17/3 that "No one shall be subjected to torture or ill-treatment, or to inhuman or degrading punishment or treatment". Torture, ill-treatment and inhuman or degrading punishment or treatment are thus prohibited by the Constitution, which is binding on both the legislature, the executive, the judiciary and the administrative authorities.

1.1 The practice of "torture", which has been contrary to the traditions and customs of Turkish society from the outset, was prohibited by Article 73 of the 1924 Constitution and Article 14/3 of the 1961 Constitution.

1.2 In keeping with these mandatory, binding constitutional provisions, the practice of torture and ill-treatment is a criminal offence under the Turkish Criminal Code of 1 March 1926 (No. 765), which makes it subject to automatic prosecution under Articles 243 and 251.

II. In addition, the principle that no one shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment is enshrined in international instruments and Conventions which came into force after the second world war, when supervisory machinery was also established to monitor their implementation.

Those instruments, to which Turkey is party, are as follows:

2.1 The "Universal Declaration of Human Rights" adopted by Resolution 217 (III) of the United Nations General Assembly on 10 December 1948 provides in Article 5 that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." (Adopted by Cabinet decision 1.919 of 6 April 1949; Official Gazette No. 7217 of 27 May 1949, Düstur Series 3, Volume 30, No. 1019).

2.2 The European Convention for the Protection of Human Rights and Fundamental Freedoms (signed in Rome on 4 November 1950 and ratified by Act No. 6366 of 10 March 1954; Official Gazette No. 8662 of 19 March 1954, Düstur Series 3, Volume 35, No. 1567) provides in Article 3 that "No one shall be subjected to torture or to inhuman or degrading treatment or punishment". Under Article 15/2 of the Convention, the prohibition of torture is absolute and no derogation may be made from this provision except in respect of deaths resulting from lawful acts of war.

An important feature of the European Convention on Human Rights is the exercise of a form of judicial supervision to determine whether states which have ratified the Convention have breached its provisions, including the prohibition of torture.

2.2.1 Thus, under Article 24 of the Convention, any State may refer to the European Commission of Human Rights any alleged breach by another Contracting State of the provisions of the Convention, such as Article 3 prohibiting torture and inhuman or degrading treatment or punishment (complaints by one State concerning another).

2.2.2 In addition, under Article 25 of the Convention, any person, non-governmental organisation or group of individuals may likewise address petitions to the European Commission of Human Rights (Turkey recognised the right of individual petition by Cabinet Decision 87-11439 of 22 January 1987).

2.2.3 In the event of either a complaint by one State concerning another under Article 24 of the European Convention on Human Rights or an individual petition under Article 25, if no friendly settlement of the matter is reached under Articles 28 and 30 of the Convention, the European Commission of Human Rights draws up a report under Article 31 for submission to the Committee of Ministers of the Council of Europe; the matter may then be referred to the European Court of Human Rights under Article 48 of the Convention.

2.2.4 Thus, Contracting States are bound both by the Committee of Ministers decision as to whether there has been a breach of the Convention, taken under Article 32 on the basis of the report drawn up by the European Commission of Human Rights under Article 31 concerning complaints lodged under Articles 24 and 25, and, if the matter is referred to the European Court of Human Rights, by the final decision of the Court under Article 50 (Articles 32 and 53 of the Convention).

III. In addition to the above-mentioned instruments for the protection of human rights and fundamental freedoms, specific Council of Europe and United Nations Conventions have been drawn up and have come into force for the prevention of torture, ill-treatment and punishment.

3.1 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ratified by Act No. 3411 of 25 February 1988; text of the Convention published in Official Gazette No. 19738 of 27 February 1988).

The main provisions of the Convention are as follows:

3.1.1 A European Committee shall be established to work for the prevention of torture and inhuman treatment or punishment (Article 1).

3.1.2 Under the terms of the Convention the Committee shall visit member countries and examine the treatment of persons deprived of their liberty on the spot. Member countries shall permit these visits. The Committee and the national authorities of the member country concerned shall cooperate with each other (Articles 2, 3).

3.1.3 The Committee may organise non-periodic visits to places where persons are deprived of their liberty (Article 7).

3.1.4 A Contracting State shall give the Committee access to its territory for the purpose of the visit and shall give members of the Committee the right to travel.

3.1.5 It shall provide full information on the places where persons deprived of their liberty are being held and shall give the Committee unlimited access to such places.

3.1.6 The Committee may interview in private persons deprived of their liberty; it may communicate freely with any person whom it believes can supply relevant information and, if necessary, shall immediately communicate observations to the competent authorities of the country concerned (Article 8).

3.1.7 In response to the Committee's requests to carry out visits and interviews under Article 8 of the Convention, the countries concerned may, "in exceptional circumstances" only, make representations to the Committee against the time and place of the visit. Those circumstances are listed as follows in Article 9 of the Convention:

- serious disorder in places where persons are deprived of their liberty;
- national defence;
- public safety;
- the medical condition of a person;
- an urgent interrogation relating to a serious crime.

3.1.8 After each visit, the Committee, taking account of any observations submitted by the Party concerned, shall draw up a report setting out the facts found during the visit and its recommendations and shall transmit the report to the country concerned. The Committee may consult with the Party concerned with a view to suggesting, if necessary, improvements in the treatment of persons deprived of their liberty. If the Party fails to comply with the Committee's recommendations for improvements, the Committee shall decide by a majority of two-thirds of its members to make a public statement on the matter (Article 10).

3.1.9 The information gathered by the Committee, its report and its consultations with the Party concerned shall be confidential. The report shall be published, together with any comments of the country concerned, only at the request of the country visited (Article 11).

3.1.10 The members of the Committee, experts and other persons are required both during and after their terms of office to maintain the confidentiality of the information they have obtained (Article 13).

3.2 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratified by Act No. 3441 of 21 April 1988; text of the Convention published in Official Gazette No. 19895 of 10 August 1988).

Immediately after the European Convention, Turkey ratified the United Nations Convention on the same subject.

The main provisions of the Convention may be summarised as follows:

3.2.1 Under the terms of the Convention, the Contracting Parties shall take effective legislative, administrative, judicial or other measures to prevent acts of torture (Article 2).

3.2.1 Contracting states shall ensure that education regarding the prohibition against torture is included in the training of personnel whose duties relate to custody, arrest, imprisonment and interrogation (civil and military personnel, medical staff, public officials); the subject shall be included in training courses (Article 10/1).

3.2.2 The prohibition against torture shall be included in the rules or instructions issued in regard to the duties or functions of such personnel (Article 10/2).

3.2.3 Contracting states shall ensure that any statement found to have been made as a result of torture shall not be invoked as evidence in any proceedings, except as evidence against a person who has committed torture (Article 15).

3.2.4 The United Nations Convention, like the European Convention, provides for the establishment of a Committee against Torture (Article 17).

3.2.5 Contracting states shall inform the Committee of the measures they have taken to give effect to their undertakings under the Convention (Article 19) (Turkey complied with this requirement in Geneva in October 1990).

3.2.6 If the Committee receives reliable information indicating that torture is being systematically practised in the territory of a Contracting State, it may invite that State to submit observations. If it decides that this is warranted, the Committee may make a confidential enquiry. The State concerned shall co-operate in the enquiry. The enquiry shall be confidential; after it has been completed and after consultations with the State concerned, the Committee may decide to include a summary account of the results in its report to the United Nations General Assembly and the Contracting States under Article 24 of the Convention (Article 20).

IV. The importance of respect for human rights and fundamental freedoms was emphasised in Principle No. VII of the Helsinki Final Act signed in Helsinki in 1975 by 34 European countries, including Turkey, with a view to reducing tension between the blocs in Europe, bringing the Cold War period to an end and securing closer co-operation in Europe.

The latest of the ensuing Conferences on Security and Co-operation in Europe was the Paris Summit, which took place from 19 to 21 November 1990 and was attended by 34 European countries, including Turkey. The "Paris Charter for a New Europe" signed by the heads of state or government of the participating states lays down the principles which are to underpin the new Europe, placing the emphasis on human rights and fundamental freedoms. Under the heading "Human Rights, Democracy and Rule of Law", it is asserted once again that "no one shall be subject to arbitrary arrest or detention or to torture or other cruel, inhuman or degrading treatment or punishment".

V. As is apparent from paragraphs I. and II. above, both the principles enshrined in the Constitution and Turkey's domestic legislation place overriding emphasis on human rights and fundamental freedoms; in particular, torture and ill-treatment have been regarded as punishable offences since 1926. Moreover, as the international Conventions referred to in paragraphs III. and IV. above were ratified by Turkey under lawful procedure, they have the force of law in Turkey under Article 90 of the Constitution.

VI. As explained in the preceding paragraphs, Turkey, both in terms of its constitutional principles and domestic legislation and in terms of the principles it upholds under the statutes and Conventions to which it is party as a member of the United Nations and the Council of Europe, attaches overriding importance to human rights and has agreed to be bound by the supervisory machinery relating to the exercise of human rights and fundamental freedoms.

These developments are historically consistent with the character, customs and traditions of our nation. Moreover, it is desirable that the Republic of Turkey should be known as a democratic, secular welfare state governed by the rule of law, respectful of human rights and of the principle laid down in the Preamble to the Constitution that it is a full and honourable member of the world family of nations faithful to the nationalism of Atatürk and bound by the fundamental principles set forth in the Preamble.

However, it has for some time been alleged in various quarters in Turkey and abroad that human rights are violated in our country, that the statutory rights of persons remanded in custody are flouted and that persons are subjected to torture and ill-treatment. Turkish legislation requires that appropriate legal action be taken in the face of such allegations: the authorities responsible for investigating such allegations and complaints, which constitute offences under Turkish law, must immediately initiate an investigation under lawful procedure or refer complaints to the prosecuting authorities; efforts are thus being made to counter the allegations concerned on the basis of information provided by the judicial authorities. However, in some cases, the supervisory machinery by which Turkey has agreed to be bound as part of its obligations under the Conventions it has ratified has been set in motion.

It is therefore essential, in the event of allegations of torture, ill-treatment or degrading punishment that complaints should immediately be referred to the investigating and prosecuting authorities and that the proceedings should be completed rapidly; it is also important that suspects remanded in custody should undergo medical examinations before and after interrogation.

The European Committee for the Prevention of Torture set up under the European Convention for the Prevention of Torture referred to in paragraph III., sub-paragraphs 3 and 4 above visited Turkey from 9 to 21 September 1990; the confidential report drawn up by the Committee under Article 10 of the Convention has been transmitted to the Turkish government, whose co-operation has been requested with regard to the Committee's proposals (in the event of failure to co-operate, the Committee may decide by a majority of two-thirds of its members to make a public statement on the matter).

The Committee requests in paragraph 185 of its report, under the heading "Action on the CPT's recommendations", that (i.) appropriate steps be taken immediately to stop torture and severe ill-treatment, both physical and psychological, in the Political Departments of the Ankara and Diyarbakır Police and (ii.) the Committee be informed of the steps so taken (in this connection the Ministry of Foreign Affairs has requested that information be provided by 1 May 1991 for transmission to the Committee).

You are accordingly requested to pay the most meticulous attention to the following points:

6.1 As the subjection of persons remanded in custody to physical or psychological torture and severe ill-treatment is a punishable offence under Turkish law, Articles 153, 154 and 156 of the Code of Criminal Procedure are to be applied in respect of persons placed in the Political Departments of the Ankara and Diyarbakır Police Headquarters and the matter is to be closely followed in accordance with those provisions; persons remanded in custody are to undergo a medical examination before interrogation and at the end of their interrogation, and the relevant medical certificates are to be obtained.

6.2 Allegations of torture and severe ill-treatment in those places of detention are to be investigated immediately and the Ministry is to be informed immediately of the progress and outcome of the investigation;

6.3 In cases covered by Section 15, final paragraph, of Suppression of Terrorism Act No. 3713 of 12 April 1991, the matter is to be referred to the appropriate administrative authority with a view to the necessary steps being taken under the Proceedings against Civil Servants Act, and the Ministry is to be informed of the matter.

Mahmut Oltan SUNGURLU

MINISTER

DISTRIBUTION:

- Office of the Ankara Chief Public Prosecutor
- Office of the Chief Public Prosecutor at the Ankara State Security Court
- Office of the Diyarbakır Chief Public Prosecutor
- Office of the Chief Public Prosecutor at the Diyarbakır State Security Court

29.4.1991 Clerk S. Şimşek

4.1991 Inv. Judge H. B. Yüce

30.4.1991 Director T. Muratoğlu

30.4.1991 Deputy Undersecretary Y. Türkmen

30.4.1991 Undersecretary A. Yüksel



**Second interim report from the Turkish authorities  
concerning paragraph 122 of the CPT's report  
on the September 1990 visit to Turkey**

MINISTRY OF FOREIGN AFFAIRS  
Office of the Head of the Human Rights Division

12 July 1991

NOTE

Action taken by the Turkish authorities on the  
recommendations of the European Committee for the  
Prevention of Torture (CPT)

Subject: Implementation of the recommendation set out in paragraph 122 of the CPT report

Introduction

1. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey from 9 to 21 September 1990. In paragraph 122 of its report on the visit, the committee recommended that the Turkish authorities immediately review the state of remand cells in Ankara Police Headquarters, Diyarbakır Police Headquarters and the interrogation centres of the Political Department of the Diyarbakır Police and the Regional Command of the Diyarbakır Gendarmerie, with a view to either their immediate improvement in the light of the remarks made in paragraphs 118-121 of the report or their withdrawal from service. The CPT is of the opinion that a similar review of remand cells in police and gendarmerie establishments in general would also be appropriate. The CPT's views and recommendations were forwarded to the appropriate authorities.
2. The steps taken by the authorities concerned in compliance with the CPT's recommendations are summarised below. The relevant documents are appended.

Action taken by the Directorate of Security of the  
Ministry of the Interior

3. In a circular to the offices of the 73 provincial governors dated 1 April 1991, the Directorate of Security of the Ministry of the Interior drew attention to the recommendations set out in the CPT report and emphasised the need to review and improve the state of cellular accommodation in police and gendarmerie establishments. (Appendix 1).

4. By letter dated 26 April 1991 the Directorate of Security requested the Office of the Head of the Anti-Terrorism Division to order a review of the physical characteristics of rooms and cells in detention areas used for the temporary holding of suspects during remand in custody and secure the start of the necessary renovation work with a view to bringing this accommodation up to the standards indicated in the CPT's recommendations. (Appendix 2).

5. By letter of 5 July 1991 (Appendix 3) the Ministry of the Interior informed the Ministry of Foreign Affairs that:

- a) the size, lighting and ventilation of the cells referred to in paragraph 113 of the report had been reviewed and the final stage had been reached in the matter of renovation;
- b) the single ventilation holes 10cm in diameter in the doors of the remand cells in the Diyarbakır Police Headquarters buildings had accordingly been replaced by two ventilation holes 20 cm in diameter in each door and lighting in the cells had been brought up to adequate standards (a plan of the cells was appended - Appendix 4);
- c) withdrawal from service of the cells measuring 1.57m x .81m had begun and work had started on the building of cells complying as far as possible with the standards required in the report;
- d) the Administration and Finance Division had been instructed to pay 55,269,151 TL for the improvement of cellular accommodation in Ankara Police Headquarters and for work designed to remedy the deficiencies observed there (Appendix 5);
- e) areas intended as detainee accommodation for multi-day periods had been renovated and separate areas had been arranged for short-stay accommodation.

6. The Directorate of Security of the Ministry of the Interior has had the CPT report printed in the form of a "Confidential" (highly restricted) booklet and has sent a copy to the 73 provincial police headquarters and to the offices of the heads of division concerned.

Action taken by the Ministry of the Interior  
Gendarmerie Central Command

7. By letter of 3 May 1991 (Appendix 6) the Gendarmerie Central Command informed the Ministry of the Interior that work undertaken with a view to bringing 19 cells belonging to the Regional Command of the Diyarbakır Gendarmerie and measuring 1.51m x 2.12m x 2.18m (3.2m<sup>2</sup>) up to the standards specified in the report would be completed in July 1991. (Appendix 6).

8. It was also stated that work had started on the review of other gendarmerie units, the identification of remand cells of unacceptable size and with insufficient lighting and ventilation and the renovation of those cells in order to bring them up to standard.

REPUBLIC OF TURKEY  
MINISTRY OF THE INTERIOR  
Directorate of Security

Ankara

No: Head Cent.Div.A.5 (77/7692)-081267

1 April 1991

URGENT TELEGRAM

Subject:

TO: OFFICES OF THE 72 PROVINCIAL GOVERNORS

1. As you will remember, the Turkish Government, in keeping with its policy of securing full protection of human rights, ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on 26 February 1988. The Convention provides for the establishment of a committee empowered to visit any place where persons are deprived of their liberty, including police stations, civilian and military prisons, interrogation and detention centres and hospitals, at any time, after informing the country concerned of its intention.

Under the terms of the Convention the European Committee for the Prevention of Torture visited Turkey from 9 to 21 September 1990 and gathered information in several provinces. In its report on the visit, which was sent to Turkey on 4 February 1991, the committee states that persons remanded in custody are subjected to ill-treatment by members of the security forces.

The committee, as the Convention empowers it to do, has made a series of recommendations intended to remedy the deficiencies it found in our country. The recommendations are as follows:

- a) Members of the security forces to be prevented from resorting to physical or psychological torture or ill-treatment during interrogation;
- b) Suspects remanded in custody to have access to a lawyer and their relatives to be informed of their detention;
- c) Medical examinations to be conducted by Forensic Institute doctors before and after interrogation;
- d) Improvements to be made in cellular accommodation in police and gendarmerie establishments;
- e) All allegations of torture to be thoroughly investigated.

In order to counter any ill-intentioned allegations that might be made in the international arena against our country, whose policies have always been directed towards the protection of human rights, and to conform to the provisions of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, it is imperative that we should comply with the committee's recommendations. You are accordingly requested to act upon the aforementioned recommendations.

2. Urgent telegram to the offices of the 72 provincial governors, letter to the Office of the Governor of Ankara Province.

3. Dir.of Sec. Head Cent. Div. No A/5 (77-7692).

FOR THE MINISTER

Hamdi ARDALI  
Provincial Governor  
Deputy Under Secretary

REPUBLIC OF TURKEY  
MINISTRY OF THE INTERIOR  
Directorate of Security

ANKARA

No.: ASAYIŞ (Public order) A62142

26 April 1991

Subject: Human Rights

TO: OFFICE OF THE HEAD OF THE ANTI-TERRORISM DIVISION

Re: a. your letter No. A-5-77-77692 of 3 April 1991  
b. your letter No. A-5-134-11783 of 12 April 1991

Our division's views on the visit carried out by the European Committee for the Prevention of Torture to gather information on human rights are set out below.

We are of the opinion that:

1. With a view to improving conditions as far as possible in the cells used for the temporary holding of suspects during remand in custody:
  - a. Existing remand cells should be fitted with a sufficient number of solid, firmly fixed benches enabling suspects to rest;
  - b. In cases where the physical characteristics of remand cells are adequate, permission should be given for detainees to be issued with blankets where weather conditions so demand;
2. Following a review of the state of remand cells, and with a view to such improvements as are dictated by the decisions of the commissions concerned:
  - a. As regards standards for the physical characteristics of cells, the committee suggests that a one-person cell should be approximately 7m<sup>2</sup> in area (2m or more between walls, 2.5m or more between floor and ceiling);
  - b. It is naturally considered desirable for all cells (including those used for temporary holding purposes) to possess lighting and be adequately ventilated;
  - c. Improvements should be made to toilet and washing facilities for detainees;

Work should start with a view to providing existing remand cells with the above-mentioned characteristics and a standard design in this respect should be applied to future buildings;

3. As regards administrative procedures:
- a. Periods of custody must be strictly complied with;
  - b. Bearing health requirements in mind, provision should be made for suspects to wash and meet their other needs under staff escort;
  - c. Persons remanded in custody should be examined by a doctor as before, and detainees should also be examined by a doctor when taken to court;
  - d. The duties referred to in the above paragraphs may be performed by a civil service doctor or Forensic Institute doctor; however, at the detainee's request, if it is not considered likely to jeopardise the investigation, the examination may be conducted by a private doctor (who may be chosen from the list of doctors drawn up by the officials concerned);
  - e. Medical examination of detainees should be conducted in private and all due security precautions taken for the purpose;
  - f. The code of practice for the conduct of interrogations is appended. Copies should be made and posted up at the entrance to the rooms used for interrogation.

Ahmet KAROL  
Head of the Public Order Division

Appendices: 2 (code of practice)

REPUBLIC OF TURKEY  
MINISTRY OF THE INTERIOR

Directorate of Security

Central Division

ANKARA

No: A-5/223/18277

5 July 1991

Subject: Request for information

TO: MINISTRY OF FOREIGN AFFAIRS

Re: Your letter No. ÇTAK-1742-6224 of 12 June 1991

The recommendation contained in paragraph 122 of the report setting out the observations of the European Committee for the Prevention of Torture on its visit to Turkey between 9 and 21 September 1991, to the effect that improvements should be made to the remand cells in the interrogation centres of Ankara and Diyarbakır Police Headquarters, is being implemented with the requisite care.

The ventilation holes 10cm in diameter in Diyarbakır Police Headquarters have been replaced by two ventilation holes 20 cm in diameter in each cell and the lighting has been brought up to adequate standards. Withdrawal from service of the cells measuring 1.57m x .91m has begun and work has started on the building of cells complying as far as possible with the required standards. A plan of the cells is provided in Appendix 1.

The written instructions to the appropriate unit for the payment of 55,269,151 TL to Ankara Police Headquarters for the improvement of existing cells and work designed to remedy the deficiencies observed there are reproduced in Appendix 2.

In addition, the size, lighting and ventilation of the cells referred to in paragraph 113 of the aforementioned report have been reviewed and the final stage has been reached in the matter of renovation.

The area used as detainee accommodation for long (multi-day) periods, as indicated in paragraph 117, has been renovated; separate areas have been arranged for short stays of only a few days.

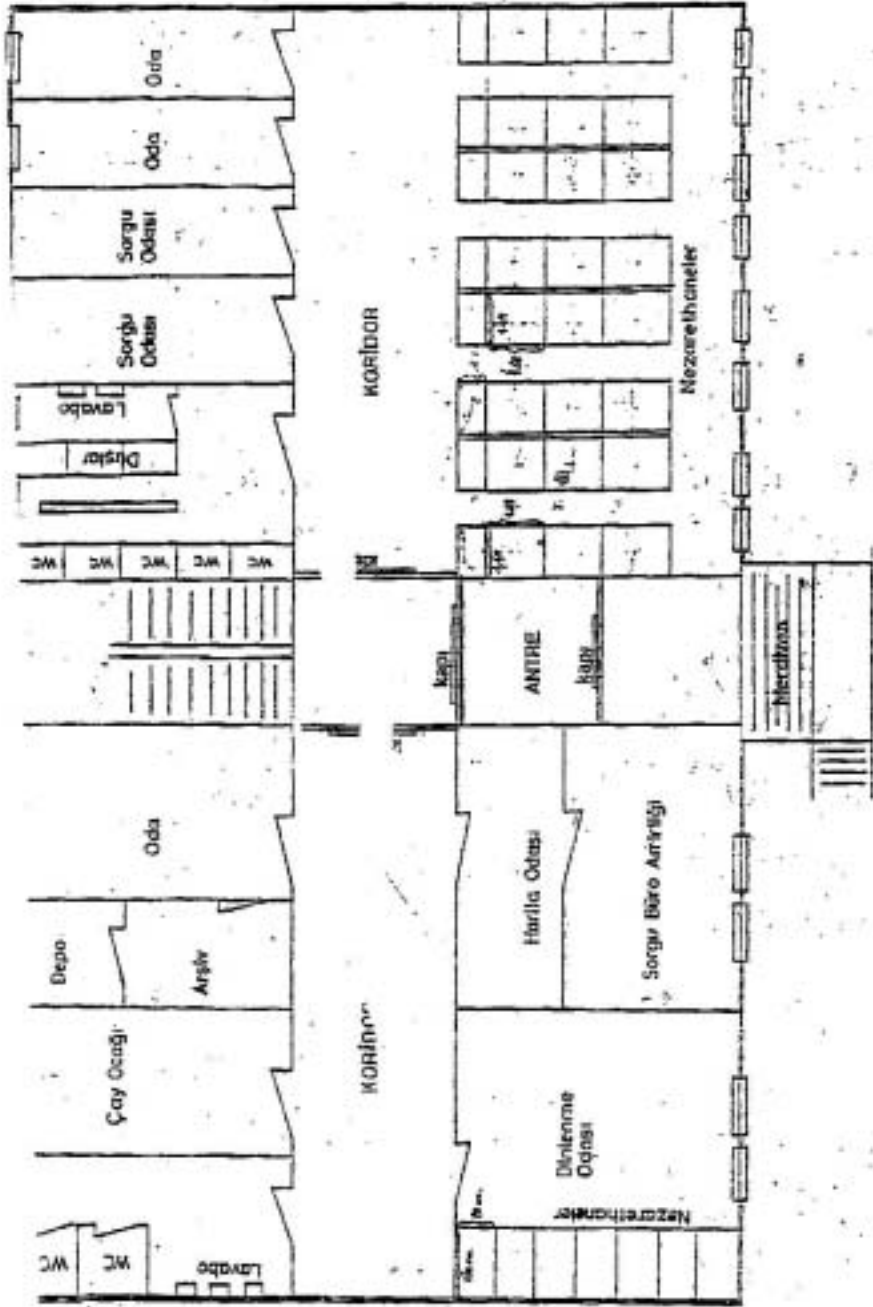
Persons remanded in custody overnight, as indicated in paragraph 122, are provided with blankets where weather conditions so demand, washing facilities and food; their other needs are also met.

FOR THE MINISTER

Hamdi ARDALI  
Provincial Governor

Appendices: 2

Deputy Under Secretary





REPUBLIC OF TURKEY  
MINISTRY OF THE INTERIOR  
Directorate of Security  
Central Division

ANKARA

No.: A-5/206-17409

12 June 1991

Subject: Payment

TO: OFFICE OF THE HEAD OF THE ADMINISTRATION AND FINANCE DIVISION

Re: a. our letter No. A-5/77-7692/088790 of 9 April 1991 to Ankara Police Headquarters  
b. letter No. 83 of 31 May 1991 from Ankara Police Headquarters

As you will remember, under the terms of the Convention ratified by our country, a delegation of the European Committee for the Prevention of Torture visited Turkey from 9 to 21 September 1990 for the purpose of gathering information. The Turkish Government was informed in the ensuing report that the state of the remand cells in Ankara Police Headquarters was inconsistent with human rights and would have to be brought up to standard. Our division issued Ankara Police Headquarters with instructions in the matter by above-mentioned letter a..

By letter b. Ankara Police Headquarters reported that the cost of the renovation work required to remedy the deficiencies in question was estimated at 55,269,151 TL and requested payment of the corresponding amount.

You are accordingly requested to pay the amount in question to Ankara Police Headquarters.

FOR THE DIRECTOR

Hüseyin ÇAPKIN  
Deputy Director

REPUBLIC OF TURKEY  
MINISTRY OF THE INTERIOR  
GENDARMERIE CENTRAL COMMAND

ANKARA

Ref.: 0621-/98-91/Asys. S.ASAYIŞ (Public order) (602)

3 May 1991

Subject: CPT Report

TO: MINISTRY OF FOREIGN AFFAIRS

Re: letter No. CTAK-II-835-3761 of 25 March 1991 from the Ministry of Foreign Affairs

1. In connection with its visit to Turkey from 9 to 21 September 1990, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) stated under the terms of Article 10 paragraph 1 of the Convention that:

- a. Prisoners sent to hospital for treatment were tied to their hospital beds or furniture for security purposes,
- b. The delegation had heard very few allegations of torture in respect of the gendarmerie, but suspects were very often treated very roughly and sometimes beaten by gendarmerie officers,
- c. The delegation had seen 19 cells belonging to the Regional Command of the Diyarbakır Gendarmerie and measuring 1.51m x 2.12m x 2.18m (3.2 m<sup>2</sup>), with insufficient ventilation and lighting.

2. The following action has been taken:

- a. The practice referred to in paragraph a. is a necessary measure taken in exceptional cases where a hospital is unable to provide cellular accommodation for convicts and remand prisoners or where a prisoner's state of health would allow him to escape. It is planned to include cellular accommodation for the purpose in future hospitals and steps to set aside areas for the purpose in existing hospitals are currently being co-ordinated at interministerial level.
- b. Close attention is being paid to the observation referred to in paragraph b. Legal action is being taken immediately against personnel found to have engaged in such behaviour, even to a minimal extent.
- c. Work intended to bring the 19 cells referred to in paragraph c. up to the standards indicated in the Convention [report] will be completed in July 1991.

Work has started on the review of accommodation in other gendarmerie units, the identification of remand cells of unacceptable size and with insufficient lighting and ventilation and the renovation of those cells in order to bring them up to standard.

FOR THE MINISTER

Hamdi ARDALI  
Provincial Governor  
Deputy Under Secretary



**Six-month report on the action taken by the Turkish authorities  
in response to the CPT's report  
on the September 1990 visit to Turkey  
(Received on 31 July 1991)**

**CHAPTER I**

Action taken to counter allegations of torture and other forms of ill-treatment of persons in police and gendarmerie custody

**CHAPTER II**

Action taken to review and improve conditions of detention in the police and gendarmerie establishments visited by the CPT delegation

**CHAPTER III**

Action taken concerning allegations of torture and severe ill-treatment in the prisons visited by the CPT delegation

**CHAPTER IV**

Action taken to improve conditions of detention in the prisons visited by the CPT delegation

## **APPENDICES**

### **APPENDIX I**

Circular dated 7 May 1991 from the Ministry of Justice to the offices of chief public prosecutors

### **APPENDIX II**

Judicial aspects of the Government Programme

### **APPENDIX III**

Letter of 2 July 1991 from the Institute of Forensic Medicine of the Ministry of Justice. Vocational training and professional independence of Forensic Institute doctors

### **APPENDIX IV**

Information on provisions relating to human rights in Turkish legislation

### **APPENDIX V**

Table: Police schools curriculum

### **APPENDIX VI**

Syllabus of judicial investigation course in police schools

### **APPENDIX VII**

Table: Weekly breakdown of tuition in police colleges

### **APPENDIX VIII**

Table: Police Academy degree course programme

### **APPENDIX IX**

Table: Police Academy special course programme

### **APPENDIX X**

Syllabus of Police Academy interrogation course

### **APPENDIX XI**

Subjects relating to human rights in police training establishment syllabuses

### **APPENDIX XII**

Letter of 26 April 1991 from the Directorate of Security of the Ministry of the Interior concerning the improvement of detention conditions in cellular accommodation in police establishments

**APPENDIX XIII**

Circular of 1 April 1991 from the Directorate of Security of the Ministry of the Interior to the offices of provincial governors concerning the improvement of conditions in cellular accommodation in police and gendarmerie establishments

**APPENDIX XIV**

Letter of 3 May 1991 from the Gendarmerie Central Command at the Ministry of the Interior concerning the improvement of remand cells in gendarmerie units

**APPENDIX XVI**

Photographs of Ankara Central Closed Prison

**APPENDIX XVI**

Photographs of Malatya E-type Prison

**APPENDIX XVII**

Letter of 3 July 1991 from the Directorate of Prisons of the Ministry of Justice

## **CHAPTER I**

### **Action taken to counter allegations of torture and other forms of severe ill-treatment of persons in police and gendarmerie custody**

#### **A. Action taken on the CPT's recommendations**

##### **Prevention of allegations concerning physical and psychological torture and/or ill-treatment of detainees by detectives of the Political Departments of the Ankara and Diyarbakır Police (paragraph 89)<sup>1</sup>**

1. Our three-month report on the action taken in this area was forwarded to the CPT on 2 May 1991. In its reply dated 10 July 1991 the CPT stated that the information provided was insufficient and requested information on the practical steps taken by the Offices of the Governors of Ankara and Diyarbakır Provinces. The CPT also stressed that the "Code of Practice for Interrogation" fell short of international standards and would need to be revised. The CPT's comments and proposals have been forwarded to the Ministry of Justice and the Ministry of the Interior. The CPT will be informed under separate cover of the results of the action taken.

##### **Reduction of the Length of Custody (paragraph 96)**

2. The Bill drawn up by the appropriate authorities on the reduction of the length of custody has been submitted to Parliament by the Cabinet. The Bill provides for the reduction of periods of custody. Parliament is at present in recess; at the beginning of the forthcoming session the necessary efforts will be made to ensure the adoption of the Bill.

##### **Reduction of maximum possible periods of custody (paragraph 96)**

3. It was learned during the parliamentary debate on the above-mentioned Bill that consideration would be given to the possibility of reducing even further the maximum possible periods of custody in regions where a state of emergency has been declared and that the necessary steps would be taken for the purpose by the Ministry of Justice and the Ministry of the Interior.

##### **Notification of custody (paragraph 99)**

4. The Ministry of Justice has stated that steps will be taken to ensure that during the discussion by the relevant parliamentary committees of the government Bill and private members' Bills for the amendment of the Code of Criminal Procedure, the necessary proposals will be made for the amendment of the relevant article of the Code in line with the recommendation that exceptions to the obligation to notify a person's next of kin of his arrest should be clearly defined by law and made subject to a specified time limit.

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<sup>1</sup> Paragraph numbers refer to the relevant paragraph of the CPT Report.



**Detainees' access to legal advice (paragraph 99)**

5. The Bill drawn up by Mr Gökhan MARAŞ MP (Minister for Cultural Affairs in the previous government) and others, which is at present pending before Parliament, provides for the effective regulation by law of the right of persons in police or gendarmerie custody to have access to legal advice and for persons remanded in custody to be informed of this right. It is considered to contain sufficient provisions in the matter. The appropriate authorities will ensure the necessary support during the discussion of the Bill by the parliamentary committees concerned.

**Medical examination (paragraph 103)**

6. The Ministry of Justice has stated that the necessary steps will be taken to give effect to the proposal that medical examination of detainees be conducted out of the hearing, and preferably out of the sight, of police or gendarmerie officers and that the results of medical examinations and the detainee's statements be recorded by the doctor.

**Code of Practice for Interrogation (paragraph 107)**

7. The "Code of Practice for Interrogation" which is now applied by the Ministry of the Interior and was submitted to the CPT for information on 2 May 1991 was considered to include techniques of some importance and effectiveness in ensuring that the conduct of interrogations is consistent with human rights requirements. However, in its reply dated 10 July 1991 the CPT stated that the code of practice was inadequate and that it would be advisable to revise it completely in the light of the information provided in paragraph 106 of the CPT Report. The CPT's comments and proposals have accordingly been forwarded to the Ministry of Justice and the Ministry of the Interior. The CPT will be informed of the results of the work on the redrafting of the Code of Practice for Interrogation.

**Electronic recording of interrogations (paragraph 107)**

8. The electronic recording of interrogations conducted in police and gendarmerie establishments depends first and foremost on the obtention of the necessary financial resources and technical facilities. It also needs to be considered and assessed as part of a comprehensive project covering, for example, the use of electronic equipment throughout the legal system and the implementation of such a project. It is intended to carry out this project, which is under consideration, but it is expected to take time.

**Steps to ensure that all complaints of torture and other forms of ill-treatment are investigated (paragraph 109)**

9. The prohibition of torture and other forms of severe punishment or ill-treatment incompatible with human dignity is a fundamental principle of the Constitution of the Republic of Turkey. Under Articles 243 and 245 of the Turkish Criminal Code torture and inhuman or degrading treatment are offences requiring mandatory prosecution: when notified of the commission of these offences, the prosecuting authorities order an investigation ex proprio motu.

To ensure effective action by the judicial authorities in this respect the Ministry of Justice stated in a circular sent to all chief public prosecutors' offices on 7 May 1991 that it was essential, in the event of allegations of torture, ill-treatment or degrading punishment that complaints should immediately be referred to the investigating and prosecuting authorities and that the proceedings should be completed rapidly; it was also important that suspects remanded in custody should undergo medical examinations before and after interrogation. A copy of the Ministry of Justice circular is appended (Appendix I).

**High priority for human rights and professional training for law enforcement officers of all ranks and categories (paragraph 112)**

10. Information on the subject and on curricula in police colleges, schools and academies is provided in paragraphs 15ff- below.

**B. Replies to the CPT's comments**

**Bill proposed by Mr Gökhan MARAŞ MP (paragraph 99, comment)**

11. The Ministry of Justice has stated that the Bill proposed by Mr Gökhan MARAŞ MP and others, which is referred to in the report, will receive support during the parliamentary discussions on the subject. Mr MARAŞ was Minister for Foreign Affairs in the new Cabinet. In addition, it was stated in the Government Programme presented in Parliament on 30 June 1991 that the presence of a lawyer during preliminary investigations would be provided for by law. A copy of the relevant section of the Government Programme is appended (Appendix II).

**C. Replies to the CPT's requests for information**

**Number of cases of torture allegations brought before the Turkish courts and number of law enforcement officers given sentences between 1 January and 31 December 1990 (paragraph 94, footnote 5)**

12. As the CPT was informed on 6 February 1991, the following information was received from the Ministry of Justice for the period 1 January - 12 November 1990:

Number of incidents referred to the judicial authorities	906
Number of cases brought before the courts	354
Number of cases pending	237
Number of accused persons discharged	717
Number of acquittals	115
Number of convictions	32
Number of officers against whom proceedings are pending	450

Information on the subject has also been requested from the Ministry of the Interior. It will be forwarded to the CPT under separate cover.

**Forensic institute doctors: training and professional safeguards (paragraph 104)**

13. Information on the training received by doctors working for Forensic Institutes and the safeguards guaranteeing that they enjoy clinical independence is provided in appended letter No. 991/375 of 2 July 1991 from the Head of the Institute of Forensic Medicine (Appendix III).

**Our views on whether Forensic Institutes should be placed under the authority of the Ministry of Health (paragraph 105)**

14. The Ministry of Justice provides more structural safeguards than the other Ministry. For example, the Ministry Under secretary, Deputy Under secretary and Directors hold the status of judges and the government is not empowered to dispose of them freely. The Under secretary and Directors may be appointed as judges to the higher courts only by decision of the Judicial Service Commission. It is therefore preferable for the Institute of Forensic Medicine to remain under the authority of the Ministry of Justice.

**Content of training courses for law enforcement officers given at police schools, police colleges and police academies (paragraph 112)**

**Legislation**

15. Turkish legislation - the Constitution, laws, regulations and instructions - includes numerous provisions relating to the protection and development of human rights. International efforts to promote the protection of and respect for human rights continue to be monitored, followed up and assessed in the light of new developments. Many Turkish laws include detailed provisions concerning respect for human rights. The appended note provides information on provisions relating to the protection of human rights in, for example, the Constitution, the Code of Criminal Procedure, the Code of Procedure governing Offences in flagrante delicto cases, the Execution of Sentences Act, the Criminal Code, the Police (Duties and Powers) Act and the Police Disciplinary Code (Appendix IV).

**Police training establishments**

16. There are three types of police training establishment in Turkey:

- a. police schools;
- b. police colleges;
- c. police academies.

- **Police schools**

These are vocational training establishments offering one-year courses. Admission is conditional on completion of secondary education. After completing the one-year course, police school graduates are appointed to serve as police officers with the security forces. The police school course includes tuition in the following subjects:

- the Constitution (one hour a week);
- basic legal concepts (one hour a week);
- criminal law (two hours a week);
- the Code of Criminal Procedure (two hours a week);
- judicial investigation (two hours a week);
- social unrest and preventive measures (two hours a week).

The police schools curriculum (table) and the syllabus of the judicial investigation course in police schools are appended (Appendix V and Appendix VI). The Universal Declaration of Human Rights has been added to the syllabus of the Constitution course taught in police schools.

- **Police colleges**

These are schools placed under the authority of the Ministry of Education and offering a four-year course on a par with that provided by secondary schools specialising in science. The police college curriculum is established by the Ministry of Education. Pupils completing the course may be admitted to the Police Academy, a university-level establishment, and after graduating from the latter, be appointed to more senior posts than police school graduates, e.g. as superintendents, chief superintendents or directors of security. Police college graduates who do not continue to the Police Academy and wish to serve as police officers must complete the one-year police school course like other secondary school graduates. A table giving the weekly breakdown of tuition in police colleges is appended (Appendix VII).

**Police academies**

Police academies are university-level education establishments. Courses include numerous subjects relating to human rights. Courses taught throughout the academic year include:

- constitutional law (first year, two hours a week);
- basic legal concepts (first year, two hours a week);
- criminal law and legislation governing criminal procedure (third year, two hours a week each);
- private international law (second year, two hours a week);
- relations between the police and the community (final year, two hours a week) and
- human rights and fundamental freedoms (first year, two hours a week).

Interrogation is taught in the final year (two hours a week). See appendices: table showing the Police Academy degree course programme (Appendix VIII), table showing the Police Academy special course programme (Appendix IX), syllabus of the Police Academy interrogation course (Appendix X) and subjects relating to human rights in police training establishment syllabuses (Appendix XI).

17. The Ministry of the Interior has recommended that the book entitled "Human Rights and the Police" by John ALDERSON, member of a Council of Europe committee of experts on human rights, translated by Dr Ihsan KUNTBAI, be used as a set book for educational purposes in police schools and police academies; this is now being done.

### **Other training activities**

18. As part of various in-service training courses run by the Ministry of the Interior, police officers attend lectures and seminars on human rights subjects every Wednesday. In both the central and the provincial police forces meetings are held on relations with the community and on law and order, to discuss and assess the police's expectations of the public, the public's expectations of the police and any malfunctioning in these areas. Police officers are also authorised and encouraged to do academic research, take MA and PhD courses and write theses on subjects relating to human rights and relations between the police and the community. The Ministry of Justice is requested to provide lecturers (prosecutors, judges) on relations between the police and the courts and police officers receive lectures on the subject. In line with developments worldwide, the identification of offences and offenders in Turkey is no longer simply a matter of confessions or simple evidence, but of scientific and technical knowledge acquired in the criminology and criminalistics courses taught in our police training establishments; doubts concerning human rights violations are being dispelled.

19. By letter dated 10 June 1991 the Ministry of Foreign Affairs informed the Ministry of the Interior and the Ministry of Justice that it would be highly advisable for the following Council of Europe and United Nations international instruments for the protection of human rights to be included in police school and Police Academy curricula:

- European Convention for the Prevention of Torture
- United Nations Convention against Torture
- Standard Minimum Rules for the Treatment of Prisoners (United Nations)
- Code of Conduct for Law Enforcement Officials (United Nations)
- Principles of Medical Ethics relevant to the Role of Health Personnel (United Nations)
- Minimum Rules for the Administration of Juvenile Justice (United Nations).

## CHAPTER II

### ACTION TAKEN TO REVIEW AND IMPROVE CONDITIONS OF DETENTION IN THE POLICE AND GENDARMERIE ESTABLISHMENTS VISITED BY THE CPT DELEGATION

#### **A. Action taken on the CPT's recommendations**

##### **Improvement of the physical characteristics of remand cells in the Interrogation Centres of the Political Departments of the Ankara and Diyarbakır Police and the Departmental Command of the Diyarbakır Gendarmerie (paragraph 122)**

20. As requested in paragraph 185 of the CPT Report, the CPT was informed within 6 months, on 25 July 1991, of the action taken by the appropriate Turkish authorities on the proposals set out in the report for the improvement of detention conditions in remand cells in Ankara Police Headquarters, Diyarbakır Police Headquarters and the Interrogation Centres of the Political Sections of the Diyarbakır Police and the Departmental Command of the Diyarbakır Gendarmerie and the withdrawal from service of cells which cannot be renovated. Further information on the pursuit of the authorities' action will be forwarded separately to the CPT.

##### **Provision of mattresses and blankets to detainees (paragraph 123)**

21. By letter of 26 April 1991 to the Head of the Anti-Terrorism Division of the Directorate of Security, the Ministry of the Interior requested that solid, firmly fixed benches should be provided to enable detainees to rest and that detainees should be issued with blankets where weather conditions so demand. A copy of the letter is appended (Appendix XII).

#### **B. Comments**

##### **Review of cellular accommodation in police and gendarmerie establishments in general (paragraph 122) (comment)**

22. The Turkish authorities share the CPT's view that a review of conditions of detention in police and gendarmerie remand cells throughout the country would be advisable. The Directorate of Security of the Ministry of the Interior accordingly requested in a circular sent to the offices of the 73 provincial governors on 1 April 1991 (see Appendix XIII) that steps be taken to improve conditions in cellular accommodation in police and gendarmerie establishments. On the same subject, by letter of 3 May 1991 to the Ministry of Foreign Affairs (see Appendix XIV), the Gendarmerie Central Command at the Ministry of the Interior stated that work had started on the review of accommodation in other gendarmerie units, the identification of remand cells of unacceptable size and with insufficient lighting and ventilation and the renovation of those cells in order to bring them up to standard.

### **CHAPTER III**

#### **ACTION TAKEN CONCERNING ALLEGATIONS OF TORTURE AND SEVERE ILL-TREATMENT IN THE PRISONS VISITED BY THE CPT DELEGATION**

##### **Action taken on the CPT's recommendations**

##### **Steps to prevent ill-treatment in Ankara Central Closed Prison (paragraph 126) (recommendation)**

23. No complaints have been received to the effect that staff in Ankara Central Closed Prison sometimes beat prisoners. However, when allegations of this kind are made, judicial and administrative investigations are launched immediately. The sticks found in the prison storage area are extras kept there to serve as handles for picks and shovels used for gardening and coal-carrying purposes. They have absolutely not been used for the commission of acts of violence against prisoners. All the necessary steps are taken to prevent this type of abuse in prisons. The incident mentioned in the committee's report concerning the beating of young prisoners in connection with an attempt to escape from Ankara Central Closed Prison is a matter for the courts and has accordingly been referred to the Office of the Ankara Chief Public Prosecutor for investigation; the investigation is in progress.

##### **Answers to requests for information**

##### **The incidents of 7 - 9 October 1990 in Diyarbakır 1 (E-type) Prison (paragraph 127)**

24. Diyarbakır 1 Prison was overcrowded. In order to reserve it for use as a remand prison and restore the number of prisoners, which was excessive by European standards, to normal, the Ministry of Justice decided, in response to an application by the Office of the Diyarbakır Chief Public Prosecutor, to order the transfer of 86 prisoners in respect of whom final judgments had been given or appeals were pending to 8 prisons which were not operating at full capacity. Hunger strikes had caused unrest in Diyarbakır Prison for more than a year; this had prevented the transfer of prisoners who had been convicted by the courts, but whose sentences had not yet been confirmed, and prisoners in respect of whom judgments had been upheld by the Court of Cassation; the prison population had therefore risen above capacity. In order to prevent overcrowding in Diyarbakır Prison, which is a remand prison, it had thus become imperative to transfer prisoners in respect of whom appeals were pending and prisoners in respect of whom final judgments had been given. However, the other remand prisoners and convicts in the prison resisted the transfer and committed unlawful acts against the security forces, using violence and attacking them. The transfer was nevertheless carried out. The hunger strike conducted by 225 prisoners in protest against the transfer ended some time later. Meanwhile the prisoners' complaints concerning police officers were acted upon and the Office of the Diyarbakır Chief Public Prosecutor launched a judicial and administrative investigation. As the complainants and witnesses have been transferred to various prisons, the investigation has not yet been completed.

**CHAPTER IV**

**ACTION TAKEN TO IMPROVE CONDITIONS OF DETENTION  
IN THE PRISONS VISITED BY THE CPT DELEGATION**

**A. Specific prisons**

**Ankara Central Closed Prison**

**(paragraphs 135, 137, 139, 140, 141 and 160 of the report) (recommendations)**

**Ankara Central Closed Prison**

25. The buildings of Ankara Central Closed Prison are old, but repairs are in progress and new buildings are being brought into service:

- a. an open visiting unit has been built and put into service;
- b. the wooden visitors' waiting room in front of the prison, which was unfit for use, has been demolished. Two modern buildings with toilets, a tea service, a closed room for personal search purposes and visitors' waiting rooms have been built in its place and brought into service;
- c. the segregation unit described as unsuitable in the report has been entirely vacated. A new, modern segregation unit with tiled floors and walls, equipped with toilet and washing facilities, has been built on the ground floor of the new open visiting unit. The unsuitable cells have accordingly been withdrawn from service and their occupants removed to the new building;
- d. the prison central kitchen, which has been tiled inside and painted outside, has been brought up to the satisfactory standards of hygiene. A separate cold storage area has been added and the cooking facilities have been modernised;
- e. the central Turkish baths have been cleaned and repaired;
- f. the prison cells have been painted;
- g. the Women's Ward has undergone both internal and external repairs; work on it continues;
- h. a psychologist, a social services expert, a dentist, three doctors and a health officer work in the prison on a full-time basis;
- i. the new segregation unit has been built and mentally ill inmates are held there pending transfer to a hospital. Since this measure came into effect, Ward 14 has not been used to accommodate such prisoners.

Six photographs showing innovations in the prison are appended (Appendix XV).



**Diyarbakır 1 Prison**

**CPT Report: paragraphs 152, 160 (recommendations)**

**Diyarbakır 1 Prison**

26. a. All the segregation cells in Block E have been provided with lighting.
- b. The Provincial Directorate of Public Works has been contacted with a view to the renovation of wards and cells; an initial estimate of the cost has been drawn up and work is in progress.
- c. The State Water Board has sunk a 450m well to provide the prison with an adequate water supply; the machinery is being installed.
- d. No juveniles are at present held in the prison. However, a new ward has been provided for juvenile remand prisoners.
- e. The prison doctors are working full time. Health care services have been brought up to adequate standards. In addition, specialist doctors from civil hospitals visit the prison on request. Convicts who clearly cannot be treated in the prison hospital are transferred to civil hospitals for treatment. Steps have been taken, subject to budgetary resources and available posts, to reinforce medical staff as recommended in the report.

**Malatya E-type Prison**

**CPT Report: paragraphs 153 and 160 (recommendations)**

**Malatya E-type Prison**

27. a. The floodlights on the wall facing the segregation unit have been removed. The segregation unit cells have been renovated, repaired and cleaned.
- b. Two doctors now work in the prison. Efforts will be made to reinforce the medical staff, subject to budgetary resources and available posts.
- c. Juveniles are held in a special, separate unit and segregated from adult prisoners.
- d. The wards, cells and toilet facilities have been renovated, repaired and brought up to satisfactory standards.
- e. The appropriate local authority has been contacted on the subject of the prison's water shortage; a contract has been awarded for the purpose and work is in progress.

Five photographs showing innovations in the prison are appended (Appendix XVI).

**B. General issues**

**Transport of prisoners: paragraph 145 (recommendation)**

28. New twenty-occupant vehicles equipped with modern lighting and ventilation systems have been purchased and put into service, especially for the long-distance transport of prisoners. The purchase of vehicles will continue as far as budgetary resources permit.

**Young prisoners Report: paragraph 157 (recommendation)**

29. The investigation of the allegation by a few young people that some 15 or 16-year-old prisoners had been placed in wards accommodating adult prisoners in Malatya and Diyarbakır prisons has shown that this was untrue. In such cases it is advisable to ascertain the date of birth of the person making the allegation by inspecting his identity card. Regulation 8 of the Prison Administration Regulations and the relevant ministerial circulars provide for child offenders to be held in separate accommodation. Separate reformatories have been set up for the purpose in Ankara, Elazığ and İzmir. Young prisoners between the ages of 11 and 18 in respect of whom final judgments have been given are transferred to these institutions. In accordance with the regulations, child offenders under the age of 18 imprisoned in other provinces are held in separate areas of the prison and forbidden to communicate with adult prisoners.

**Legislation providing for the imprisonment of persons under the age of 16: paragraph 157 (request for information)**

30. The following legislation provides for the imprisonment of persons under the age of 16:

a. Children who were under the age of 11 when the offence was committed may not be prosecuted or punished. However, if the offence with which the child is charged entails a term of imprisonment of one year or more, the measures provided for in section 10 of Juvenile Courts (Establishment, Duties and Procedure) Act No. 2253 may be implemented by Court order (Criminal Code, Article 10; Juvenile Courts Act No. 2253, section 11).

b. Children who were between the ages of 11 and 15 when the offence was committed and who are unable to distinguish between right and wrong or are of unsound mind may on no account be punished (Criminal Code, Article 54; Juvenile Courts Act No. 2253, section 12). If children of this age are found by experts to be physically, mentally and spiritually capable of understanding the meaning and consequences of the offence committed, the terms of imprisonment applicable are reduced by half and made subject to a maximum of 7 years for each offence (Juvenile Courts Act No. 2253, section 12 and Criminal Code, Article 54).

c. Terms of imprisonment imposed on young persons who were between the ages of 15 and 18 when the offence was committed are reduced by one-third and made subject to a maximum of 14 years for each offence (Criminal Code, Article 55).

d. Special provisions governing persons under the age of 18 are included in Execution of Sentences Act No. 647. Short terms of imprisonment (up to one year) imposed on persons under the age of 18 are commuted by the courts to a fine or other measure prescribed by section 4 of Act No. 647 (Execution of Sentences Act No. 647, section 4). Convicts who were between the ages of 15 and 18 when the offence was committed and have not reached the age of 18 by the time they begin to serve their sentences are imprisoned in reformatories; in regions lacking separate facilities of this kind, they serve their sentences in separate areas of ordinary prisons (Criminal Code, Article 55; Prison Administration Regulations, Regulation 8). Separate reformatories have been set up for convicted juvenile offenders in Ankara, Elazığ and Izmir. Child offenders between the ages of 11 and 18 in respect of whom final judgments have been given are transferred to these institutions. As indicated above, however, convicts under the age of 18 in other provinces are accommodated in separate areas of ordinary prisons and forbidden to communicate with adult prisoners.

31. At present 896 child offenders between the ages of 11 - 18 (17 girls, 879 boys) are held in the areas of Turkish prisons reserved for juveniles and in the three reformatories.

#### **Medical services Report: paragraphs 164, 160, 167 and 171 (recommendations)**

##### **Medical services**

32. Under provisional section 1 of Suppression of Terrorism Act No. 3713 of 12 April 1991, 22,222 convicts and remand prisoners were conditionally released from Turkish prisons by 1 July 1991. As the entire prison population now amounts to 23,152 prisoners, the overcrowding and stifling conditions complained of have disappeared. In addition, with a view to improving prison cells and wards and bringing them up to modern standards, work has begun under section 16 of Act No. 3713 on the construction of new, modern prisons of a special kind, consisting of one- and three-person cells, for prisoners charged with terrorist offences. A new measure has been introduced in prisons: prisoners are now provided by the state with mattresses, sheets, blankets and pillows, so that complaints on the subject have ceased.

33. Ankara and Malatya Prisons have a number of posts for auxiliary medical staff (psychiatrists, health officers and nurses), but some are vacant. Efforts will be made in cooperation with the Ministry of Health to recruit health officers and nurses to fill the vacancies. In the absence of ambulant medical care for emergency cases in prison, specialist doctors are called in from civil hospitals in emergencies, thereby ensuring immediate intervention.

34. A copy of the letter of 3 July 1991 from the Directorate of Prisons of the Ministry of Justice to the Ministry of Foreign Affairs concerning the action taken in Ankara, Malatya and Diyarbakır Closed Prisons, on which the above information is based, is appended (Appendix XVII).

**REPUBLIC OF TURKEY  
MINISTRY OF JUSTICE  
DIRECTORATE OF CRIMINAL AFFAIRS**

No.: CIGM/6/50

ANKARA

Subject: Human Rights

7 May 1991

To: OFFICE OF THE ... CHIEF PUBLIC PROSECUTOR

[CPT (91) 33 page 16 - 22 / end of 3rd para. ...]

Moreover, in investigations and proceedings relating to persons charged with an offence, remanded in custody or placed under arrest both Turkey's domestic legislation and agreements which have been lawfully ratified and therefore have force of law must be applied in a manner consistent with their aims.

Our organisation has already been informed of the matter by the following circulars and requested to carry out these instructions with the requisite care:

- 6.1. Circular No. 22-62 of 25 April 1986 on access to legal advice during preliminary investigation;
- 6.2. Circular No. 08-3-383-18873 of 26 September 1989 from the Office of the Prime Minister, sent with our covering letter No. CIGM-13-89 of 26 September 1989. on permission for accused persons remanded in custody to have access to a lawyer;
- 6.3. Circular No. CIGM 8/49 of 30 April 1990 on permission for accused persons remanded in custody to have access to a lawyer.

You are requested to take note of the above information and follow the above instructions with meticulous care. Please bring the matter to the attention of the offices of the chief public prosecutors within your jurisdiction and, for information, the courts.

Mahmut OLTAN SUNGURLU  
MINISTER

**GOVERNMENT PROGRAMME**  
**Prime Minister**  
**A. MESUT YILMAZ**  
**30 June 1991**

Mr Speaker,  
Honorable Members,

Justice is the basis of property, individual rights and freedoms and modern society.

It is one of our people's greatest wishes that justice should be speedily administered by independent, impartial judicial authorities.

It is therefore our aim to increase the resources of the Ministry of Justice and the judicial authorities, modernise the system and improve working conditions.

Efforts will be made to review legislation in order to lessen the workload of the courts.

The speedy administration of justice, without discrimination between citizens, is a prerequisite for establishing national unity and securing confidence in the state.

We consider the fundamental condition for the safeguarding of these rights and freedoms to be the rule of law.

Bearing in mind that "slow justice amounts to injustice", the aim of ensuring that the judicial system operates fast, efficiently and fairly will be achieved essentially by making improvements in staff, structure and facilities; the development of institutions and legal rules will be based on this principle.

This government sets great store by the administrative and ordinary courts. One of our aims is accordingly to make the legal profession attractive.

The repeal of Articles 141, 142, 143 and 163 of the Criminal Code was a major step forward in the democratic process.

The presence of a lawyer during preliminary investigations will be provided for by law.

Steps will be taken to ensure a balanced distribution of the workload between the higher courts and, in particular, to ensure that the Court of Cassation functions as an interpretative court.

Prisons will be provided with more hygienic and modern facilities in all respects; steps will be taken for the rehabilitation of prisoners; attention will be paid in particular to the rehabilitation and education of young prisoners.

**REPUBLIC OF TURKEY  
MINISTRY OF JUSTICE  
OFFICE OF THE HEAD OF THE INSTITUTE OF FORENSIC MEDICINE**

Dept. No: Head Office 991/375  
Subject:

Istanbul  
2 July 1991

To: DIRECTORATE OF CRIMINAL AFFAIRS OF THE MINISTRY OF JUSTICE

Ankara

Re: Reply to your letter No. 27602 of 1 July 1991

The two points referred to in your letter are dealt with separately below.

1. Forensic Institute doctors study forensic medicine as a compulsory subject in the final year of their 6-year training. On graduating from a Faculty of medicine, doctors serve in the areas designated by the Ministry of Health and Social Welfare as government medical officers, general practitioners or police surgeons and, in the course of their duties, make use of the knowledge acquired from their studies in forensic medicine.

All government medical officers and general practitioners serve as experts with the courts. Thus, after graduating from a Faculty of medicine, Turkish doctors serve as forensic experts.

By the time doctors appointed to a Forensic Institute take up their duties, they have developed still further the knowledge acquired during their university training and their service with the courts. The university specialist course in forensic medicine and the Forensic Institute course enjoy equal status. The course programme for university students specialising in forensic medicine may be outlined as follows:

- A. Deaths,
- B. Autopsies and the relevant legal provisions,
- C. Sudden deaths,
- D. Death by asphyxia,
- E. Injuries and bruises (traumatology),
- F. Pregnancy,
- G. Childbirth,
- H. Abortion,
- I. Infanticide,
- J. Indecent assault,
- K. Poisoning,
- L. Forensic psychiatry.

Each of the 12 main subjects listed above is studied in considerable detail in the relevant departments.

Doctors working in Forensic Institutes fall into two main groups. One of these consists of specialists working in the specialist commissions and specialist departments set up under Act No. 2659 which specifies the number of members of each specialist commission.

The second group consists of doctors acting as rapporteurs and other specialists working in the departments concerned.

The Forensic Institute is a statutory higher education establishment. Like the relevant university faculties, the Forensic Institute confers degrees in forensic medicine; medical staff specialising in fields other than forensic medicine also pursue postgraduate studies (master's degree and doctorate) in the Institute.

Status as a forensic medicine specialist in a Forensic Institute is conditional on fulfilling the requirements set out in the Regulations governing Specialist Medicine. Studies in the specialist branch concerned last two years.

In-service training is essential in Forensic Institutes and all staff are required to undergo such training in their own specialist fields.

The duties of the specialist commissions, as provided for by Forensic Institute Act No. 2659, are listed below:

First Commission; all operations relating to deaths;

Second Commission: assault, indecent assault, offences against the health and integrity of the race;

Third Commission: assault, social security, labour law, invalidity, loss of livelihood, occupational diseases and handicaps, procedures relating to the deferment and mitigation or remission of penalties;

Fourth Commission: matters covered by Articles 46 and 47 of the Criminal Code and establishment of the degree of addiction to drugs specified in Articles 403 and 404 of the Code, prohibition, possibility of overcoming addiction, matters relating to age;

Fifth Commission: poisoning, allergies, immunology, pharmaceutical questions, determination of religious denomination, offences relating to public health and to food and drink, somniferous and narcotic drugs.

The five commissions are required to disclose their scientific and technical views on the matters within their sphere of responsibility. They do no laboratory work, but cooperate with the specialist departments, which are responsible for technical applications.

The specialist departments are as follows:

1. Morgue department: examination of corpses, organs and live tissues and hair;
2. Observation department: observation of matters relating to legal capacity and criminal responsibility;
3. Chemical analysis department: toxicological analysis, analysis of foodstuffs, industrial substances, narcotics and other substances, alcoholometric analysis;
4. Biology department: examination of all types of stain and secretion, determination of blood groups and paternity, bacteriological and serological analysis;
5. Physical examination department: examination of weapons, bullets, writing, photographs, pictures, signatures and fingerprints, climatological studies;
6. Traffic department: examinations relating to road accidents and reports on the results.

The initial, postgraduate and in-service training detailed above is an essential component of forensic medicine. All Forensic Institute specialists undergo such training.

2. The clinical independence of Forensic Institute doctors (specialists) is guaranteed by their own consciences. However, moral responsibility is also guaranteed by a number of other factors:
  - a. Universities Act No. 2547 and the responsibilities conferred by the Act on both students and university teachers in the matter of higher education,
  - b. the Hippocratic oath sworn by doctors before they take up their duties after graduating from a Faculty of medicine,
  - c. the oath sworn by staff of public institutions on completion of their probationary period prior to taking up a permanent post,
  - d. the expert's oath provided for in Article 72 of the Code of Criminal Procedure which the public prosecutor brings to the attention of doctors and specialists serving as forensic experts with a Forensic Institute whenever an autopsy is performed,
  - e. the powers conferred on doctors by the Act regulating the medical profession.

In addition to the above-mentioned professional safeguards with respect to doctors' independence, it is important to bear in mind the provisions concerning a doctor's unlawful conduct in professional matters.

Dr Şemsi GÖK  
Head of the Institute of Forensic Medicine



**INFORMATION ON PROVISIONS**  
**RELATING TO HUMAN RIGHTS IN TURKISH LEGISLATION**

Respect for human rights is a fundamental characteristic of Turkish society. A study of our history shows that respect for human rights, which has become an integral part of our personality, is also reflected in our legislation. For example, the Islamic Civil Code provided that "Acquittal is Fundamental" and the subsequent Turkish Criminal Code includes such provisions as "Everyone shall be presumed innocent until proved guilty" and "Nullum crimen, nulla poena sine lege".

A selection of provisions relating to human rights and fundamental freedoms in the Turkish Constitution and other legislation is reproduced below.

**CONSTITUTION**

**Article 10.** - Everyone is equal before the law irrespective of language, race, colour, sex, political opinion, philosophical belief, religion, sect or other status.

No privileges shall be granted to any individual, family, group or class. Organs of state and administrative authorities shall be required to comply in all instances with the principle of equality before the law.

**Article 17.** - Everyone has the right to life and to the protection and development of their physical and mental resources.

Except in cases of medical necessity and under circumstances specified by law, the physical integrity of the individual shall be inviolable and he shall not be subjected without his consent to scientific or medical experimentation.

**Article 19.** - Everyone has the right to liberty and security of person.

**Article 24.** - Everyone has the right to freedom of conscience, religious belief and conviction.

**Article 28.** - The press shall be free and shall not be censored. The establishment of a printing firm shall not be subject to prior permission or financial guarantees.

**Article 34.** - Everyone has the right to hold meetings and demonstrations without prior permission, provided that they do so peaceably and without arms.

**Article 36.** - Everyone has the right to take civil proceedings or defend their case before the courts, using lawful means and procedures.

In addition to the above-mentioned articles, the Constitution includes the following chapters under the heading Fundamental Rights and Duties:

- a. General provisions,
- b. Individual rights and duties,
- c. Social and economic rights and duties,
- d. Political rights and duties.

All the articles in these chapters include provisions relating to human rights and fundamental freedoms, which are dealt with in detail.

## **CODE OF CRIMINAL PROCEDURE**

**Article 107.** - An accused person remanded in custody shall be permitted, provided that this is not contrary to the purpose of detention, to inform his next of kin of his detention. If the detainee so wishes, the said persons may also be officially informed of his detention.

When an accused person is brought before a court, his next of kin shall immediately be informed of the fact by order of the court.

**Article 108.** - As soon as an accused person is remanded in custody pursuant to a warrant for his arrest, or within 48 hours at the latest, he shall be brought before the court with jurisdiction in the matter and questioned and it shall be decided whether to detain him for a further period.

The 48-hour period shall not include the travel time required to bring the accused person before the court.

During questioning the accused person shall be informed of the evidence against him.

The accused person shall be questioned in such a way as not to prevent him from adducing evidence in his favour.

See also Articles 128, 135, 136, 138, 144, 145, 159, 226, 289, 292, 297, 344, 356, 360, 371, 373, 375, 399 and 400.

## **CODE OF PROCEDURE GOVERNING IN FLAGRANTE DELICTO CASES**

**Article 4.** - Police officers arresting a person in flagrante delicto, except in the case of serious offences, shall bring the offender without delay, on the same day, before the Chief Public Prosecutor together with the police record of the arrest and any real evidence obtained.

...

See also Articles 7, 8 and 11.

## **EXECUTION OF SENTENCES ACT**

**Section 6.** - An offender who has not previously been sentenced to more than a fine by the ordinary courts shall be sentenced to either a small or heavy fine, up to six months' penal servitude or up to a year's imprisonment; if the court finds, in the light of his past conduct and character, that a suspended sentence would cause him to refrain from committing a further offence in future, he may be given a suspended sentence. In such cases the reasons for suspension of the sentence shall be stated in the judgment.

...

See also Articles 7 and 13.

## **TURKISH CRIMINAL CODE**

**Article 1.** - No one shall be punished for an act which the law does not expressly consider to be an offence. No one shall receive a punishment other than the penalties provided for by law.

**Article 2.** - No one shall be punished for an act which was not considered an offence by the law in force at the time of the commission of the offence. No one shall be punished for an act which is not considered to be an offence by a law enacted after the commission of the offence. If such a penalty is imposed, its execution and legal consequences shall automatically lapse.

In the event of conflict between the provisions of the law in force at the time of the commission of the offence and those of a law enacted thereafter, the provisions favourable to the offender shall be applied and enforced.

Articles 179, 193, 241, 243, 491, 516, 546, 558 and related provisions of other laws also deal extensively with human rights and fundamental freedoms.

### **Provisions of the Police (Duties and Powers) Act relating to Human Rights**

In addition to laying down the duties of police officers, Police (Duties and Powers) Act No. 2559 includes provisions concerning the manner in which those duties are to be performed and the protection of fundamental rights.

**Section 1.** - The police shall safeguard public order, the security of the state, of individuals and of property and the inviolability of the home. They shall protect citizens' lives, honour and other property and keep the peace.

They shall assist those who request their assistance and children, invalids and destitute persons in need of assistance. They shall perform the duties conferred on them by law and by the appropriate regulations.

This provision in fact emphasises that the police force is the protector of human rights.

**Section 2.** - In the case of persons who:

- a. in breach of the rules of public morality and decency, engage in shameful and socially unacceptable behaviour and use speech or perform songs, music or other entertainment of the same nature;
- b. verbally or in any other way molest, or incite to bad habits or any form of immoral conduct, children, young women, women or young men;
- c. manufacture and sell films, records, tapes or videotapes which offend against public morality and decency.

The police, even in the absence of an application or complaint, shall impede such activities, prohibit their further pursuit and immediately lay their report concerning the accused persons before the courts: in the case of offences which are the subject of a complaint, they shall lay the report concerning the offence before the courts on receipt of the complaint or application.

**Section 14.** - In towns and cities the police shall restrain persons who, by making a noise after midnight, whether indoors or outdoors, in any way disturb the tranquillity of neighbouring residents.

As is apparent from the above provisions, the chief duty of the police is to safeguard citizens' fundamental rights and take all the necessary protective measures for the purpose.

A variety of powers are conferred on the police to enable them to perform their task of safeguarding human rights and keeping the peace; the law accordingly provides for certain restrictions intended to prevent police officers from committing arbitrary acts in the course of their duties or thereafter.

Section 2.-

...  
...

A police officer is responsible for the maintenance of public order and public safety. If he considers an order received from his superior to be contrary to the law or to rules and regulations, he shall not obey the said order and shall inform his superior that it is unlawful. However, if his superior maintains the order and renews it in writing, he shall obey the order. In such cases, the officer obeying the order shall not be held responsible. An order which constitutes an offence shall on no account be obeyed. Officers obeying such orders shall be held responsible for the fact.

**Section 13.** - The police shall arrest the following persons and shall carry out the appropriate statutory procedure in each case:

- A. persons whose arrest and remand have been ordered by the competent authorities and persons whose arrest is required on account of failure to perform a statutory obligation;
- B. persons who purchase, sell, possess or use narcotic drugs, become inebriated to the extent of disturbing the peace or creating a scandal or assault others while inebriated:

- C. persons who commit breaches of the peace, persist in such conduct despite police warnings, attempt to assault others or engage in fighting;
- D. persons of unsound mind, drug addicts, alcoholics, tramps and persons suffering from infectious diseases who constitute a danger to society, the intention in arresting such persons being to ensure that the necessary steps for their treatment, education or reform in an institution are taken in accordance with the law and the appropriate implementing regulations;
- E. minors whom it has been decided to place in a reform school or bring before the competent authorities;
- F. persons who enter or attempt to enter the country unlawfully or who are the subject of a deportation or extradition order;
- G. persons who are discovered in flagrante delicto or, in other cases in which delay would be prejudicial, persons in respect of whom there is convincing evidence that they have committed or attempted to commit an offence.

This provision shall not affect legal provisions relating to persons whose arrest is subject to special procedure.

Arrest denotes the placing of a person in custody for the purpose of supervision. All the necessary steps may be taken, in a manner not detrimental to the person's health, to prevent the person arrested from escaping or committing an assault.

The physical state of drug users and inebriated persons placed under arrest shall be recorded in accordance with the procedure laid down by the appropriate regulations in a medical certificate established by a doctor or, in the absence of a doctor, by a medical auxiliary.

The person arrested shall be informed in writing, or where this is impossible, verbally, of the reasons for his arrest.

Unless disclosure of the subject of the investigation is definitely prejudicial, next of kin of the person arrested shall be immediately informed of his arrest.

Persons charged following their arrest shall be brought before the courts. Persons in need of treatment or corrective training shall be sent to the appropriate institution.

...

## **Section 17.-**

Additional section:

In order to prevent the commission of an offence or apprehend a person who has committed an offence, a police officer may (AFTER DISPLAYING HIS BADGE OF OFFICE) request persons to produce their identity cards.

...

## **Section 25.-**

Additional section 2.- After carrying out an arrest, the police shall complete their investigations and bring the accused person before the courts without undue delay, within 24 hours, excluding the time required to transport the person to the court nearest to the place of arrest, and in the case of collective offences committed by three or more persons together, within 15 days, depending on the number of accused persons, the state of the accused persons and evidence and the nature of the offence. However, the police may not hold an accused person for more than 24 hours without a written order from the Chief Public Prosecutor or, in his absence, a magistrate's court.

Additional section 4.- A police officer, within the territorial limits of his authority and irrespective of branch, place and time, shall, if an offence is committed in his presence, take the matter in hand, prevent further commission of the offence, identify the accused person and evidence, place them in custody and deliver them to the competent police officers.

### **Provisions of the Police Disciplinary Code relating to Human Rights**

A number of penalties relating to human rights have been introduced into the Police Disciplinary Code. A police officer who violates human rights or discriminates between individuals is liable to dismissal from the police force.

**Article 8.** - The following acts, measures, conduct and attitudes shall be punishable by dismissal from the police force:

1. Discrimination on grounds of language, race, sex, political opinion, philosophical belief, religion or sect, or conduct conducive to such discrimination between members of the police force, by a police officer in the course of his duties.

...

**Article 7.** - Misuse of powers or authority in one's own interest or in the interests of others, in anger or for reasons of friendship.

...

**Article 12.-** The intentional delivery of an inaccurate report or drawing up and signing of an inaccurate record, or the fact of requiring another to sign such a record.

**TABLE: POLICE SCHOOLS CURRICULUM**

No	SUBJECT	BASIC TRAINING		SPECIALIST TRAINING		TOTAL
		No.Hours	Total No. Hours	No. Hours	Total No. Hours	
1	Turkish language and literature	2	48			48
2	Atatürk: principles and reforms	1	24			24
3	Constitution	1	24			24
4	Basic legal concepts	1	24			24
5	Criminal law	2	48			48
6	Code of Criminal Procedure	2	48			48
7	Police professional regulations	3	72			72
8	Disciplinary regulations	1	24			24
9	Administrative law	2	48			48
10	Firearms	1	24			24
11	Typing	2	48	2	32	80
12	Foreign language	2	48	2	32	80
13	Physical training and police tactics	8	192	8	128	320
14	Political history			1	16	16
15	Staff regulations			1	16	16
16	Relations between police and community, tourism			1	16	16
17	State security and intelligence			2	32	32
18	Traffic: basic training			1	16	16
19	Judicial investigation			2	32	32
20	Social unrest and preventive measures			3	48	48
21	Technical professional correspondence			2	32	32
22	Firearms practice and techniques			2	32	32
23	First aid			1	16	16
	Lecture (Wednesday afternoons)	2	48	2	32	80
	TOTAL	30	720	30	480	1,200

The "Physical Training and Police Tactics" course will be taught in the afternoons as a practical class (tracksuit or training suit). Practical work on "Social Unrest and Preventive Measures" will also be provided during this class. The class will end with group running and physical training. It may be taught by more than one teacher.

HEAD OF EDUCATION DEPARTMENT

**SYLLABUS QF JUDICIAL INVESTIGATION COURSE IN POLICE SCHOOLS**

**PART I**

**INTRODUCTION**

- A. Concept of judicial investigation
- B. Characteristics of judicial investigation
  - 1. Principle of secrecy
  - 2. Principle of written procedure
  - 3. Face-to-face investigation
  - 4. Open, oral procedure
- C. Judicial investigation procedure
  - 1. General investigation
  - 2. Special investigation procedure
    - a. Investigation of offences where proceedings are subject to the lodging of a complaint
    - b. Investigation of in flagrante delicto cases

**PART II**

- A. Persons authorised to conduct a judicial investigation
  - 1. The Chief Public Prosecutor ex proprio motu
  - 2. The police on behalf of the Chief Public Prosecutor
- B. Judicial investigation procedure  
Means of ascertaining that an offence has been committed:
  - 1. Complaint
  - 2. Accusation
  - 3. Ex proprio motu
- C. Investigation of the offence - the interrogation stage
  - 1. General concepts
    - a. Interview: definition and purpose
      - i. Preparation of the interview
        - getting to know the person beforehand
        - knowledge of the subject
      - ii. Conduct of the interview
        - appropriate time
        - identifying the right questions
        - atmosphere of trust, friendly approach, concentration
        - taking notes



2. Obtaining of information: definition and purpose

- The interrogation stage
  - a. Interrogation rules
  - b. Characteristics of the place of interrogation
  - c. The interrogator
  - d. Psychological make-up of the person interrogated
  - e. Interrogation method

3. Hearing of complainants

4. Hearing of witnesses

5. Summoning of the accused person and recording of his statement

D. Examination of the scene of the offence and identification of evidence

1. Examination of the scene of the offence

- a. Concept of the scene of the offence
- b. Importance of examining the scene of the offence
- c. Procedure to be followed on the spot
- d. Basic rules for examination of the scene of the offence
  - i. Identification of the place of entry
  - ii. Identification of the accused person's main target
  - iii. Identification of the time of the offence and place of exit
  - iv. Identification of the direction in which the offender escaped
- e. On-the-spot recording
  - i. Police record
  - ii. Sketch
    - definition of a sketch plan
    - special signs to be included on the sketch plan
  - iii. photographic recording

2. Identification of evidence

- a. Concept of evidence
- b. Identification and collection of evidence
- c. Types of evidence
  - i. Fingerprints and their characteristics
  - ii. Footprints
  - iii. Traces of instruments
  - iv. Bloodstains
  - v. Traces left by firearms
    - examination of the cartridge
    - examination of the base
    - characteristics of gunshot wounds
  - vi. Other
- d. Medical certificate
- e. Recording procedure

**PART III**

- A. Completion of the investigation
  - 1. Summary of the police report
  - 2. In flagrante delicto record
- B. Referral to the Office of the Chief Public Prosecutor
- C. Tactics relating to various offences

HEAD OF EDUCATION DEPARTMENT

**TABLE: WEEKLY BREAKDOWN OF TUITION IN POLICE COLLEGES**

No.	SUBJECT	HOURS OF TUITION PER WEEK			
		Prep.	Class 1	Class 2	Class 3
1	Turkish language and literature	4	5	4	4
2	Philosophy - Psychology			1	2
3	Religion and ethics		1	1	1
4	History		2	2	2
5	Tourism		2		
6	Geography		2		
7	Mathematics	1	5	6	3
8	Physics	1	3	4	3
9	Chemistry		2	3	4
10	Foreign language	27	8	8	7
11	Music			2	
12	National security			1	
13	Physical training	2	2	2	2
14	Art			2	
15	Republic of Turkey: History of reforms		1	1	2
16	Biology and health		3		4
17	Optional foreign language			2	2

**TABLE: POLICE ACADEMY DEGREE COURSE PROGRAMME**

SUBJECT	CLASSES			FINAL YEAR			
	1	2	3	JUDICIAL	ADMIN.	POLIT.	TRAFFIC
Constitutional law	2						
Basic legal concepts	2						
Civil law	2						
Economics	2						
General sociology	2						
Turkish political history	2						
Disciplinary regulations	1						
Firearms	3		2				
Foreign language	4	4	4	4	4	4	4
Atatürk: principles and reforms	1	1	1	1	1	1	1
Turkish language	1	1	1	1	1	1	1
Physical training	2	2	2	2	2	2	2
Self-defence	2	2	2	2	2	2	2
Administrative law		3					
Criminal law		2					
Law of obligations		2					
Social psychology		2					
Public administration		2					
Forensic medicine		1					
Computer science		2					
Public international law		2					
Police professional regulations		2	2				
Private international law			2				
Special criminal law			2				
Legislation governing criminal procedure			3				
Criminology			2				
Staff management			2				
Economic doctrines			1				
Traffic and the law			2				
Vehicle registration and tests							2
Insurance law							1
Labour law						2	
Statistics					2		2
Legal psychology				2			
Interrogation				2	2	2	
Subversive and separatist activities				2	2	3	2
Smuggling				2	2	2	2
Technical professional correspondence				2	2	2	2
Criminalistics				2	2	2	2
Police-community relations				2	2	2	2
Seminar and research				4	4	3	3
Human rights and fundamental freedoms	2						
TOTAL	28	28	28	28	28	28	28

**TABLE: POLICE ACADEMY SPECIAL COURSE PROGRAMME**

<b>SUBJECT</b>	<b>HOURS OF TUITION PER WEEK</b>
Constitution	1
Administrative law	2
Criminal law	2
Legislation governing criminal procedure	2
Social psychology	2
Police-community relations	1
Technical professional correspondence	2
Interrogation	2
State security, subversive and separatist activities	2
Police professional regulations	2
Disciplinary regulations	1
Criminalistics	2
Firearms	2
Traffic	1
Physical training	2
Self-defence	2
<b>TOTAL</b>	<b>28</b>

**SYLLABUS OF POLICE ACADEMY INTERROGATION COURSE**

**PART I**

**PREPARATIONS FOR INTERROGATION**

- A. Interview
  - a. Interview, acquaintance
  - b. Appropriate time
  - c. Inspiring confidence
  - d. Establishing a friendly relationship
  - e. Being a good listener
  - f. Concentration
  - g. Note-taking technique
  
- B. Obtaining of information
  - a. Preparation of the subject
  - b. Introducing the subject
  - c. Linking subjects: technique and tactics
  - d. Putting the person at ease
  - e. The art of questioning
  - f. Assessing the extent of a person's knowledge
  - g. Recording the information obtained

**PART II**

**INTERROGATION**

- A. Decision to interrogate
  
- B. Time of interrogation and psychological factors
  
- C. Place of interrogation and interrogation room
  
- D. Principles of interrogation
  - a. From the standpoint of the interrogator
  - b. From the standpoint of the person interrogated
  - c. Start and conduct of the interrogation
  - d. Interrogation method

- E. Classification of accused persons
  - a. Offence committed
    - i. Type of offence
    - ii. Outcome of the offence
  - b. Attitude to participation in the commission of an offence
    - i. Persons willing to participate
    - ii. Persons persuaded to participate
    - iii. Persons forced to participate
  - c. The group to which they belong
    - i. Fanatics
    - ii. Moderates
  - d. Social and economic status of the family
    - i. Affluent families
      - . religious fanatics
      - . conservatives
      - . liberals
    - ii. Middle-income families
    - iii. Low-income families
  - e. Will-power
    - i. Strong-willed persons
    - ii. Weak-willed persons
      - . Alcoholics
      - . Drug addicts
      - . Psychopaths
  - f. Weapons used
    - i. Use of similar weapons
    - ii. Method of obtention of weapons
    - iii. Skill in the use of weapons
- F. Interrogation team
  - a. Formation of the interrogation team
  - b. Duties of the interrogation team
  - c. Interrogation team equipment
  - d. Basic rules for the setting up of the interrogation team
- G. Interrogation rules and methods
  - a. Information recording techniques
    - i. Sound recording
    - ii. Photographic and film recording
    - iii. Use of a two-way mirror
    - iv. Note-taking
  - b. Taking down the statement
    - i. Procedure for establishing identity
    - ii. Recording the person's past history
    - iii. Systematic recording of the chain of events
    - iv. The result and the signature block

- H. Start and conduct of the interrogation
  - a. Approach
    - i. Direct approach
      - . The friendly, understanding approach
      - . The cause-and-effect method
    - ii. Indirect approach
    - iii. Psychological approach
  - b. Questioning technique
    - i. Framing of questions
    - ii. Ways of asking questions
    - iii. Types of question
  - c. Imaginary account
  - d. Cold approach
  - e. Provoking agitation and making use of it
  - f. Taking advantage of complexes
  - g. Taking advantage of the offender's weak points
  - h. Playing suspects off against one another
- I. Accused person's tactics for resisting interrogation and interrogator's methods for countering them
  - a. "You ask, I'll tell" tactic
  - b. "I haven't been involved in any organisation, so I have nothing to tell" tactic
  - c. Tactic of imputing the offence to someone else
- J. Completion of the interrogation and procedure to be followed
  - a. Convening further accused persons or witnesses
  - b. Broadening the investigation
  - c. Completing the interrogation record
  - d. Bringing the accused before the courts
  - e. Completing the file
  - f. Transmitting new information to the appropriate provincial authorities or units under standard procedure.



**SUBJECTS RELATING TO HUMAN RIGHTS IN  
POLICE TRAINING ESTABLISHMENT SYLLABUSES**

**CONSTITUTIONAL LAW**

A. Fundamental Rights and Duties

1. General provisions governing fundamental rights and freedoms in the 1982 Constitution
2. Nature of fundamental rights and freedoms
3. Restriction of fundamental rights and freedoms
  - i. Basic restrictions
  - ii. Types of restriction on fundamental rights and freedoms
    - . Subjective restrictions
    - . General restrictions
  - iii. Extent of restrictions on fundamental rights and freedoms
4. Abuse of fundamental rights and freedoms
5. Suspension of the exercise of fundamental rights and freedoms
6. Individual rights and duties
  - i. Personal inviolability and the physical and mental resources of the individual
  - ii. Prohibition of forced labour
  - iii. Liberty and security of person
  - iv. Protection of private life
  - v. Inviolability of the home
  - vi. Freedom of communication
  - vii. Freedom of movement and residence
  - viii. Freedom of conscience and religion
  - ix. Freedom of thought and opinion
  - x. Freedom to express and disseminate ideas xi. Freedom of art and science
  - xii. Provisions concerning the press and publications xiii. Right and freedom of assembly
    - . Freedom of association
    - . Right to hold meetings and demonstrations
  - xiv. Right to own property
  - xv. Provisions relating to the protection of rights
    - . Freedom to claim one's rights
    - . Guarantee of a lawful court
    - . Principles relating to offences and penalties
7. Social and economic rights and duties
  - i. Nature of social and economic rights
  - ii. Social and economic rights in Turkey
  - iii. Advantages of the social and economic rights embodied in the 1982 Constitution
  - iv. Types of provision relating to social and economic rights
    - a. General
    - b. General social and economic measures introduced in the public interest
      - . Expropriation
      - . Free enterprise and nationalisation
    - c. Social security

- v. Restriction of social and economic rights
- 8. Political rights and duties
  - i. General
  - ii. Types of right
    - a. Nationality
    - b. Right to vote, stand for election and engage in political activity
    - c. Provisions relating to political parties
    - d. Right to enter the public service
    - e. Right of petition
    - f. National service
    - g. Obligation to pay tax

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## **LEGISLATION RELATING TO CONSTITUTIONAL RIGHTS**

### **INTRODUCTION**

- A. Concept of Constitution
- B. Matters regulated by the Constitution
- C. Constitutional rights
  - a. Fundamental rights
  - b. Political rights
  - c. Social and economic rights

...

## **CIVIL LIBERTIES**

### **PART I**

### **DEVELOPMENTS IN THE AREA OF CIVIL LIBERTIES**

- 1. Extension of human rights and fundamental freedoms into the social sphere
- 2. Entry of human rights and fundamental freedoms into the international arena
  - a. Universal Declaration of Human Rights
  - b. European Convention on Human Rights
- 3. Modern conception of democratic freedom
  - a. Inadequacy of traditional freedoms
  - b. Emergence of social and economic rights
- 4. Development of civil liberties in Turkey

### **PART IV**

### **RESTRICTION AND REGULATION OF CIVIL LIBERTIES**

- 1. Withholding freedom from those who aim to destroy it
- 2. The necessity of restricting civil liberties from society's point of view
- 3. Extent of restriction
- 4. Preventive and regulatory methods applicable to civil liberties
- 5. Restriction of civil liberties in a state of emergency

## PART V

### **PROTECTION OF CIVIL LIBERTIES**

1. Non-legal limitations on state power
  - A. Moral limitations
  - B. Public opinion
  - C. Limitations imposed by the pluralist structure of society
    - a. Political parties
    - b. Pressure groups
    - c. Trade unions
2. Legal limitations on state power
  - a. Elections
  - b. Strong constitutional system
  - c. Separation of powers
  - d. Presidential veto
  - e. Judicial review
  - f. Referenda

### **PRIVATE INTERNATIONAL LAW**

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- II Legislation governing aliens
  - a. Concept of alien
  - b. Status of the Aliens Act
  - c. The Lausanne Treaty and Turkish legislation governing aliens
  - d. Aliens' enjoyment of rights from the constitutional point of view
  - e. Reciprocal action. Deportation and acquired rights
  - f. Origins of legislation governing aliens
1. Aliens' enjoyment of political rights
2. Aliens' rights and freedoms in matters relating to the press, assembly and education
3. Aliens' freedom of movement and residence
  - a. Entry into and departure from the country
  - b. Travel inside the country
  - c. Freedom of residence

4. Aliens' right to work
  5. Aliens' right to bring proceedings
  6. Aliens' right to own property
  7. Aliens' obligation to pay tax
- III. Conflict of laws
1. Reasons for conflict of laws and possible solutions
  2. Scope of conflict of laws
  3. Judgments authorising the enforcement of judgments given by foreign courts

### **LEGISLATION GOVERNING CRIMINAL PROCEDURE**

- A. SEARCH
1. Power to issue a search warrant
  2. Circumstances in which delay is considered prejudicial
  3. Powers of the Chief Public Prosecutor and the police
  4. Purpose of the search; enforcement team
  5. Importance of issuing the person concerned with a certificate during the search
  6. Night searches; selecting the appropriate night.
- ...

**REPUBLIC OF TURKEY**

**MINISTRY OF THE INTERIOR**

**Directorate of Security**

ANKARA

26 April 1991

No.: ASAYIŞ (Public order) A62142

Subject: Human Rights

TO: OFFICE OF THE HEAD OF THE ANTI-TERRORISM DIVISION

Re: a. your letter No. A-5-77-77692 of 3 April 1991  
b. your letter No. A-5-134-11783 of 12 April 1991

Our division's views on the visit carried out by the European Committee for the Prevention of Torture to gather information on human rights are set out below.

We are of the opinion that:

1. With a view to improving conditions as far as possible in the cells used for the temporary holding of suspects during remand in custody:
  - a. existing remand cells should be fitted with a sufficient number of solid, firmly fixed benches enabling suspects to rest;
  - b. in cases where the physical characteristics of remand cells are adequate, permission should be given for detainees to be issued with blankets where weather conditions so demand.
2. Following a review of the state of remand cells, and with a view to such improvements as are dictated by the decisions of the commissions concerned:
  - a. as regards standards for the physical characteristics of cells, the committee suggests that a one-person cell should be approximately 7m» in area (2m or more between walls, 2.5m or more between floor and ceiling);
  - b. it is naturally considered desirable for all cells (including those used for temporary holding purposes) to possess lighting and be adequately ventilated;
  - c. improvements should be made to toilet and washing facilities for detainees;

Work should start with a view to providing existing remand cells with the above-mentioned characteristics and a standard design in this respect should be applied to future buildings;

3. As regards administrative procedures:
- a. periods of custody must be strictly complied with;
  - b. bearing health requirements in mind, provision should be made for suspects to wash and meet their other needs under staff escort;
  - c. persons remanded in custody should be examined by a doctor as before, and detainees should also be examined by a doctor when taken to court;
  - d. the duties referred to in the above paragraphs may be performed by a civil service doctor or Forensic Institute doctor; however, at the detainee's request, if it is not considered likely to jeopardise the investigation, the examination may be conducted by a private doctor (who may be chosen from the list of doctors drawn up by the officials concerned);
  - e. medical examination of detainees should be conducted in private and all due security precautions taken for the purpose;
  - f. the code of practice for the conduct of interrogations is appended. Copies should be made and posted up at the entrance to the rooms used for interrogation.

Ahmet KAROL  
Head of the Public Order Division

Appendices: 2 (code of practice)

APPENDIX XIII

(APPENDIX 1)

**REPUBLIC OF TURKEY**  
**MINISTRY OF THE INTERIOR**  
**Directorate of Security**

Ankara

No: Head Cent.Div.A.5 (77/7692)-081267

1 April 1991

URGENT TELEGRAM

Subject:

TO: OFFICES OF THE 72 PROVINCIAL GOVERNORS

1. As you will remember, the Turkish Government, in keeping with its policy of securing full protection of human rights, ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on 26 February 1988. The Convention provides for the establishment of a committee empowered to visit any place where persons are deprived of their liberty, including police stations, civilian and military prisons, interrogation and detention centres and hospitals, at any time, after informing the country concerned of its intention.

Under the terms of the Convention the European Committee for the Prevention of Torture visited Turkey from 9 to 21 September 1990 and gathered information in several provinces. In its report on the visit, which was sent to Turkey on 4 February 1991 the committee states that persons remanded in custody are subjected to ill-treatment by members of the security forces.

The committee, as the Convention empowers it to do, has made a series of recommendations intended to remedy the deficiencies it found in our country. The recommendations are as follows:

- a) Members of the security forces to be prevented from resorting to physical or psychological torture or ill-treatment during interrogation;
- b) Suspects remanded in custody to have access to a lawyer and their relatives to be informed of their detention;
- c) Medical examinations to be conducted by Forensic Institute doctors before and after interrogation;
- d) Improvements to be made in cellular accommodation in police and gendarmerie establishments;
- e) All allegations of torture to be thoroughly investigated.

In order to counter any ill-intentioned allegations that might be made in the international arena against our country, whose policies have always been directed towards the protection of human rights, and to conform to the provisions of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, it is imperative that we should comply with the committee's recommendations. You are accordingly requested to act upon the aforementioned recommendations.

2. Urgent telegram to the offices of the 72 provincial governors, letter to the Office of the Governor of Ankara Province.

3. Dir. of Sec. Head Cent. Div. No. A/5 (77-7692).

FOR THE MINISTER

Hamdi ARDALI  
Provincial Governor  
Deputy Under Secretary



**REPUBLIC OF TURKEY**  
**MINISTRY OF THE INTERIOR**  
**GENDARMERIE CENTRAL COMMAND**  
**ANKARA**

Ref.: 0621-/98-91/Asys. S.ASAYIŞ (Public order) (602)

3 May 1991

Subject: CPT Report

**TO: MINISTRY OF FOREIGN AFFAIRS**

Re: letter No. CTAK-II-835-3761 of 25 March 1991 from the Ministry of Foreign Affairs

1. In connection with its visit to Turkey from 9 to 21 September 1990, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) stated under the terms of Article 10 paragraph 1 of the Convention that:

- a. prisoners sent to hospital for treatment were tied to their hospital beds or furniture for security purposes;
- b. the delegation had heard very few allegations of torture in respect of the gendarmerie, but suspects were very often treated very roughly and sometimes beaten by gendarmerie officers;
- c. the delegation had seen 19 cells belonging to the Regional Command of the Diyarbakır Gendarmerie and measuring 1.51m x 2.12m x 2.18m (3.2 m<sup>2</sup>), with insufficient ventilation and lighting.

2. The following action has been taken:

- a. The practice referred to in paragraph a. is a necessary measure taken in exceptional cases where a hospital is unable to provide cellular accommodation for convicts and remand prisoners or where a prisoner's state of health would allow him to escape. It is planned to include cellular accommodation for the purpose in future hospitals and steps to set aside areas for the purpose in existing hospitals are currently being co-ordinated at interministerial level.
- b. Close attention is being paid to the observation referred to in paragraph b. Legal action is being taken immediately against personnel found to have engaged in such behaviour, even to a minimal extent.
- c. Work intended to bring the 19 cells referred to in paragraph c. up to the standards indicated in the Convention [report] will be completed in July 1991.

Work has started on the review of accommodation in other gendarmerie units, the identification of remand cells of unacceptable size and with insufficient lighting and ventilation and the renovation of those cells in order to bring them up to standard.

FOR THE MINISTER

Hamdi ARDALI  
Provincial Governor Deputy  
Under Secretary

**CAPTIONS:**

1. Ankara Central Closed Prison  
Visitors' waiting area (new)
2. Ankara Central Closed Prison  
Visitors' waiting area (new)
3. Ankara Central Closed Prison  
Segregation unit (ward)
4. Ankara Central Closed Prison  
Segregation unit (ward)
5. Ankara Central Closed Prison  
Segregation unit toilets (new)
6. Ankara Central Closed Prison  
Open visiting area (new)

**CAPTIONS:**

1. Malatya E-type Prison  
Front entrance to the prison
2. Malatya E-type Prison  
Entrance
3. Malatya E-type Prison open visiting area  
General view
4. Malatya E-type Prison open visiting area  
Side view
5. Malatya E-type Prison  
Prison dentist's room

**REPUBLIC OF TURKEY**

**MINISTRY OF JUSTICE**

**DIRECTORATE OF PRISONS**

No: 4 Kisim/V: /D:Album Dos30281

ANKARA  
3 July 1991

Subject:

To: Directorate of Criminal Affairs

(For submission to the Office of the Head of the Human Rights Division, Ministry of Foreign Affairs)

Re: Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (9-21 September 1990)

The report drawn up on the visits by the delegation of the Committee for the Prevention of Torture to Ankara, Malatya and Diyarbakır Closed Prisons has been studied. The following information on the action taken is provided for the purposes of the interim report.

A. ANKARA CENTRAL CLOSED PRISON

1. The buildings of Ankara Central Closed Prison are old, but repairs are in progress and new buildings have been added.
2. A new open visiting facilities unit was recently built and brought into service.
3. The wooden visitors' waiting room in front of the prison, which was unfit for use, has been demolished; two separate modern buildings with toilets, a tea service, a closed room for personal search purposes and visitors' waiting rooms have been built in its place and brought into service.
4. The segregation unit described in the report as unsuitable has been vacated. A new, modern segregation unit with tiled floors and walls, equipped with toilet and washing facilities, has been built on the ground floor of the new open visiting unit. The unsuitable cells have accordingly been withdrawn from service and their occupants removed to the new building.
5. The prison central kitchen, which has been tiled inside and painted outside, has been brought up to satisfactory standards of hygiene. A separate cold storage area has been added and the cooking facilities have been modernised.
6. The central Turkish baths have been cleaned and repaired.
7. The prison cells have been painted.
8. The Women's Ward has undergone both internal and external repairs; work on it continues.

9. A psychologist, a social services expert, a dentist, three doctors and a health officer work in the prison on a full-time basis in an atmosphere of good understanding and cooperation.

10. Six photographs showing innovations in the prison are appended.

11. No complaints have been received to the effect that staff in Ankara Central Closed Prison sometimes beat prisoners. However, when allegations of this kind are made, judicial and administrative investigations are launched immediately. The sticks found in the prison storage area are extras kept there to serve as handles for picks and shovels used for gardening and coal-carrying purposes. They have absolutely not been used for purposes such as beating prisoners.

The necessary steps have been taken to prevent this type of abuse in prisons.

12. The new segregation unit has been built and fitted out and it has been decided to hold mentally ill inmates there pending transfer to hospital. Since the new measure came into effect Ward 14 has not been used to accommodate such persons.

13. The incident mentioned in the Committee's report concerning the beating of young prisoners in connection with an attempt to escape from Ankara Central Closed Prison is a matter for the courts and has accordingly been referred to the Office of the Ankara Chief Public Prosecutor for the necessary investigation. The investigation is now in progress. Turkish prisons are always kept under independent judicial supervision in criminal matters.

#### B. MALATYA E-TYPE PRISON

1. The appropriate local authority was contacted on the subject of the prison's water shortage; a contract was awarded for water supply works in 1989. Work is still in progress.

2. The segregation unit cells have been renovated, repaired and cleaned.

3. Juveniles are held in a special, separate unit and segregated from adult prisoners.

4. Two doctors work in the prison.

5. The wards, cells and all toilet facilities have been renovated, repaired and brought up to satisfactory standards.

6. Five photographs showing innovations in the prison are appended.

C. DIYARBAKIR E-TYPE PRISON

1. The State Water Board has sunk a 450m well to provide the prison with an adequate water supply; the machinery is being installed.
2. All the segregation cells in Block E have been provided with lighting.
3. No juveniles are at present held in the prison; however, a new ward has been provided for juvenile prisoners.
4. The prison doctors are working full time and health care services have been brought up to adequate standards. In addition, specialist doctors from civil hospitals visit the prison on request. Prisoners who fall ill and clearly cannot be treated in the prison hospital are always transferred to civil hospitals for treatment.
5. The Provincial Directorate of Public Works has been contacted with a view to the renovation of wards and cells; an initial estimate has been drawn up and work is in progress.
6. In order to reduce overcrowding in Diyarbakır 1 E-Type Prison and restore the number of prisoners, which was excessive by European standards, to normal, and as Diyarbakır Prison is a remand prison only, the Ministry of Justice, in response to a request from the Office of the Diyarbakır Chief Public Prosecutor, ordered the transfer of 86 prisoners in respect of whom final judgments had been given or appeals were pending to 8 different prisons currently operating below capacity.

Hunger strikes had been causing unrest in the prison for more than a year; against the prison director's will, this had prevented the transfer of prisoners who had been convicted by the courts, but whose appeals were pending, and prisoners whose convictions had been upheld by the Court of Cassation; as a result, the prison population had risen above capacity. In order to prevent overcrowding in Diyarbakır Prison, which is a remand prison, it had thus become imperative to transfer prisoners in respect of whom appeals were pending and prisoners in respect of whom final judgments had been given.

However, although the matter had previously been discussed with ward representatives, the other remand prisoners and convicts in the prison resisted the transfer; they committed unlawful acts against the members of the security forces who came to collect the convicts, using violence and attacking them. The transfer was nevertheless carried out. The hunger strike conducted by 225 convicts and remand prisoners in the wake of the transfer ended some time later.

None of the prisoners rights' were suspended, nor were any acts of torture committed. On the contrary, the prisoners resisted and attacked public officials.

The complaints lodged by a number of prisoners concerning police officers were nevertheless acted upon; all the information and documents relating to the incident were collected and the Office of the Diyarbakır Chief Public Prosecutor launched a judicial and administrative investigation (No. 1990/8156). As the complainants and witnesses have been transferred to various prisons, the investigation has not yet been completed.

7. The allegation mentioned in the report that torture was practised in Diyarbakır Prison is entirely unfounded.

8. The statement by the Director of Diyarbakır Prison to the effect that 10 to 15 prisoners were transferred to other prisons every month is mistaken or may be due to an interpretation error. Likewise, since the large-scale transfer referred to, no prisoners have been transferred from Diyarbakır Prison.

#### D. MISCELLANEOUS ISSUES

1. New twenty-occupant vehicles equipped with modern lighting and ventilation systems have been purchased and brought into service, especially for the long-distance transport of prisoners. The purchase of vehicles will continue as far as budgetary resources permit.

2. The Committee's recommendations on mentally ill prisoners are considered justified; such prisoners are initially held in a medical ward in prison, then transferred to general hospitals, where they receive psychiatric treatment.

3. In accordance with Turkish legislation, the full cost of prisoners' medical care and treatment, including operations, is borne by the state.

4. Prison doctors are officials subject to Civil Servants Act No 657. It would therefore be contrary to Turkish law for an unofficial or independent organisation to take part in decision-making in disciplinary matters or on promotion, for example, or in the drafting of reports concerning prison doctors. In addition, such a practice would obviously have an adverse impact on prison administrations in terms of discipline and authority.

5. Child offenders under the age of 18 who are sentenced to terms of imprisonment in Ankara, Malatya or Diyarbakır Prisons or any other prison are transferred, as soon as the judgment concerning them becomes final, to Ankara, Izmir or Elazığ Reformatories, depending on the area in which they are imprisoned. On placement in these institutions they are enrolled in various schools and efforts are thus made to rehabilitate and educate them with a view to reintegrating them into society.

6. The allegation by a few young prisoners that several 15- and 16-year-old prisoners were placed in wards accommodating adult prisoners in Malatya and Diyarbakır Prisons has been proved by the ensuing investigation to be unfounded. The wisest course in such cases is to decide after inspecting such persons' identity cards.

It is a fact that Regulation 8 of the Prison Administration Regulations and the relevant ministerial circulars provide for child offenders to be held in separate institutions. Separate reformatories have been set up for juvenile prisoners in Ankara, Elazığ and Izmir. Young prisoners between the ages of 11 and 18 in respect of whom final judgments have been given are transferred to these institutions.

According to the same regulations, child offenders who are under the age of 18 while on remand are held in separate areas of the prison and forbidden to communicate with adult prisoners. This is the practice adopted.



7. As regards the comment that prisons are overcrowded and the number of prisoners accommodated in cells and wards is unacceptably high, 22,222 remand prisoners and convicts were conditionally released from Turkish prisons by 1 July 1991 under provisional section 1 of Suppression of Terrorism Act No. 3713 of 12 April 1991; as only 23,152 offenders now remain in prison, the overcrowding and stifling conditions in prisons have disappeared.

8. Furthermore, in order to improve the physical characteristics of prison cells and wards and bring them up to contemporary standards, it has been decided under section 16 of the same Act to build new, modern prisons of a special kind, consisting of one- and three-person cells, for prisoners charged with terrorist offences. Work has begun on the building of these European-type prisons and, once they are brought into operation, all negative aspects will have been removed.

9. Whereas under the European Prison Rules adopted by the Committee of Ministers of the Council of Europe in 1987 a prisoner in Europe is entitled to one hour's outdoor exercise a day, outdoor exercise in Turkey is taken throughout the day.

10. Under a measure newly introduced in Turkish prisons, prisoners are provided by the state with mattresses, sheets, blankets and pillows; all complaints on the subject have therefore ceased.

11. The Office of the Malatya Chief Public Prosecutor has been instructed to have the unused floodlights facing the cells in Malatya E-Type Prison removed, since they served no purpose.

12. Ankara and Malatya Prisons have posts for psychiatrists, health officers and nurses to support the prison doctors. Some are filled and others are vacant. Efforts will be made in cooperation with the Ministry of Health to fill the vacant health officers' and nurses' posts.

13. In the absence of ambulant medical care for emergency cases in prison, specialist doctors are called in from civil hospitals in emergencies; this ensures immediate intervention.

14. At present, 896 child offenders between the ages of 11 and 18 (17 girls and 879 boys) are held in the areas of Turkish prisons reserved for juveniles and in the three reformatories.

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JUDGE  
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