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**Follow-up report of the Turkish Government
on the action taken in response
to the reports of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visits to Turkey**

**from 9 to 21 September 1990
and 22 September to 7 October 1991**

The Turkish Government has authorised the publication of this response. The reports of the CPT on the 1990 and 1991 visits to Turkey are set out in documents CPT/Inf (2007) 1 and CPT/Inf (2007) 3.

Strasbourg, 11 January 2007

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Introduction

The programme of the present government (Appendix 5), which came to power following the general election held on 20 October 1991, and the chapters on "basic principles" and "democratisation proposals" of the Coalition Protocol (Appendix IV) appended to the programme provide for Turkish domestic law to be brought into line with the contemporary standards laid down in the Paris Charter and its appendices and with other international conventions; for the independence of the judiciary and the security of tenure of judges to be achieved in practice; for periods of remand in custody to be shortened; for persons in custody or in detention to have the right, under amendments to criminal law and codes of procedure, to refuse to make statements in the absence of their lawyers; for persons in custody or in detention to have the right to receive visits from their lawyers and relatives at specified intervals; for the Martial Law and State of Emergency Acts to be revised and amended in the light of the universal principle of respect for the rule of law and for fundamental rights and freedoms; and for the Suppression of Terrorism Act to be revised in the light of the principle of respect for fundamental rights and freedoms.

The legislative work undertaken, as stated in the Government Programme, with a view to legal reform in the shape of amendments to legislation which do not require constitutional changes is now in its final stages. The planned amendments also constitute a reply to the comments on the subject set out in the reports of the European Committee for the Prevention of Torture.

This follow-up report was drawn up in reply to the recommendations, comments and requests for information contained in the first report (6 February 1991) and the second report (4 December 1991) of the European Committee for the Prevention of Torture. It was prepared by the Office of the Head of the Human Rights Division, Ministry of Foreign Affairs, on the basis of the information in the possession of the Ministry of Foreign Affairs and the information received from the Ministry of Justice, the Ministry of the Interior and the Ministry of Health.

Sentences underlined in the report indicate recommendations, comments and requests for information contained in the reports of the European Committee for the Prevention of Torture.

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

- Appropriate steps should be taken immediately to prevent staff of the Anti-Terrorism Departments of the Ankara and Diyarbakır Police from subjecting suspects to physical and psychological torture and/or other forms of severe ill-treatment during interrogation and the CPT is to be informed of the steps so taken (first report, paragraph 89)¹

ACTION TAKEN

1. Both the CPT's first report of 6 February 1991 and its second report of 4 December 1991 have been translated in full to make it easier for the authorities concerned to understand the recommendations, comments and requests for information contained in the reports and ensure that the necessary work is undertaken sooner.

2. In addition, the Turkish version of the first report has been printed in the form of a "Confidential" booklet by the Ministry of the Interior and distributed, with a covering circular, to all provincial police headquarters in Turkey. This ensures that senior officials of both the central and the provincial police forces under the authority of the Ministry of the Interior are informed of the nature and purpose of the CPT's work and of the points it considers important in prisons and in police and gendarmerie establishments. The recommendations set out in the CPT reports to the effect that detainees must on no account be subjected to torture or to other forms of severe ill-treatment during custody have been circulated in the form of instructions to all provincial police headquarters, including Ankara and Diyarbakır Police Headquarters. Details of these measures were given to the CPT in our three-month report dated 2 May 1991.

3. The Ministry of the Interior has drawn up a "**Code of Practice for Remand in Custody**" (Appendix 2) indicating the steps to be taken to ensure that persons remanded in police and gendarmerie custody are treated in such a way as to avoid giving rise to allegations of torture and inhuman, degrading or other forms of ill-treatment. The code of practice was circulated to the offices of all provincial governors on 1 May 1991.

¹ Sentences underlined indicate recommendations, comments and requests for information contained in the CPT reports.

4. The Ministry of the Interior has also drawn up "Regulations for the Conduct of Interrogations" (Appendix 3) covering all the points set out in the relevant section of the CPT's first report. The regulations came into force on 6 August 1991.

5. In addition, a textbook entitled "Human Rights (Accused Persons' Rights and Police Powers) - Police Schools Textbook" (Ankara 1991) (Appendix 6), produced by the Education Department, Directorate of Security, Ministry of the Interior, is now in use in police schools.

6. The textbook states that, in accordance with the European Convention on Human Rights, no one may be subjected to ill-treatment inconsistent with human dignity and that police officers may refuse to obey orders resulting in acts of torture. The textbook starts with a preface by Mr Ünal Erkan, Director of Security, stating that the intention is to comply with the international conventions signed by Turkey and that a police officer's chief duties must include being aware of, informing others of and ensuring the exercise of the rights of accused persons, which are human rights, provided for by the European Convention on Human Rights and by Turkish legislation. The book has 14 chapters on universal human rights principles, police powers, the judgments of the European Court of Human Rights, the validity of statements obtained by unlawful methods, physical examination, the taking of biological samples by the police, the right to liberty, the judicial process and human rights, the right to respect for one's private life, home and correspondence, the right to freedom of thought, conscience and religion, the right to freedom of expression and information and the right to freedom of assembly and to freedom of association, including the right to organise. The book provides information on the European Convention on Human Rights and discusses the convention from the standpoint of human rights and police duties and powers. It draws attention to the basic principle embodied in Article 3 of the Convention, "No one shall be subjected to torture or to inhuman or degrading treatment or punishment"; it states that there can be no justification for police behaviour contrary to this principle, and that it is a police officer's right and duty to refuse to obey orders which would result in such conduct. It indicates that police officers may only use force commensurate with the incident they are dealing with and that they must "if possible use persuasion" before resorting to force. The book points out that the security forces are not entitled to examine witnesses or interrogate accused persons, since these are matters for the public prosecutor and the judicial authorities; the security forces may take statements, but the accused are entitled to remain silent and, if they so wish, refuse to give a statement. It also states that, if the police engage in unlawful conduct when carrying out an arrest, the person concerned may resist in self-defence and will not be punished for doing so. The book quotes the constitutional principle that "no one shall be subjected to inhuman or degrading punishment or treatment", emphasises the need to safeguard human dignity and draws attention to the view that "it cannot be considered essential to get at the truth at all costs".

7. The book reproduces the text of the Regulations for the Conduct of Interrogations; it recommends that interrogations should be conducted with both parties seated, in a calm atmosphere, and that the interrogator should be familiar with the psychology of guilt and should be patient and cool-headed. The book also reproduces the Code of Practice for Remand in Custody and recommends that the state of remand cells should be improved as far as possible and should afford adequate conditions of cleanliness and comfort even for short stays.

8. The Ministry of Justice has issued circulars to its central and provincial networks, including the Offices of the Ankara and Diyarbakır Chief Public Prosecutors, reminding them once again of Turkey's obligations regarding the prevention of torture under the Turkish Constitution, the Universal Declaration of Human Rights and the European Convention on Human Rights and requesting that acts and allegations of torture and ill-treatment should be investigated immediately and that the Ministry should be informed of the results of the investigations.

- **A commission of enquiry composed of independent persons should be set up immediately with terms of reference to carry out a thorough, comprehensive investigation of the methods used by police officers belonging to the Anti-Terrorism Departments of the Ankara and Diyarbakır Police when holding suspects** (second report, paragraph 30)

9. As the Turkish Parliament's Human Rights Monitoring Committee already exists as an independent body, we are of the opinion that it would be inappropriate to set up another investigatory body as recommended by the CPT and that the tasks to be assigned to the body advocated by the CPT can be performed by the above-mentioned Committee. Both CPT reports have accordingly been forwarded to the Turkish Parliament's Human Rights Monitoring Committee, whose attention has been drawn to the CPT's recommendation on the matter. The information on the subject received from the Committee will be forwarded to the CPT.

- **Steps should be taken to expedite the adoption of the Bill reducing the length of custody periods** (first report, paragraph 96)

10. Parliament was unable to consider and adopt the Government Bill referred to in the above recommendation, which provides for the reduction of custody periods, within the 18th legislative period, which ended with the general election held on 20 October 1991. Under the relevant Rule of the Parliamentary Rules of Procedures, the Bill has therefore lapsed. Under the Rules of Procedure, a Bill which has lapsed in this way becomes valid only if the Government tables it again in Parliament during the new legislative period. Accordingly, in keeping with the democratisation principles set out in the programme of the present government, which came to power as a result of the general election on 20 October 1991, and the Coalition Protocol appended to it, and in order to put an end to allegations of torture and ensure that statements taken during preliminary investigation are both valid and reliable, **the "Bill amending certain provisions of the Code of Criminal Procedure, the State Security Courts (Establishment and Procedure) Act and Lawyers Act No. 1136 and repealing certain provisions of the Police (Duties and Powers) Act and the Suppression of Terrorism Act"** was drawn up by the Ministry of Justice and submitted to the Cabinet in December 1991.

The relevant section of this Bill amends Article 128 of the Code of Criminal Procedure, which regulates periods of custody, and brings the maximum possible periods of custody into line with the limits laid down in decisions of the Council of Europe's Commission of Human Rights. It provides in particular for persons in custody to be brought before a court within 24 hours in the case of offences committed by one person only and within 4 days in the case of collective offences jointly committed by 3 or more persons. In addition, section 16 of State Security Courts (Establishment and Procedure) Act No. 2845, section 11 of Suppression of Terrorism Act No. 3713 and additional section 2 of Police (Duties and Powers) Act No 2559, which provide that the maximum custody period for collective offences is 15 days, are repealed. Thus, the length of custody is determined only by Article 128 of the Code of Criminal Procedure.

11. The Bill amends Article 128 of the Code of Criminal Procedure (No. 1412), which lays down the periods of custody, so as to include the following provisions:

- i. A person remanded in custody, if not released, shall be brought before a magistrate's court and questioned within 24 hours, excluding the time required to convey him to the magistrate's court nearest to the place of arrest. If he so requests, his lawyer shall be present during the interrogation.
- ii. In the case of collective offences committed jointly by three or more persons, where the number of offenders or the state of the evidence prevents the application of the 24-hour limit, the Public Prosecutor may order the period to be extended to a maximum of 4 days.
- iii. If the magistrate's court finds that the situation does not require the person concerned to be remanded in custody, or that the grounds for custody no longer apply, it shall order the release of the person in custody.
- iv. In response to the Public Prosecutor's written order for remand in custody or for an extension of the custody period, the person arrested, his lawyer, his legal representative, a first- or second-degree blood relative or his spouse may apply to the magistrate's court for his immediate release (application for habeas corpus). After considering the file, the magistrate's court shall decide on the application within 8 hours, before the expiry of the custody period. If it finds that there are grounds for remand in custody or for an extension of the custody period, it shall dismiss the application; otherwise, it shall order the release of the person remanded in custody.
- v. This article shall not apply a second time, in respect of the offence which gave rise to remand in custody, to a person released on the expiry of the custody period or on receipt of a court order for his release.

- **The authorities should keep the possibility of reducing even further the maximum possible periods of custody, particularly in regions where a state of emergency has been declared, under close review (first report, paragraph 96)**

12. If the Bill referred to in paragraph 10 above is adopted, the custody periods applicable in regions where a state of emergency has been declared will, under section 26 of State of Emergency Act No. 2935, be twice as long as those provided for by Article 128 of the Code of Criminal Procedure.

- **The exceptions to the obligation to notify immediately a person's next of kin of his arrest should be clearly defined and circumscribed by law and their application should be made subject to an appropriate time limit (first report, paragraph 99, and second report, paragraph 40)**

13. The Bill referred to in paragraph 10 above amends Article 135 of the Code of Criminal Procedure, which lays down the procedure for interrogation. The amendments introduce new rules for the questioning of persons remanded in custody by the police, the prosecuting authorities and the courts. In particular, the accused person will be informed during questioning that the relative of his choice will be notified of his arrest.

14. The above-mentioned Bill amends Article 135 (Conduct of Interrogations) of the Code of Criminal Procedure and provides for questioning by the court, the prosecutor and the police (senior officers and their subordinates) to follow the successive steps listed below:

- i. establish the accused person's identity;
- ii. inform him of the offence with which he is charged and of the criminal provisions applicable;
- iii. inform him of his right to choose a lawyer and, if he is not in a position to do so, of the possibility available to him of requesting that a lawyer be appointed by the Bar Association to provide him with legal assistance; also inform him that the relative of his choice will be notified of his arrest;
- iv. if the accused person so wishes, his lawyer may be present during the interrogation without a power of attorney being required;
- v. inform him of his statutory right not to make a statement concerning the offence with which he is charged (right to remain silent);
- vi. remind him that he may request the collection of evidence to refute the suspicions concerning him and allow him to disprove the grounds for suspicion against him and adduce arguments in his favour;

- vii. the interrogation must be recorded in writing. The record must include:
- a. the place and date of interrogation,
 - b. the names and titles of the persons present during the interrogation and details of the identity of the person interrogated;
 - c. information as to whether the steps listed above for the conduct of the interrogation have been followed and, if not, the reasons for this;
 - d. a statement to the effect that the accused person and his lawyer have read the record, and their signatures;
 - e. in the event of refusal to sign, the reasons for this.

- **The right of persons in the custody of the police or the gendarmerie to have access to legal advice should be effectively guaranteed by law and any exception to this right should be clearly defined and circumscribed and its application made subject to an appropriate time limit (first report, paragraph 99, and second report, paragraph 33)**

15. The legislative amendments referred to in paragraphs 10 and 14 above provide for accused persons to be informed during interrogation of their right to choose a lawyer and, if they are not in a position to do so, of the possibility available to them of requesting that a lawyer be appointed by the Bar Association to provide them with legal assistance. If the detainee so wishes, his lawyer may be present during the interrogation.

- **Arrested persons should be immediately informed of their right of access to legal advice (first report, paragraph 99)**

16. The amendments referred to in paragraphs 10 and 14 above provide for accused persons remanded in custody to be informed during interrogation of their right of access to legal advice.

- **Persons in the custody of the police or gendarmerie should have the right to be examined by a doctor of their own choice in addition to - not instead of - examinations carried out by a state-employed doctor or, if there are reasonable grounds for believing that access to the detainee by the doctor chosen by him might jeopardise the investigation, by a doctor chosen from a list of doctors agreed with the appropriate professional body (first report, paragraph 103, and second report, paragraph 34)**

17. The Code of Practice for Remand in Custody drawn up by the Ministry of the Interior, which came into force on 1 May 1991, and the Regulations for the Conduct of Interrogations which came into force on 6 August 1991, provide for persons remanded in custody to be examined by Forensic Institute doctors both before and after interrogation prior to being brought before the courts. However, Turkish legislation does not provide for persons remanded in custody to be examined by a private doctor of their choice in addition to the medical examinations referred to above. This is because both doctors working in public institutions such as the Forensic Institutes and doctors working in the private sector are answerable to their local Medical Association and required to comply with its rules. Consequently, as doctors working in the public sector and the private sector are subject to the same obligations, patients are entitled to expect the same service from doctors in both sectors. In addition, we are of the opinion that allegations of torture and other forms of severe ill-treatment will be entirely eliminated by legislative amendments such as those provided for by the Bill referred to in paragraph 10 above: the reduction of periods of custody to the length considered acceptable by the European Commission of Human Rights, recognition of the right of persons remanded in custody to have access to legal advice during interrogation by members of the security forces, provision for notification of the person's next of kin and for the detainee to be informed of the fact and recognition of the right to apply to a magistrate's court for the person's release (habeas corpus) in the event of an extension of the minimum 24-hour period of custody (to a maximum of 4 days under the above-mentioned Bill). Furthermore, current legislation does not prevent a person remanded in custody from receiving a medical examination by a specialist if his medical condition is found to require such a specialist examination in addition to examinations by Forensic Institute doctors. Thus, the Code of Practice for Remand in Custody introduced by the Ministry of the Interior on 1 May 1991 states that, if a person remanded in custody so requests, he may also be examined by a private doctor.

- **Detainees should be fully examined by a doctor from the relevant Forensic Institute both before they are interrogated and at the conclusion of their interrogation (first report, paragraph 103, and second report, paragraph 34)**

18. We are of the opinion that acts of torture and other forms of severe ill-treatment during remand in custody will be prevented by legal measures such as those provided for by the Bill referred to in paragraph 10 above and by the planned amendments to the Code of Criminal Procedure: for example, the statutory minimum period of custody will be 24 hours and may, in the case of collective offences, be extended to a maximum of 4 days by written order of the Public Prosecutor; accused persons will be entitled to be accompanied by their lawyers during interrogation; accused persons will be clearly informed in advance of their right to remain silent; the Bill clearly states how interrogations are to be conducted; Articles 128, 135 and 254 of the Code are to be amended to ensure that statements obtained by torture, ill-treatment or interrogation using other methods [of coercion] are not regarded as evidence; and a new Article 135/a lists prohibited methods of interrogation.

19. In addition, the **Regulations for the Conduct of Interrogations** drawn up by the Ministry of the Interior, which came into force on 6 August 1991, include the provision that a medical certificate must be established in respect of persons remanded in custody both before interrogation and at the end of the interrogation before they are taken to court.

- **Medical examinations of persons remanded in custody by a doctor from the Forensic Institute should be carried out on a personal basis and under conditions offering due privacy for the person examined** (first report, paragraph 103).

- **All medical examinations of persons remanded in custody should be conducted out of the hearing, and preferably out of the sight, of police or gendarmerie officers** (first report, paragraph 103).

- **The results of all medical examinations as well as relevant statements made by the detainee should be formally recorded by the doctor and made available for scrutiny by the detainee** (first report, paragraph 103, and second report, paragraph 34).

20. By letter of 21 January 1992, the Ministry of Justice stated that instructions would be circulated to the state bodies concerned to ensure that the above recommendations were acted upon and that the necessary supervision would be exercised in the matter.

- **Implementing regulations or a code of practice for the conduct of interrogations should be drawn up and published as soon as possible** (first report, paragraph 107, and second report, paragraphs 35 and 36).

21. The **Regulations for the Conduct of Interrogations** (Appendix 3) drawn up by the Ministry of the Interior, which lay down the interrogation methods to be used, covering the matters referred to in paragraph 106 of the CPT's first report, came into force on 6 August 1991. In a circular dated 15 January 1992 to all provincial police headquarters, the Ministry of the Interior requested that the Regulations for the Conduct of Interrogations be communicated to all relevant officials (to be certified by signature). The Gendarmerie Central Command at the Ministry of the Interior also stated that the Regulations had been issued on 22 November 1991 in the form of a circular to all gendarmerie provincial commands.

22. The Bill referred to in paragraph 10 above providing for detailed amendments to Article 135 of the Code of Criminal Procedure, which regulates the conduct of interrogations, as indicated in paragraph 14 above, lays down the principles governing the interrogation of accused persons. Detainees are given effective means to defend themselves, including the right to have their lawyer present during interrogation, the right to request the collection of evidence and the right to remain silent. Accused persons are to be informed of their rights during questioning. The Bill details the manner in which these rights are to be exercised, the drawing up of the interrogation record and the points to be covered in the record.

23. An additional Article 135/a is to be inserted after Article 135 of the Code, listing prohibited methods of interrogation and providing that statements obtained by prohibited means are invalid, even where the accused consents.

24. Article 135/a on "Prohibited Methods of Interrogation" inserted into the Code of Criminal Procedure under the above-mentioned Bill lists prohibited methods of interrogation as follows:

- i. interference with a person's freedom of action and decision by exerting forms of physical and psychological pressure such as ill-treatment, withholding of food and drink, forcible administration of medicines, hypnosis, torture and deceit,
- ii. recourse to other methods which interfere with a person's memory or understanding,
- iii. the promise of advantages not provided for by law.

- **Publication of the Regulations for the Conduct of Interrogations** (second report, paragraph 35).

25. No information has yet been received from the Ministry of the Interior on the publication of the Regulations in the Official Gazette. When such information is received, it will be forwarded to the CPT.

26. However, the Regulations for the Conduct of Interrogations are published in full, together with the Code of Practice for Remand in Custody, in "**Human Rights (Accused Persons' Rights and Police Powers) - Police Schools Textbook**", Ankara, 1991, the textbook recently produced by the Education Department, Directorate of Security, Ministry of the Interior, and now in use in police schools. The Turkish press published reports on the content of the textbook and the Regulations for the Conduct of Interrogations on 3 February 1991.

- **Steps should be taken to ensure that all complaints of torture or other forms of ill-treatment are investigated and, if necessary, consideration should be given to the establishment of alternative procedures or structures in this area** (first report, paragraph 109).

27. As indicated in our interim report, all allegations of torture and ill-treatment are investigated *ex officio* by the judicial authorities concerned under Articles 243 and 245 of the Criminal Code and those considered responsible are prosecuted. In addition, as a member of the Council of Europe, Turkey has become a party to the conventions for the prevention of torture signed under the aegis of both the Council of Europe and the United Nations and has thus become subject to the international supervisory machinery provided for by these conventions. As well as recognising the right of individual petition to the European Commission of Human Rights and the compulsory jurisdiction of the European Court of Human Rights, Turkey has signed the Ninth Protocol to the European Convention on Human Rights signed in Rome on 6 November 1990, which recognises the right of individuals to bring cases before the European Court of Human Rights.

The Turkish Parliament's Human Rights Monitoring Committee

28. Act No. 3686 of 4 December 1990 setting up the Turkish Parliament's Human Rights Monitoring Committee was published in the Official Gazette on 8 December 1990. The Committee is composed of members of the True Path Party, the Motherland Party and the Social Democrat Populist Party in proportion to the size of their groups in Parliament. The Chairman announced on 27 February 1991 that the Committee had started work.

29. The Human Rights Monitoring Committee, which is a joint standing committee, differs in its aims and terms of reference from the other committees set up under the Rules of Procedure to assist Parliament in its legislative work. Its purpose is to monitor human rights practices in Turkey and worldwide and to ensure that Turkey keeps pace with developments in the matter of respect for human rights. The scope of the activities to be undertaken in pursuit of this aim is determined not only by the Turkish Constitution and the international human rights conventions to which Turkey is party, but also by human rights [practices] to which Turkey has not subscribed, but which have gained widespread international acceptance. This entails a very broad debate on and interpretation of human rights practices in our country. This is part of the Committee's aims and responsibilities. Its other duties include proposing legislative amendments to bring Turkish legislation into line with international human rights conventions and developments; investigating shortcomings in human rights practice and proposing means of remedying them; investigating claims and applications relating to human rights violations and, where necessary, referring them to the authorities concerned; and monitoring human rights practices in other countries, contacting members of parliament in those countries and drawing their attention to the practices in question.

30. Among the Committee's duties, the investigation of claims and applications concerning human rights violations is of special importance. As a joint standing committee, the Committee has assumed a new supervisory function which adds to the legal remedies already available in Turkey. This new supervisory machinery differs from, but complements, supervision by the courts. The courts are only empowered to deal with the cases brought before them and with the particular disputes to which those cases relate; they are not empowered to assess developments from a broad perspective or propose remedies for any shortcoming perceived; in contrast to these limitations, the Human Rights Monitoring Committee will clearly be able to exercise highly effective supervision. The Committee is empowered, in the course of its duties, to carry out on-the-spot investigations in public institutions where human rights violations have occurred and request such bodies to provide information. It is composed of representatives of the parties possessing parliamentary groups and will ensure that the truth comes to light. Its work will be described in annual reports submitted to Parliament for approval.

31. It is also of particular importance that Parliament should be kept informed by means of the Human Rights Monitoring Committee's annual progress reports. Before the Committee was set up, Parliament was able to follow human rights practices only through the press and MPs; it will now be informed by a joint committee working with its own experts and parliamentary supervision will therefore become more effective. The Committee Chairman told the press that the Committee would, if necessary, perform its duties "in opposition to the government". He indicated that it had already received various applications, that the Committee was essentially above political parties, that it was even prepared to come into conflict with the government in the matter of human rights violations and that no one should doubt that it would carry out its tasks.

32. As soon as it was set up, the Committee began to investigate the individual applications submitted to it alleging human rights violations. In the short period since its inception, the Committee has concentrated on the following points:

- Investigation of conditions in prisons: a sub-committee has been set up for the purpose. The members concerned initially visited Bursa Prison and submitted their report on it to the Committee;
- The Committee has set up another sub-committee to investigate the events at Şırnak;
- Visits to police stations: the Committee plans to visit police stations in large towns. A delegation of Committee members first visited a police station in Ankara and will carry out further visits;
- The Committee is about to embark on a study of the extent to which existing legislation and bills tabled in Parliament comply with human rights requirements. It has accordingly started to examine a member's proposal to the effect that certain provisions of Martial Law Act No 1402 violate human rights. The Committee is considering the position adopted by some of the public servants dismissed from their posts under the above-mentioned act, that failure to reinstate them is contrary to the Universal Declaration of Human Rights and the International Labour Organisation conventions.

33. The Committee stated at the outset that it was open to contacts with all organisations concerned with human rights both in Turkey and elsewhere and has started to establish contact with such organisations, including Amnesty International and Helsinki Watch. It also aims to establish contact and relations with its counterparts in other countries. The Committee Chairman welcomed the repeal of Articles 141, 142 and 163 [of the Criminal Code] under the Suppression of Terrorism Act and announced that the Committee had received complaints of torture, would address them squarely and would uphold human rights.

34. In addition, the present government, which came into power after the general election of 20 October 1991, has **set up a Ministry of State for Human Rights**.

B. REPLIES TO THE CPT'S COMMENTS

- **Importance of appropriate human rights education for members of the medical profession (first report, paragraph 112)**

35. Students in medical faculties in Turkey receive one year's tuition in deontology. Doctors graduating from these faculties receive the necessary information on how to provide the most appropriate and efficient service in their relations with patients and colleagues. They also receive tuition on professional ethics and moral values. This naturally means that they receive human rights education. A doctor's fundamental duties include respect for human rights, belief in the equality of human beings and conduct consistent with those principles. Doctors therefore possess this awareness when they graduate from a medical faculty. Consequently, there should be no question of giving members of the medical profession human rights education as a separate subject. This should not be considered necessary².

C. REPLIES TO THE CPT'S REQUESTS FOR INFORMATION

- **The comments of the Turkish authorities on the question of the development of more advanced and more technical methods of crime investigation as well as information on any planned developments in this area (second report, paragraph 39)**

36. Information on the subject will be obtained from the Ministry of Justice and the Ministry of the Interior and forwarded to the CPT.

- **Information on the real reasons for the inclusion of section 15 (3) in the Suppression of Terrorism Act (second report, paragraph 45)**

37. The Bill referred to in paragraph 10 above provides for the repeal of section 15 (1) and (3) of Suppression of Terrorism Act No. 3713.

² See letter dated 15 January 1992 from the Ministry of Health to the Ministry of Foreign Affairs (ref: Office of the Head of the Foreign Relations Department - no. 83).

CHAPTER II

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

ACTION TAKEN ON THE CPT'S RECOMMENDATIONS

- The Turkish authorities should review immediately the state of cellular accommodation in Ankara Police Headquarters, Diyarbakır Police Headquarters and the Interrogation Centres of the Anti-Terrorism Department of the Diyarbakır Police and the Regional Command of the Diyarbakır Gendarmerie Regiment with a view to either its improvement in the light of the remarks made in paragraphs 118 and 121 of the CPT's first report or its withdrawal from service (first report, paragraph 122, and second report, paragraphs 49, 50, 51, 52 and 53)

38. Information on the first stage of the work undertaken to enlarge the cells in question to the minimum 7 m² indicated in the CPT's first report and improve living conditions in the cells was given to the CPT in our six-month report dated 25 July 1991. The Code of Practice for Remand in Custody drawn up by the Ministry of the Interior and circulated to the offices of all provincial governors on 1 May 1991 states that a one-person remand cell must be 7 m² in area. It also indicates that remand cells must be brought up to the requisite standards in terms of lighting, ventilation, cleanliness and fittings. A copy of the code of practice was forwarded to the CPT with our three-month interim report dated 2 May 1991.

- Alterations to cellular accommodation in the Interrogation Centre of the Regional Command of the Diyarbakır Gendarmerie Regiment (first report, paragraph 122, and second report, paragraph 53)

39. The Central Interrogation Centre of the Regional Command of the Diyarbakır Gendarmerie Regiment, which is currently in use, previously contained 19 cells; as a result of alterations circumscribed by the building's existing structure, these have been turned into 10 cells 2.30 m high and 2 x 3.15 m = 6.30 m² in area; however, as the back of the building is a storage shed, it was not possible to provide the cells with windows in the outer walls. Lighting and ventilation are provided from the corridor.

40. In addition, in its written instructions dated 15 January 1992 to the offices of the Governors of Ankara and Diyarbakır Provinces concerning the recommendations set out in the CPT's second report, the Ministry of the Interior pointed out that the remand cells in Ankara and Diyarbakır Police Headquarters had not yet been brought up to the physical standards indicated previously and requested that this be done³.

³ See letter No. Tem.Dai.Bsk. (Central Division) 027237 dated 20 January 1991 from the Ministry of the Interior to the Ministry of Foreign Affairs.

- **In connection with the new building now under construction which is to replace the present remand cells in the Central Interrogation Centre of the Regional Command of the Diyarbakır Gendarmerie Regiment:**

.the plans of the new building should be revised in the light of the remarks set out in paragraph 120 of the CPT's first report,

.the possibility of installing cell windows giving access to natural light should be explored,

.facilities should be provided for open-air exercise for detainees (second report, paragraph 53).

41. The Gendarmerie Central Command at the Ministry of the Interior has sent written instructions to the authorities concerned requesting that the plans for the cellular accommodation now under construction be revised on the basis of a minimum height of 2.5 m and a minimum area of 7 m² for a one-person remand cell (if 2 m wide, 3.5 m long: 2 x 3.5 = 7 m²; if 2.5 m wide, 2.8 m long: 2.5 x 2.8 = 7 m²) and that the new cells be built according to these requirements and sufficient ventilation provided. The new building will therefore contain three remand cells complying with the required standards, two holding rooms - one for men and the other for women - and two interrogation rooms⁴.

42. The Gendarmerie Central Command at the Ministry of the Interior has informed us that the necessary instructions have been given to the authorities concerned to ensure that all gendarmerie remand cells now under construction or to be built in the future are of the size indicated above⁵.

- **Remand cells and holding rooms in the various buildings of the Istanbul Police Headquarters should be brought up to the standards recommended in the CPT reports in the matter of size, lighting, ventilation and fittings (second report, paragraphs 61, 63, 64, 65, 66, 67, 68, 69 and 70)**

⁴ See letter No. Ins.Eml.S.Ins.Is1.10132 of 10 December 1991 from the Gendarmerie Central Command at the Ministry of the Interior to the Ministry of Foreign Affairs.

⁵ See letter No. 10277 of 6 December 1991 from the Gendarmerie Central Command at the Ministry of the Interior to the Ministry of Public Works.

43. In written instructions dated 15 January 1992 the Ministry of the Interior requested the Istanbul Police, in accordance with the recommendations set out in the CPT's second report, to provide the Homicide Section with larger and better equipped cells; to withdraw from service the three small cells in the Theft Section used for monitoring detainees' conversations; to provide persons remanded in custody in the Anti-Terrorism Department with mattresses at night, shower facilities and facilities for outdoor exercise; to immediately dismantle the three metal bar cages in the corridor in the Pickpocketing and Fraud Section and instead place aggressive or disturbed prisoners in a room which is of reasonable size, properly lit and ventilated and free of objects which could be used to cause injury; and to remedy the deficiencies with regard to size, lighting, ventilation and fittings in the cellular accommodation in Beyoğlu District Central Police Station, the Anti-Terrorism Department and the Narcotics Department⁶.

44. The information received from the Ministry of the Interior in the course of 1992 on the results of the work undertaken as instructed above to increase the size of remand cells in police and gendarmerie establishments in the provinces of Ankara, Diyarbakır and Istanbul to 7m² and remedy their deficiencies in the matter of lighting, ventilation and fittings will be forwarded to the CPT under separate cover.

- **Provision of both mattresses and blankets to persons remanded in custody overnight in police and gendarmerie establishments**

45. The **Code of Practice for Remand in Custody** drawn up by the Ministry of the Interior includes the requirement that persons remanded in custody be provided with blankets. The Ministry of the Interior has been reminded that the code of practice must also include the requirement that persons remanded in custody overnight be provided with mattresses.

- **The requirement that persons remanded in custody in police and gendarmerie establishments should be given at least one full meal every day should be specifically mentioned in the Code of Practice for Remand in Custody (first report, paragraph 123, and second report, paragraph 58)**

46. This matter has once again been brought to the attention of the Ministry of the Interior. The CPT will be informed of the result under separate cover.

⁶ See letter No. Emn.Gen.Md.Tem.Dai.Bsk. (Central Division) 027237 of 20 January 1991 from the Ministry of the Interior to the Ministry of Foreign Affairs.

CHAPTER III

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

A. ACTION TAKEN ON THE CPT'S RECOMMENDATIONS

- The relevant authorities should investigate whether prison staff in Ankara Central Closed Prison on occasion abuse their authority by beating prisoners and, if necessary, take appropriate steps to prevent such abuses occurring in the future (first report, paragraph 126)

47. The beating of young prisoners referred to in paragraph 126 of the CPT's first report has been investigated by the Office of the Ankara Chief Public Prosecutor, which has informed us that no proceedings were initiated because E. A. and U. I., who were caught after an escape attempt and subjected to a disciplinary measure, had no complaints to make on the subject.

B. REPLIES TO THE CPT'S COMMENTS

- Outcome of the proceedings relating to the complaints lodged by prisoners concerning their treatment at Diyarbakır 1 Prison in the course of the transfer on 7 - 8 October 1990 (first report, paragraph 127, and second report, paragraph 84)

48. The preliminary investigation (No. Hz. 1990/8156) undertaken by the Office of the Diyarbakır Chief Public Prosecutor into the complaints lodged by a number of remand prisoners and convicts concerning their treatment at Diyarbakır 1 E-Type Prison during the transfer of a number of prisoners to other prisons on 7-8 October 1990 has not yet been completed. The CPT will be informed of the outcome under separate cover.

TRAINING ACTIVITIES BY THE MINISTRY OF JUSTICE

49. A "Human Rights Handbook" written in 1991 by Dr. A. Suat BILGE, former Minister of Justice, has been published by the Education Department of the Ministry of Justice and distributed throughout the central and provincial networks under the Ministry's authority. The book discusses the provisions of the Turkish Constitution relating to human rights, the Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms, the position of human rights conventions in Turkish Law, Article 5 of the European Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

CHAPTER IV

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

ACTION TAKEN ON THE CPT'S RECOMMENDATIONS

A. Ankara Central Closed Prison

- Greater use should be made of the new visiting area (second report, paragraph 73)
- If the small booths in the old visiting area remain in service for use in exceptional situations, they should be cleaned and refurbished (second report, paragraph 73)
- The problems relating the Women's Ward set out in paragraph 74 of the second report should be addressed as a matter of urgency (second report, paragraph 75)
- Mentally ill prisoners should not be held in the segregation unit; instead they should be kept and cared for in a secure hospital facility that is adequately equipped and possesses appropriately trained staff (first report, paragraphs 140 and 167, and second report, paragraph 77)

50. The prison buildings, which are essentially old and unsuited to present-day requirements, are being kept in a serviceable state by means of repairs and new extensions. As a result, the new open visiting unit was brought into service in June 1991. The wooden visitors' waiting room in front of the prison, which was unfit for use, was demolished and visitors' waiting rooms in two separate buildings equipped with toilets and a tea service were brought into service in June 1991. The segregation cells described as unsuitable in the CPT reports have been vacated. The new modern segregation unit on the ground floor of the new open visiting unit has been brought into service. The unsuitable cells formerly in use have been withdrawn from service. The prison kitchen has been tiled and painted and modernised with the addition of a cold storage area. The Turkish baths have been repaired and hot water is provided two days a week. All the prison cells have been painted. The women's ward has been painted inside and outside and the kitchen and toilets have been renovated and brought up to satisfactory standards of hygiene. The small booths in the old visiting area have been withdrawn from service. Mentally ill prisoners are held in the prison infirmary, which is secure and adequately equipped, and, where necessary, transferred to state hospitals for treatment.

The number of beds in the prison wards has been reduced to comply with European standards. The toilet and shower facilities in the men's area have been repaired and brought up to satisfactory standards. Steps have been taken to provide natural light and ventilation. The ventilation and lighting of vehicles used for the transport of prisoners have been revised. The number of health personnel working in the prison has been increased. The prison now has posts for two doctors, three health officers and a health assistant. So far the posts of two doctors and one health officer⁷ have been filled.

B. Malatya E-Type Prison

(first report, paragraphs 153 and 160)

51. As the town's water supply is insufficient, it is impossible for the prison to increase its own water supply from that source; under the contract awarded by Yakinca local authority in the Yeşilyurt district, the new water supply network, which is to be brought into service in 1994, is expected to meet the prison's water needs. The rooms in the prison's segregation unit have been renovated and lighting brought up to satisfactory standards. They have been repaired and cleaned. As part of the treatment programme, young convicts are sent to reformatories in Ankara, Izmir and Elazığ. There are consequently no young convicts in Malatya. Young remand prisoners are held in separate areas from adult prisoners. Two doctors now work in the prison. The prison infirmary is now operational. Where necessary, prisoners receive treatment in the state hospital. The prison wards and toilet and washing facilities have been cleaned and renovated.

C. Diyarbakır 1 Closed Prison

- **The segregation cells in Block E should not be used until substantial improvements have been made (in the matter of lighting and ventilation); in this connection, consideration should be given to installing a secure cell window in the outer wall of each cell** (second report, paragraph 80)

52. Diyarbakır 1 Closed Prison now has an adequate water supply and the water problem has been resolved. New washing arrangements for prisoners have been introduced and hot water is provided twice a week. The cells in Block E have been withdrawn from service. Young convicts are sent to reformatories in Ankara, Izmir and Elazığ. Young remand prisoners are held in separate wards from adult prisoners. Two doctors, a dentist and four health assistants now work in the prison, whose health service has been brought up to adequate standards. The prison infirmary now possesses adequate equipment. Convicts and remand prisoners who cannot be treated in prison receive treatment in the state hospital or the Dicle Medical Faculty Hospital. The medical expenses of low-income prisoners are borne by the State. The prison kitchen provides three meals a day. The prison is centrally heated. The rooms, corridors and other areas are kept clean.

⁷ See letter No. 4.KS/V/D.1.A-5 of 17 January 1992 from the Directorate of Prisons, Ministry of Justice.

GENERAL MATTERS

53. The commission set up in the Ministry of Justice as part of the process initiated after the formation of the new government following the general election on 20 October 1991 is pursuing its work with a view to bringing physical conditions in prisons, prisoners' food and prison education and work facilities up to European standards and reinforcing prison staff with sufficient numbers of qualified staff such as medical personnel, psychologists and teachers.

Comments by the Ministry of Health on the CPT's second report dated 4 December 1991

54. At the request of the Ministry of Justice, the Ministry of Health is appointing doctors to fill vacant doctors' posts wherever possible in closed prisons and remand prisons.

55. As there are no specialist doctors in prisons, convicts and remand prisoners requiring further tests or treatment are referred by prison doctors to state hospitals; once the state hospital has completed its tests, it transfers such prisoners, if necessary, to other medical establishments (eg. specialist departments, university hospitals).

56. In order to determine the action required and assess the steps taken in prisons, discussions have been held at a series of meetings co-ordinated by the Prime Minister's Office and attended by the relevant representatives of the ministries and other bodies concerned.

57. Mentally ill convicts and remand prisoners, after undergoing the requisite tests, are admitted, if necessary, to the forensic department of a mental hospital, where they receive tests and treatment. After a sufficient period they are discharged and returned to their prison of origin. The establishments in which they receive treatment are equipped with appropriate custody and security facilities for such patients and with staff experienced in the care of the mentally ill. These establishments are also equipped with the necessary facilities for other types of patient. It is therefore considered unnecessary to set up separate hospitals or establishments for prisoners. These patients receive treatment in the same institutions as other patients.

58. Both doctors working in the private sector and doctors working in the public sector are answerable to their local Medical Association and required to comply with its rules. Consequently, as doctors working in the private and public sectors bear the same responsibilities, patients are entitled to expect the same service from both sectors.

APPENDICES

- 1. List of reports and other documents sent to the CPT in 1991**
- 2. Code of Practice for Remand in Custody dated 1 May 1991**
- 3. Regulations for the Conduct of Interrogations dated 6 August 1991**
- 4. Coalition Protocol dated 19 May 1991**
- 5. Government Programme dated 25 November 1991**
- 6. "Human Rights (Accused Persons' Rights and Police Powers) - Police Schools Textbook", Ankara 1991, a textbook produced by the Education Department, Directorate of Security, Ministry of the Interior, now in use in police schools**
- 7. Information paper on developments in the field of human rights and legal reforms in Turkey.**

Note:
Appendices 4 to 6 are brochures / books.
Only their cover pages are reproduced in this document

APPENDIX 1

**List of reports and other documents sent to the CPT
in 1991 in reply to the recommendations, comments
and requests for information set out in the CPT's
first report dated 6 February 1991**

1. Three-month report dated 2 May 1991 on the implementation of the recommendation concerning the prevention of torture and other forms of severe ill-treatment set out in paragraph 89 of the CPT's first report
2. Six-month report dated 25 July 1991 on the implementation of the recommendation concerning the improvement of cellular accommodation in police and gendarmerie establishments set out in paragraph 122 of the CPT's first report
3. Six-month interim report dated 31 July 1991 on the action taken on the CPT's first report
4. Letter dated 11 September 1991 providing additional information on the implementation of the recommendation set out in paragraph 89 of the CPT's first report (supplementing our three-month report of 2 May 1991)
5. Letter dated 12 September 1991 concerning the revised "Regulations for the Conduct of Interrogations" drawn up by the Ministry of the Interior in the light of the CPT's letter of 10 July 1991 and issued on 6 August 1991
6. Letter dated 20 December 1991 concerning the remand cells in the new building now under construction at the Regional Command of the Diyarbakır Gendarmerie Regiment.

APPENDIX 2

May 1, 1991

CODE OF PRACTICE FOR REMAND IN CUSTODY

- I. With the purpose of improving, within the limits of available resources and possibilities, the conditions of detention in the police and gendarmerie establishments;
 - a. Holding rooms and cells should be equipped with durable benches fixed to the wall for the requirements of rest of the persons taken into custody,
 - b. Persons taken into custody should be provided with blankets when the seasonal climatic conditions of these places necessitate the provision of blankets.

- II. With the purpose of reviewing and improving the state of cellular accommodation in the police and gendarmerie establishments in accordance with the decisions of the committee;
 - a. The space of each single-occupancy-cell should be in the order of seven (7) square meters, which is a standard foreseen by the committee concerning the physical characteristics of the cells. (It is indicated as two meters or more between the walls, 2.5 meters or more as height between floor and ceiling.)
 - b. It is naturally desired that all cells (including those used for temporary holding purposes) should possess lightning and be adequately ventilated.
 - c. Police and gendarmerie establishments should possess adequate facilities where persons in custody can satisfy their toilet and washing requirements.

The police and gendarmerie establishments should start working on the application of the above-mentioned recommendations to the cells and holding rooms existing, within the framework of available resources and possibilities; and the recommendations cited above should be applied as a standard project to the police and gendarmerie establishments that will be built in the future.

- III. As to the regulations related to administrative procedures;
- a. The periods of police custody should be strictly complied with.
 - b. Taking sanitary conditions into consideration, access of the persons in police custody to cleaning and other facilities should be allowed under the control of the police or gendarmerie officers,
 - c. As in done before, persons in police custody should always be examined by a medical doctor; besides they should be examined by a medical doctor also at the time of their being taken before the relevant judicial authorities.
 - d. The doctor who will perform above-mentioned medical examinations should be a doctor from the relevant Forensic Institute or he should be an authorized government doctor. However, should a person in police custody requests it, he should be given the right to be examined by a doctor of his own choice if it is thought that such a permission will not jeopardize the security of the investigation. (Private doctor would be chosen from a list of doctors agreed with the concerned officials.)
 - e. During medical examination, after necessary security measures being taken, doctor and detainee should be left alone so that medical examination should be conducted in privacy.

Note: The **Code of Practice for Remand in Custody** was circulated to the Governorships of 73 Provinces with the Circular Letter dated 1 May 1991 and NO.Tem.Dai.Bşk.liği A-5 (77-106-7692-9927) of the General Directorate of Security of the Ministry of the Interior.

APPENDIX 3

Ministry of the Interior

Ankara, 6 August 1991

THE REGULATIONS RELATING TO INTERROGATION AND TAKING STATEMENTS

Interrogation shall be made within the framework of the following regulations based on the relevant provisions of the Police Duties and Powers Act, Nr.2559 and of the Code of Criminal Procedure, by which police officers are entitled to question the suspected persons and take their statements.

Definition of Interrogation

Interrogation is a system of questioning whereby the persons who are suspected of having committed a crime or who have actually committed a crime or who have information about the crime and the criminal are subjected to questions in a systematic way with the purpose of obtaining information from them about what they have done and what they know.

A. Purpose of Interrogation

The purpose of an interrogation is to bring a criminal event into light by discovering the crime and the criminal by asking the accused, the victim and the witness the following questions:

- a) who?
- b) why?
- c) where?
- d) by which means?
- e) when?
- f) how?

B. Place of Interrogation

Interrogations should be made in the buildings of the security authorities. Interrogation rooms should be specially prepared and equipped with necessary technical facilities. The safety of these rooms should also be secured externally and internally.

C. Qualifications of Interrogator

The police officer who is in charge of questioning,

- a) should have taken an interrogation course,
- b) should be experienced,
- c) should comprehend the psychology of criminals,
- d) should be patient, calm and able to control his feelings,
- e) should be well prepared on the subject of interrogation,
- f) should have the ability of understanding of and making distinctions between different subjects quickly,
- g) should behave in a polite and considerate manner to the accused.

D. Rules of Interrogation

- a) For security reasons, when a suspect is taken under police custody his/her clothes should be searched and should piercing, incisive or inflammable articles and precious things be found on him/her, they should be registered. At the end of the detention period, the belongings, the existence of which does not constitute a crime should be given back.
- b) The suspects under police custody who are to be interrogated should be examined by medical doctors both before and after the interrogation.
- c) During interrogation, the suspects being questioned shall by no means be subjected to torture and other cruel, inhuman or degrading treatment, and no physical or psychological pressure shall be applied on them.
- d) The length of an interview shall not be longer than 4 hours in one session and shall not be longer than 8 hours in total in a day. There shall be at least a two hour interval for nutrition, rest and other needs between the two sessions.
- e) The names of the officers who are present at the interrogation room, the content of the questions and all the conversation that has taken place during the questioning shall be systematically recorded and these records shall be kept open to examination by a competent authority.
- f) The questions should be asked while the suspect is sitting.
- g) The questions should be directed after a mild atmosphere of interview has been created.
- h) During the interview short notes should be taken and the suspect should be questioned to clarify his answers on contradictory subjects.
- i) Interrogators should have the means of consulting archive information when required.
- i) Interrogators should obtain information from relevant authorities when necessary.
- j) Interrogators should not argue with the suspect violently.

- k) In case it is discovered that another crime has been committed beside the event which is being investigated, the other crime should be investigated after the questioning for the first event has finished.
- l) Carrying out some operations such as search and arrest might become necessary as a result of the information obtained during the questioning. For such operations police teams should be kept ready.
- m) When it becomes necessary, confrontation and identification methods should be used and these should be recorded.

E. Methods of Interrogation

- a) Making direct approaches. Reciprocal conversation when the suspect himself voluntarily makes confessions.
- b) Behaving friendly and considerately.(Understanding the situation of the suspect)
- c) To search the causality.
- d) Making indirect approaches.
- e) Telling imaginary and hypothetical stories (written answers should be taken).
- f) To treat the suspect in a cool manner.
- g) Method of using suspects against one another to obtain relevant information.

F. Proceedings to be followed at the end of the Questioning

- a) At the end of the questioning, a transcription which indicates the beginning and the closing hours of the questioning as well as the subject of the questioning, should be signed by the police officers and the suspects who are present at the interrogation room.
- b) The officials should observe the provisions which are prescribed by the relevant laws with respect to the suspects under police custody.
- c) The officials should consider the situation and should establish cooperation with relevant authorities.
- d) The officials should bring the suspect and the file promptly before the competent court without causing any delay.
- e) The officers in charge of the questioning should read these Regulations before questioning and pay attention to comply with the rules set out above.

August 6, 1991

Ministry of Interior
General Directorate of Public Security

APPENDIX 4

**Coalition Protocol
Between the True
Path Party and Social
Democrat Populist
Party**

19 November 1991

APPENDIX 5

Government Program

25 November 1991

APPENDIX 6

H İ Z M E T E Ö Z E L

T. C.
İÇİŞLERİ BAKANLIĞI
Emniyet Genel Müdürlüğü
Eğitim Daire Başkanlığı



İNSAN HAKLARI
(Sanığın Hakları ve Polisin Yetkileri)

POLİS OKULLARI
DERS KİTABI

ANKARA — 1991

H İ Z M E T E Ö Z E L

APPENDIX 7

February 1992

Developments in the field of Human Rights in Turkey

In recent years, Turkey has made great progress in the improvement of human rights practices in the country. The Turkish Government, while becoming party to international control mechanisms in the field of human rights, has pursued a policy to improve the existing national legislation and implementation in order to raise them to internationally accepted standards.

I - Efforts to become party to international control mechanisms:

on 28 January 1987, Turkey recognized the right of individual petition to the European Commission of Human Rights;

on 26 February 1988, became a party to the European Convention against Torture;

on 1 September 1989, became a party to the UN Convention against Torture;

on June 1989, ratified the European Social Charter;

on 8 January 1990, recognized the compulsory jurisdiction of the European Court of Human Rights;

on 6 November 1990, signed the Ninth Additional Protocol to the European Convention on Human Rights which prescribes the right of individual petition to the European Court of Justice;

on 6 November 1990, signed the revised European Social Code;

on 21 November 1990, signed the CSCE Paris Charter.

II - Efforts to improve the existing legislation in the field of human rights and to raise them to internationally accepted standards:

- * **On 6 January 1990**, amendments to the Regulation Concerning the Administration of Prisons and the Enforcement of Sentences were put into effect. These amendments provided improvements such as prohibition of brutal, degrading and inhuman disciplinary measures i.e. confinement on bread and water, chaining the prisoner, improvement of the conditions of solitary confinement, increasing the number of visits and examination by doctors etc.
- * **On 26 September 1989** and **4 March 1990**, two Prime Ministry circulars were issued about the incommunicado detention and to enable the defendant to meet with their attorneys during all phases of the detention period.
- * **On 29 November 1990**, death penalty for 13 crimes in the Turkish Penal Code has been commuted to life sentence. In fact there has been no execution of death penalty since 1984.
- * **On 4 December 1990**, a parliamentary Commission consisting of the representatives of three political parties has been established within the Grand National Assembly to monitor the human rights practices in Turkey and in the world, to investigate allegations and complaints and to introduce amendments to change the existing legislation, where necessary.

The Commission started to function in January 1991 by examining petitions received from either individuals or organisations. It established sub-commissions to carry out visits to Prisons and police stations in order to supervise conditions of detainees or imprisoned persons. Another important work initiated by the Commission is to examine the existing laws as well as the draft bills presented to the Turkish Grand National Assembly with a view to determining whether or not existing laws are in conformity with international standards in the field of human rights.

The Commission has also established contacts with all human rights organisations in the world and in Turkey as well.

On the other hand, in conformity with its terms of reference, the Commission is closely watching the human rights practices in other countries.

- * **On 12 April 1991**, the Turkish Government has enacted significant human rights reforms:

A) Abrogation of articles 141, 142 and 163 of the Penal Code. Full enjoyment of the Freedom of Conscience, freedom of expression and freedom of assembly.

By virtue of this amendment, the communist activities and the propaganda of communism would not be subjected to prosecution and all pending prosecutions would be suspended. Article 142 is of particular importance, since it is due to this article that many writers were sentenced for making communist propaganda.

On the other hand, there is a linkage between Article 163 of the Penal Code and the Law on the Freedom of Conscience and Assembly (N° 6187). In addition to Article 163, the law on the Freedom of Conscience and Assembly had imposed restrictions on religious propaganda. This Law on the Freedom of Conscience and the Assembly is abrogated, together with Article 163.

B) Expression of thought in languages other than Turkish:

The abolition of the Law banning publications issued in the languages other than Turkish (N° 2932) is a significant development emphasizing the general intention of the Government to eliminate all restrictions on the freedom of thought and expression.

C) Release of Prisoners and Accused:

The recent law provides conditional release for all accused and convicts. In this respect, the conditional release is applied to crimes committed before April 8, 1991. Approximately 23,000 prisoners and accused are released according to the relevant provision of the law, and the rest of the prisoners will be benefiting from the same provision by the reduction applied to their sentences.

D) Commutation of Death Penalty to Imprisonment:

The Anti-Terror Law also prescribes the non-execution of death penalties for the crimes committed before April 8, 1991. Thus, sentences of death penalty prior to this date are commuted to different periods of imprisonment, depending on the offence committed.

E) Conditional release opportunity for those who have previously lost Turkish citizenship:

The temporary provisions concerning the conditional release are also applicable to those who had left the country and committed crimes against the security of the State and were decided as having lost Turkish citizenship due to these acts. According to the recent law, they will take benefit of this opportunity granted to them when they return to Turkey within 2 years as of April 12, 1991.

* **On May 7 1991**, The Ministry of Justice issued a circular addressed to Prosecutors in Turkey, drawing attention on the Turkish Government's international commitments in the field of human rights and asking special attention on the following points:

- Immediate investigation and prosecution of allegations of torture and mistreatment.

- Medical examinations of detainees before and after detention.

- Implementation of the Prime Ministry's circulars dated April 1990 as well as the Ministry of Justice's circular dated September 1989 relating to the defendant's right to counsel with his or her attorney during the detention period.

* **Education:** The number of courses relating to human rights in the Police Colleges and Police Academies is increased. Human rights was introduced as a separate course in the curriculum of the Police Colleges and Academies. The personnel of the prisons are given training on human rights, security personnel are pursuing courses about the commitments of the Turkish Government prescribed in the international conventions to which Turkey has become party.

* **Judicial examination of allegations of torture:**

The Turkish judiciary organs have always examined the allegations of human rights violations with utmost care and scrutiny. When proved the culprits are penalized. In fact, during the period January 1, 1991 - September 30 1991, 1417 cases of torture and maltreatment allegations have been brought to the attention of judicial authorities, 463 cases have been filed with the courts. 17 officials were convicted of maltreatment, 183 were acquitted and judicial procedure about 549 government fonctionnaires are in process.

III. General Elections of 20 October 1991, and the commitments of the new Government for democracy and human rights:

The General Elections of 20 October 1991 has resulted in the establishment of a fully representative Turkish Parliament. Today, all political tendencies in Turkey are being fully represented in the Parliament with deputies of **seven** different parties.

The new Government which is formed in coalition of the True Path Party and the Social Democrat Populist Party, has declared at the very outset, in its Coalition Protocol, its determination to further develop the human rights conditions in Turkey, to enable for all individuals to live in a liberal, participatory and a fully democratic society. Furthermore, the Government is determined to incorporate the basic principles of human rights as embodied in the Paris Charter of the CSCE and in its preceding documents, to its legal system as inseparable components of the Turkish democracy.

In addition to what has been achieved for the improvement of human rights in recent years, the new Government primarily commits itself by its Programme, to eliminate the remnants of what is called the "12 September 1991 legislation" the legislation that was enacted after the military intervention of 1980 and which do not conform with the basic principles of human rights and freedoms as foreseen in the Paris Charter and other international instruments.

The Coalition Government reaffirms that the State exists for the well-being of the individual and the society. It considers the 1982 Constitution as a very important obstacle for the democratic development of the society. However until the formulation of a completely new constitution the Government promises a limited but urgent review of the existing legislation for the following purposes:

- * to ensure transparency in all administrative matters;
- * for a better parliamentary control over the executive;
- * to ensure the elimination of torture and allegations of torture;
- * to reduce the maximum duration for police custody;
- * to amend the regulations relating to "giving or refusing to give testimonies" and their validity;
- * to ensure the detanee's right to meet with their lawyers and relatives;

- * to provide the education of police in relation to human rights and freedoms;
- * to ensure the independence of judiciary and guarantees for judges;
- * to amend the regulations on labour and trade unions and professional organizations, including the permission for public workers to establish unions and to bring them up to the ILO standards;
- * to ensure the exercise of right of peaceful assembly, demonstration and association;
- * to permit the establishment of women, youth and professional branches of political parties;
- * to eliminate restrictions on freedom of press;
- * to ensure the impartiality for all public and private broadcasting;
- * to strengthen the principles of and guarantees for local administrations and to endow them with the characteristics of local Parliaments.

As an initial implementation a Ministry of Human Rights is established to monitor human rights implementations in Turkey and to make legislative proposals for their improvement.

The new Government has indicated its utmost sensitivity to complaints from its citizens in closing down the Eskişehir Special Type Prison and transferring after medical control, all prisoners to other prisons.

The Turkish Government is in the process of preparing a comprehensive legislative reform to meet the urgent needs of the Turkish people. The first phase of this reform has been finalized and is being considered by the Council of Ministers. It includes major amendments of the Code of Criminal Procedure, such as shortening of detention period to 24 hours, ensuring the attendance of a lawyer during interrogation by the police, prohibition of all types of maltreatment and torture, with corresponding changes in the related articles of other Laws, such as the Anti-Terror Law, the Law on Police Duties and Powers and the Law of Barristers. This phase is the beginning of the review of the undemocratic laws promulgated by the military regime of September 1980, which will be abrogated according to an action plan.

The Turkish Government has very recently submitted a draft code to the Grand National Assembly which foresees the return of the citizenship to those who were denaturalized during the military regime. Thus all measures will be taken to remove the resentments created in the Turkish people, during this period.

The Turkish Government is determined to remove in the shortest time possible all the barriers that hinder an active democratic political and social life in Turkey.