



CPT/Inf (2007) 5

**Report to the Turkish Government  
on the visit to Turkey  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 22 November to 3 December 1992**

The Turkish Government has authorised the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2007) 6.

Strasbourg, 11 January 2007

Note:

In accordance with Article 11, paragraph 3, of the Convention, certain names have been deleted.

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Copy of the letter transmitting the CPT's report

Strasbourg, 21 September 1993

Dear Mrs Baydur,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Government of Turkey drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its periodic visit to Turkey from 22 November to 3 December 1992. The report was adopted by consensus by the CPT at its eighteenth meeting held from 6 to 9 September 1993.

I would draw your attention in particular to paragraph 122, in which the CPT requests the Turkish authorities to provide a report within six months on the action taken. That report will have an important bearing on the preparation of the visit of a follow-up nature which the CPT plans to organise to Turkey in 1994.

I would also like to recall my proposal that a delegation of the CPT return to Ankara before the end of 1993 for discussions with Ministers and senior officials (cf. my letter of 1 June 1993). Such discussions would no doubt ensure that the impetus of the ongoing dialogue between the Turkish authorities and the CPT is sustained.

I am at your entire disposal if you have any questions concerning either the CPT's report on its periodic visit to Turkey or the future procedure.

Yours sincerely,

Claude NICOLAY  
President of the European Committee  
for the prevention of torture and inhuman  
or degrading treatment or punishment

Mrs Sina BAYDUR  
Director of the Department of  
Human Rights  
Ministry of Foreign Affairs  
ANKARA

## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In accordance with Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Turkey from 22 November to 3 December 1992. The visit formed part of the Committee's programme of periodic visits for 1992.

2. The delegation consisted of the following members of the CPT:

- Mr Antonio CASSESE, President of the CPT (Head of delegation)
- Mr Bent SØRENSEN, First Vice-President of the CPT
- Mr Jacques BERNHEIM, Second Vice-President of the CPT
- Ms Astrid HEIBERG
- Mr Michael MELLETT.

The delegation was assisted by:

- Mr Rodney MORGAN, Professor of Criminal Justice at the University of Bristol (expert)
- Mr Jean-Pierre RESTELLINI, Head of the Public Health Service of the Canton of Geneva (expert)
- Miss Zeynep BEKDIK (interpreter)
- Mrs Belgin DÖLAY (interpreter)
- Miss Verda KIVRAK (interpreter)
- Miss Canan TOLLU (interpreter)

and was accompanied by the following members of the CPT's Secretariat:

- Mr Trevor STEVENS, Secretary of the CPT
- Mr Mark KELLY.

**B. Places of detention visited**

3. The delegation visited the following places of detention:

Adana:

- Police Headquarters
- Adana Prison
- Closed Unit for Prisoners, Numune General Hospital

Ankara:

- Police Headquarters
- Çankaya District Central Police Station
- Etlik District Central Police Station
- Mamak District Central Police Station
- Ankara Central Closed Prison

Diyarbakır:

- Police Headquarters
- Interrogation Centre of the 1st Department of the Diyarbakır Police
- Central Interrogation Centre of the Departmental Command of the Diyarbakır Gendarmerie Regiment
- Police Station at Dicle University
- Diyarbakır I Prison
- Diyarbakır II Prison

Istanbul:

- Police Headquarters
- Beyoğlu District Central Police Station
- Eminönü District Central Police Station
- Eyüp District Central Police Station
- Bayrampaşa Prison
- Bakırköy Mental and Psychological Health Hospital

**C. Consultations undertaken by the visiting delegation**

4. From 22 to 24 September 1992 (i.e. only two months before the periodic visit took place), the Turkish authorities and a delegation of the CPT held in-depth discussions in Ankara on matters of mutual interest. The CPT's delegation met in particular the Minister of Justice (Mr Seyfi Oktay), the Minister of the Interior (Mr Ismet Sezgin) and senior officials of the Interior Ministry, the Minister of Health (Mr Yıldırım Aktuna), the Minister for Human Rights (Mr Mehmet Kahraman), senior officials of the Ministry of Foreign Affairs, the President and members of the Constitutional Court, the Chairman and members of the Justice Commission of the Grand National Assembly, and members of the Human Rights Inquiry Commission of the Grand National Assembly.

Consequently, it was not felt necessary to hold extensive official talks at the outset of the periodic visit. Nevertheless, the visiting delegation welcomed the opportunity to meet Mr Sabri Yavuz, who had just been elected President of the Human Rights Inquiry Commission. Further, in the middle and at the end of the visit the delegation met Ambassador Rıza Türmen (Director General for Multilateral Political Affairs) and Mrs Sina Baydur (Director of Human Rights) of the Ministry of Foreign Affairs.

5. As usual, the delegation which carried out the periodic visit held discussions with the officials in charge of the establishments visited, and also had talks at the Forensic Institutes in Adana, Ankara and Istanbul.

Further, the delegation had meetings with representatives of the following non-governmental organisations:

- Adana Bar Association
- Ankara, Istanbul and Diyarbakır Branch of the Human Rights Association
- Turkish Human Rights Foundation (Ankara)
- Turkish Medical Association (Adana, Ankara, Diyarbakır and Istanbul).

#### **D. Cooperation with the visiting delegation**

6. With one exception, the CPT's delegation had no difficulties in gaining access to any of the places of detention visited by it. The exception concerned Adana Police Headquarters, where on the morning of 1 December 1992 the delegation was made to wait 40 minutes (7.55 to 8.35) before being allowed access to the different detention areas.

The reason given for the above-mentioned delay was the absence of the officer in charge. Even if this were the real reason, it would not be sufficient to justify such a lengthy delay. **Under Article 8.2.c of the Convention, CPT delegations are to be provided with unlimited access to places of detention; 40 minutes goes well beyond the short period which might be required to check the identity of the members of a visiting delegation (cf. paragraph 3 of the CPT's 3rd General Report; CPT/Inf (93) 12).**

7. It must be added that on finally gaining access to the detention areas in Adana Police Headquarters, the delegation quickly discovered that a considerable number of detainees had been moved within the preceding hour. Some 12 to 15 prisoners had been sent to the public prosecutor via the Forensic Institute, others had been "taken to the scene of their alleged crime". It also transpired that at least 11 persons (7 men and 4 women) held in single cells in the Anti-Terror Department (as regards these cells, see paragraph 42) had that morning been transferred for no apparent reason to multi-occupancy holding cells in the law and order department; one of the persons concerned displayed clear medical signs consistent with very recent torture.



8. Significant movements of prisoners at the moment when a delegation arrives at an establishment inevitably raise doubts in the minds of delegation members, doubts which will be reinforced when - as was the case at Adana - the delegation is denied ready access to the detention areas. To move prisoners in an attempt to prevent a CPT delegation from meeting them would be in clear breach of the principle of cooperation laid down in Article 3 of the Convention. In order to avoid suspicions arising, **the CPT suggests that on the arrival of a delegation at a police establishment, any impending removal of detainees from the establishment should be suspended until such time as the delegation has had an opportunity to see those persons about to leave.**

9. It should also be mentioned that it took a considerable time for the delegation to gain access to detainees' medical records held in the forensic medical service of Dicle University Research Hospital. Apparently it had received no information about the CPT's visit. **This illustrates how important it is for Parties to the Convention to make detailed information on the CPT's terms of reference and the obligations of Parties vis-à-vis the Committee available to all authorities concerned, including relevant health authorities.**

10. As was underlined in the report on the second visit to Turkey in 1991 (cf. CPT/Inf (2007) 3, paragraph 14), the CPT wishes to find a real life situation in places of detention rather than one contrived for the purposes of the Committee's visit. It would appear that the police authorities in Istanbul have understood this but that, as yet, those in Ankara and Diyarbakır have not.

The situation in the Anti-Terror Department of Ankara Police Headquarters deserves to be highlighted. The Department's custody register showed that 361 persons had been held there between the beginning of July 1992 and 26 November 1992 (ie. the date when the register was consulted by the delegation), many of whom had been detained for periods in excess of one week. However, the register also indicated that there had been a striking reduction in the number of persons held by the Department as from 20 November 1992.

Once again a CPT delegation had the tiresome experience of walking through detention areas and interrogation rooms which were devoid of any sign of normal police activity. **The situation observed was quite artificial.**

#### **E. Public statement on Turkey**

11. On 15 December 1992 the CPT had recourse to the power granted to it by Article 10, paragraph 2, of the Convention and adopted a public statement on Turkey. In the statement, the Committee concluded that the practice of torture and other forms of ill-treatment of persons in police custody remained widespread in Turkey and that such methods were applied to both ordinary criminal suspects and persons held under anti-terrorism provisions.

Various references to the public statement are made in this report; to facilitate the reader's task, the full text of the statement is set out in Appendix 2.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police and Gendarmerie establishments

#### 1. Torture and other forms of severe ill-treatment: new evidence

12. Numerous prisoners interviewed in prisons visited alleged that they had been tortured or otherwise severely ill-treated during the previous twelve months while in police custody. Similarly, a considerable number of patients met by the delegation in the Arrest Unit at Bakırköy Hospital alleged that they had been ill-treated whilst in the hands of the police. The allegations emanated from both ordinary criminal suspects and persons detained under anti-terrorism provisions; many of the persons concerned produced Forensic Institute reports which recorded injuries that were consistent with their allegations. As for the forms of ill-treatment alleged, they were essentially the same as those described in earlier CPT reports (cf. CPT/Inf (2007) 1 and CPT/Inf (2007) 3).

13. In paragraph 18 of the public statement, some examples are given of ordinary criminal suspects encountered in Adana and Istanbul who made allegations of ill-treatment and who on examination by the delegation's doctors were found to display marks or conditions consistent with their allegations. Many other examples could have been given, including from the cities of Ankara and Diyarbakır.

As regards Ankara, mention might be made of two prisoners interviewed at the Closed Central Prison who alleged that they had been subjected to various forms of severe ill-treatment in the Financial (Fraud) Department at Ankara Police Headquarters. They alleged inter alia to have been subjected to cigarette burns, a form of ill-treatment of which the CPT had not previously heard in Turkey. On examination by two of the delegation's doctors, they were found to display scars consistent with their allegations.

The delegation also interviewed a number of prisoners who had been held by the Anti-Terror Department of the Ankara Police Headquarters during the previous 12 months. All of them alleged that they had been ill-treated, and some of them displayed marks or conditions consistent with their allegations. The case of one prisoner deserves to be highlighted as it bears upon the effectiveness of the medical examinations carried out at the end of periods of police custody. At the end of his police custody, the prisoner had complained of reduced sensibility in both arms as a result of having been suspended. The doctor who examined him at that stage apparently found nothing to report. However, a further examination subsequently requested by the prison doctor, the results of which were shown to the delegation, revealed conditions consistent with his allegations.

As regards Diyarbakır, the case of a prisoner met in Diyarbakır I Prison who had some two weeks previously been held in the Anti-Terror Department of the Diyarbakır Police is worthy of particular mention. On examination by the two of the delegation's doctors he was found to display paralysis and very severe sensory loss in the left arm as well as extreme tenderness of the right arm, conditions entirely consistent with his allegation that he had been subjected to suspension by the arms (palestinian hanging) whilst in police custody. A comparable case of paralysis consistent with allegations of palestinian hanging while in police custody (in Mardin) was discovered in the Women's ward of Diyarbakır II Prison.

The CPT would also draw attention to another novel form of ill-treatment alleged in Istanbul, which consisted of the placing of a hot boiled egg under the armpit. A prisoner who said he had been subjected to this form of ill-treatment was found on examination to display marks (very deep, partial thickness burns of elliptical shape under the armpits) consistent with his allegation.

14. The persons referred to in paragraph 13 were in prison (or Bakırköy Hospital) when interviewed by the delegation. The delegation also met a number of persons in police custody; allegations of ill-treatment were made by some of them (for example, five out of six detainees interviewed in the Anti-Terror Department of Istanbul Police Headquarters claimed to have been ill-treated), whereas others had no complaints to make (eg. in the Theft Department of Ankara Police Headquarters). It should be added that a number of the detainees were reticent about having any contact with the delegation, and certain were clearly in a state of considerable anxiety; this was the case in particular in the Anti-Terror Departments at Adana, Diyarbakır and Istanbul.

One person in the custody of the Anti-Terror Department at Adana Police Headquarters who was prepared to speak with the delegation, was found on medical examination to display physical conditions in both arms and an oedema on the sole of the left foot consistent with his allegation that during the previous two days he had been subjected to suspension by the arms and falaka. Further, two of the five persons in the Anti-Terror Department at Istanbul who claimed they had been ill-treated bore some marks which were consistent with their allegations.

15. Reference should also be made to the case of Mr R. B., who died in police custody shortly before the delegation's visit to Turkey. Mr B. was arrested by the police in Adana on 23 October 1992, apparently while in the act of carrying out a robbery; he died later the same day. According to the custody register of the Anti-Terror Department of the Adana Police, Mr B. was detained in that Department from 6.00 pm to 11.00 pm on 23 October 1993, and then transferred to a hospital. In the course of a visit to the Forensic Institute in Adana, two of the delegation's doctors were informed of the results of the autopsy carried out on Mr B.'s body; the final conclusion of the autopsy was that death had been caused by a cerebral trauma originating in sub-dural haematomas and sub-arachnoidal haemorrhaging.

Given the seriousness, nature and number of injuries recorded in the autopsy report, in particular those relating to the skull, it is highly improbable that Mr B.'s death was self-inflicted. Further, photographs of Mr B. published in the press after his arrest, purportedly showing him in the process of being questioned by the police, and in which no head injuries were apparent, would seem to rule out the possibility that the injuries which caused his death had occurred at the moment of his arrest. The fact that Mr B. was held for five hours at Adana Police Headquarters before being transferred to hospital is also scarcely consistent with the above-mentioned injuries having occurred at the time of arrest.

The information presently at the CPT's disposal would suggest that Mr B. died as a result of injuries inflicted upon him during his custody in the Anti-Terror Department of the Adana Police some time between 6.00 pm and 11.00 pm on 23 October 1992. **The CPT would like to receive full details of all investigations into the circumstances of Mr B.'s death.**

16. In addition to the above-mentioned allegations and findings of a medical nature, the delegation found highly incriminatory material evidence in the course of its visits to police establishments.

At paragraph 20 of the public statement, a description is given of the on-site observations made by the delegation during two impromptu visits to specific rooms situated respectively on the top floors of the Ankara and Diyarbakır Police Headquarters. The public statement described the low stretcher type bed (fitting perfectly the description of the item of furniture to which persons said they were secured when electric shocks were administered to them) and the equipment necessary for suspension by the arms, which were found in those locations.

The account given could have been more elaborate. For example, at Diyarbakır the delegation found - in addition to a wooden beam mounted on filing cabinets and equipped with a strap - sheets of foam corresponding to the cloth-like material which prisoners alleged had been put around their arms prior to being suspended (presumably to avoid abrasions); a long thin strip of gauze-like material which matched the description given by detainees of the item used to blindfold them; and tubes of anti-inflammatory cream (many prisoners alleged that cream had been put on their hands or feet after beating). Certain characteristics of the room which distinguished it from others on the same floor (eg. absence of windows, double doors) and its very location (on the top floor of the building close to detectives' offices, in a corridor cul de sac separated from the rest of the corridor by a door) were also indicative of its intended use.

The reactions of police officers at the time of the two visits are also noteworthy. They were in a state of extreme agitation, and disputes and recriminations between officers were heard. Further, the delegation received a virtual admission that the room in Diyarbakır was used to inflict ill-treatment when it returned there some hours later. The officer in charge told the delegation that he had ordered the equipment seen there to be removed; it was observed that his orders had already been carried out. He stated that he had been unaware that the room in question contained such equipment, a surprising claim given its proximity to his own office.

17. Other rooms in which it was alleged ill-treatment occurred were located and visited by the delegation. Particular reference should be made to a room situated close to the upper-floor detention area used by the Law and Order Department in Adana Police Headquarters. Innumerable prisoners at Adana Prison alleged that they had received falaka in that room (in particular at the hands of detectives from the Theft Department), and afterwards had been made to jump up and down on salted water in order to reduce the swelling. Even persons being held in the detention area at the time of the delegation's visit intimated that the room was the scene of ill-treatment. The location, contents (a table, chair and two steel filing cabinets) and layout of the room matched the description given by prisoners. The evasive and contradictory answers given by police officers when questioned about the use to which the room was put lent credibility to the above-mentioned allegations; and the same might be said of the discovery in a nearby office of a wooden bat bearing the words "HZ Ömerin Adaleti" ("St Omer's justice"), which was in a jar together with a large bag of salt.

18. To sum up, in the course of its visit to Turkey, the CPT again found persuasive evidence of the continuation of acts of torture and other forms of severe ill-treatment by the police against both persons suspected of ordinary crimes and suspected terrorists. **Efforts must now be concentrated on finding ways of rapidly and effectively putting a stop to the practice of torture and ill-treatment. This must be treated as a matter of the highest priority by the Turkish authorities.**

## **2. Action to combat torture and ill-treatment**

19. In its public statement of 15 December 1992 (paragraphs 26 et seq.) the CPT identified different types of action to address the issue of ill-treatment by the police, and the Committee hopes to have an early opportunity to discuss these matters in depth with the Turkish authorities.

Of course, legal safeguards such as those introduced or reinforced in Law No 3842 amending the Code of Criminal Procedure, which entered into force on 1 December 1992, have an important role to play in this context. However, it should be emphasised once again that legal safeguards alone will not be sufficient. Such safeguards must be accompanied in particular by a major and sustained effort in the areas of education on human rights matters and the professional training of law enforcement officials.

20. The CPT examined in some detail the relevant provisions of the above-mentioned Law in its public statement. The Committee wishes to reiterate that as regards ordinary criminal suspects, those provisions could deal a severe blow to the practice of torture and ill-treatment, on condition that they are satisfactorily applied in practice.

**The CPT would like to receive information on the experience to date in the implementation of Law No 3842, and more particularly on the operation of the provisions concerning the right of access to a lawyer** (it should be noted in this connection that Bar Association representatives with whom the CPT's delegation spoke during the periodic visit advanced that the Bar Associations had neither the structures nor the resources necessary to perform effectively the tasks given to them under the new Law).

**Similarly, the CPT would like to receive information on the experience to date in the implementation of the circular of 21 September 1992 concerning the right of access to a doctor** (cf. paragraph 35 of the public statement).

Further, with reference to paragraph 32 of its public statement **the CPT would like to be informed whether a person in respect of whom an extension of police custody beyond four days is requested by the public prosecutor, is physically brought before the judge who examines that request.**

21. As was expressly indicated in the public statement, it is a matter of great regret to the CPT that most of the key provisions in Law 3842 have no application vis à vis offences within the jurisdiction of the State Security Courts. The Law remains an incomplete reply to the Committee's earlier recommendations concerning the strengthening of legal safeguards against ill-treatment.

With reference to the remarks made in paragraphs 29 and 30 of the public statement, **the CPT recommends that the Turkish authorities take appropriate measures:**

- **to reduce substantially the maximum periods for which persons suspected of offences falling under the jurisdiction of State Security Courts can be held in police or gendarmerie custody;**
- **to clearly define the circumstances under which the exercise by such persons of the right to notify their next of kin of their detention can be delayed and to strictly limit in time the application of such a measure, and;**
- **to guarantee to such persons, as from the outset of their custody, a right of access to an independent lawyer (though not necessarily their own lawyer) as well as to a doctor other than one selected by the police.**

22. The importance of the role of Forensic Institute doctors and other doctors appointed by the State to carry out forensic tasks should be emphasised. Detainees are routinely examined at the end of their police custody by such doctors, and their findings carry considerable weight in subsequent proceedings. These medical examinations are therefore a key factor in the fight against torture and ill-treatment.

23. It must be said in this connection that it became increasingly apparent during the CPT's third visit to Turkey that the mandate given to forensic doctors is too restrictive. The doctors are called upon simply to record any physical injuries they observe. Neither statements made by the person examined nor conclusions by the doctor are recorded.

As is well-known, certain methods of ill-treatment do not leave physical marks or will not if carried out expertly. Further, if the period of police custody has been lengthy, it is possible for marks caused by ill-treatment to have faded by the time the custody period ends. Consequently, the fact that no physical marks are apparent when a detainee is examined by a forensic doctor does not necessarily render invalid a detainee's statement that he has been ill-treated. However, it would appear that this is often the conclusion reached by prosecuting and judicial authorities when they receive a forensic doctor's report stating that no physical injuries were observed.

24. If the certificates prepared by doctors after medical examinations of persons at the end of periods of police custody were broadened in scope, their forensic value would be enhanced, placing judges and public prosecutors in a better position to evaluate allegations of ill-treatment.

**The CPT recommends that medical certificates drawn up by forensic doctors when examining persons at the end of periods of police custody contain (i) an account of statements made by the detainee which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) an account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii). It is also recommended that forensic doctors be entitled in appropriate cases to have specialist examinations performed, and to reserve their conclusions until such time as the results of those examinations are available.**

**A secure means of transmitting the medical certificate to the requesting authority should also be ensured.** In this connection, the CPT's delegation heard allegations that medical certificates were on occasion mislaid by the police.

25. **A reinforcement of the resources of Forensic Institutes would also be most welcome.** The CPT's delegation found that understaffing was leading to very heavy workloads for doctors, which inevitably had an adverse effect on the quality of the medical examinations performed. Similarly, documentary practices and the preparation of statistical information were being undermined.

26. In paragraph 26 of its public statement, the CPT emphasised that appropriate steps should be taken to guarantee the independence of forensic doctors. This subject had already been raised in the CPT's first report (cf. CPT/Inf (2007) 1, paragraph 104) and the Committee has taken note of the information on the matter provided in the Turkish authorities' interim report. **The CPT considers that a closer involvement of the Turkish Medical Association in the working practices of forensic doctors could provide an additional means of strengthening the professional independence of such doctors.**

27. In their interim and follow-up reports, the Turkish authorities provided a considerable amount of information concerning recent steps taken in the field of human rights education for the police. Of course, as pointed out by the Human Rights Inquiry Sub-Committee in its report of 14 December 1992 (Section 5.7), it will probably be some time before the positive effects of these steps are felt. **The CPT recommends that the Turkish authorities persevere with their endeavours in this area.**

In the report drawn up after its first visit to Turkey, the CPT also stressed the importance of appropriate human rights education for members of the medical profession (cf. CPT/Inf (2007) 1, paragraph 112). In their follow-up report, the Turkish authorities pointed out inter alia that students in medical faculties receive tuition on professional ethics and moral values, which naturally meant that they received human rights education. In this connection, the CPT would like to reiterate its belief (cf. CPT/Inf (2007) 1, paragraph 175) **that the Turkish Medical Association could contribute a great deal in the context of the training of future doctors, in particular on the subjects of medical ethics and human rights, and that consideration should therefore be given to establishing appropriate links between medical faculties and the TMA.**

Naturally, in addition to target groups such as law enforcement officials and the medical profession, **human rights awareness programmes should be directed towards the general public** (see also section 6 of the report of the Human Rights Inquiry Sub-Committee).

28. The devising of human rights education programmes and the coordination of their implementation is a task tailor-made for a Ministry of Human Rights. In fact, a Human Rights Minister was appointed in 1992, and at the time of the CPT's periodic visit to Turkey, draft legislation to establish a fully-fledged Ministry of Human Rights was apparently close to adoption. **The CPT would like to know whether the envisaged Ministry of Human Rights is now operational and if so, to receive detailed information on its activities.**

29. The CPT has on several occasions stressed that acts of torture and ill-treatment by law-enforcement officials are not only outrageous violations of human rights but also fundamentally flawed methods of obtaining reliable evidence for combating crime.

In the report drawn up after its second visit to Turkey, the CPT stressed the need to develop more advanced methods of crime investigation. In this connection, the Committee would like to fully endorse the following remarks in section 6 of the above-mentioned report of the Human Rights Inquiry Sub-Committee:

" ... we are of the opinion that detailed work on technical subjects such as the collection of information, the storage of information, rapid retrieval, communication, co-operation between different institutions and interpretation of information, and a speedy study of practices in countries which have established information systems in this area, as a prelude to modernising the system in Turkey, will afford other means of securing evidence than ill-treatment".

**The CPT hopes that the comments and information which it requested on this subject (cf. CPT/Inf (2007) 3, paragraph 39, as well as the provisional reply provided in paragraph 36 of the Turkish authorities' follow-up report) will be forwarded in the near future. Information on the progress of the legislation for the establishment of a judicial police corps would also be appreciated.**

**Further, the CPT would like to know whether the arrangements made to send Turkish police officers to other European countries in order to study police methods there (cf. paragraph 26 of the public statement) are proving a success, and to be informed whether other initiatives of this kind are envisaged.**

30. In the reports drawn up after its first two visits to Turkey, the CPT made recommendations concerning the Anti-Terror Departments of the Ankara and Diyarbakır Police. In the second report, it was recommended that a body of independent persons be set up immediately with terms of reference to carry out a thorough investigation of the methods used by police officers belonging to those Departments when holding and questioning suspects. The task of carrying out such an inquiry was subsequently entrusted to the Human Rights Inquiry Commission of the Grand National Assembly.

By letter of 1 March 1993, the Turkish authorities forwarded to the CPT the report drawn up by the Commission's Sub-Committee following a number of visits to the Anti-Terror Departments of the Ankara and Diyarbakır Police as well as to prisons in those cities. The report is of considerable interest and the CPT agrees with many of the points made therein. **The CPT would like to know what concrete measures have been taken in the light of the Sub-Committee's report.**

Further, the CPT presumes that the Human Rights Inquiry Commission is continuing its activities in Ankara and Diyarbakır as well as in other cities in Turkey, **and would like to receive information on this matter.**



31. In order to remove any misunderstanding which may have arisen, the CPT would like to take this opportunity to make clear that it is in no doubt that the Human Rights Inquiry Commission is capable of playing a significant role in the field of human rights in Turkey. Of course, to be effective, the Commission must be accorded appropriate powers of investigation and be assisted by independent experts.

On the subject of powers, the Commission is entitled by Law No 3686 of 4 December 1990 to carry out on-the-spot investigations in public institutions and to request such bodies to provide information. In this connection, the CPT notes that on 27 July 1992, members of the Commission's Sub-Committee were denied access to 30 detainees being held by the Anti-Terror Department of the Ankara Police. It is stated in section 6 of the Sub-Committee's report that it is planned to adopt legislation providing for "free entry cards" to be issued to members of the Sub-Committee, with a view to avoiding a repetition of such situations. The CPT welcomes this development **and would like to be informed whether the legislation in question has been adopted. The CPT would add that given the very particular nature of the functions of the Human Rights Inquiry Commission, it would be appropriate for the Commission to be empowered to require persons to appear before it** (a power which, if the CPT is correctly informed, the Commission does not as yet possess).

As regards access to the assistance of experts, the CPT has noted with interest that, for certain of their visits, members of the Sub-Committee have been accompanied by representatives of the local Bar and Medical Associations. The CPT welcomes this approach.

### **3. Conditions of detention**

32. Revised "Custody Regulations" for police and gendarmerie detention areas were issued by means of a circular of the Ministry of the Interior dated 21 September 1992. In addition to providing for a right of access to a doctor in the form previously recommended by the CPT (regarding which, cf. paragraph 20 above), the new regulations cover two further issues raised in the CPT's second report (cf. CPT/Inf (2007) 3, paragraphs 56 and 58), namely the provision of food to detained persons and of a mattress to those held in custody overnight. The Custody Regulations now adequately address the material facilities to be offered to persons in the custody of the police or gendarmerie.

In the following paragraphs, the CPT shall set out its concerns about conditions of detention in the police and gendarmerie establishments visited during the periodic visit. However, at the outset of this section, **the CPT wishes to recommend that implementation of the above-mentioned Custody Regulations be vigorously pursued throughout the whole of Turkey.**

33. In the course of its periodic visit, the CPT's delegation observed that progress had been made in improving conditions of detention, in pursuance of the CPT's previous recommendations. This was particularly the case in Ankara and Diyarbakır. However, much remains to be done.

34. At **Ankara** Police Headquarters, cells in the Narcotics Department had been enlarged to a reasonable size, had adequate lighting and ventilation, and were equipped with a bed, mattress and blankets. Conditions of detention had also been improved in the general custody area of the new building. However, a row of eight small (3m<sup>2</sup>), dark and unventilated cells was found in that area; the door of each cell was marked with the sign "not to be used". **The CPT recommends that these cells remain out of service until such time as they are enlarged and provided with proper lighting and ventilation.**

In the Anti-Terror Department, the construction of three cells meeting the requirements laid down by the CPT was nearing completion. However, the bulk of that Department's cellular accommodation remained as described in the CPT's second report (cf. CPT/Inf (2007) 3, paragraph 49). Senior police officers stated that improvements would be made as soon as possible. **The CPT recommends that work on improving material conditions in the cells of the Anti-Terror Department of the Ankara Police be given a high priority.**

The cellular accommodation seen in the District Police Stations visited in Ankara was on the whole satisfactory, in particular bearing in mind the relatively short periods that persons were held in that accommodation (rarely more than 24 hours). **However, in certain stations (for example, the Çankaya District Station), lighting in the cells was not adequate.**

35. Cells in the existing Central Interrogation Centre of the Regional Command of the **Diyarbakır** Gendarmerie had been enlarged and were of an acceptable size. Further, an attempt had been made to provide some light within the cells. More significantly, work on the new interrogation centre had been completed and it was expected to be brought into use shortly. The CPT was very pleased to learn from its delegation that the previous recommendation concerning the size of cellular accommodation in the new centre (cf. CPT/Inf (2007) 3, paragraph 53) had been fully taken into account.

Conditions of detention at the Interrogation Centre of the 1st Department of the Diyarbakır Police were considerably better as compared to the situation found during the CPT's first and second visits (cf. CPT/Inf (2007) 1, paragraph 113 and CPT/Inf (2007) 3, paragraph 52). The main cell block had undergone substantial reconstruction and consisted of 14 cells each of which measured 7 m<sup>2</sup> or more; ventilation, lighting, and rest/sleeping facilities had also been improved. As for the separate set of 8 cells each measuring 1.3 m<sup>2</sup>, they had been demolished.

Improvements had also been made to conditions of detention at the Diyarbakır Police Headquarters. For example, the small holding cells belonging to the Narcotics Department criticised in the CPT's second report (cf. CPT/Inf (2007) 3, paragraph 51) had been converted into two multi-occupancy cells each measuring more than 8 m<sup>2</sup>. However, **in other respects (eg. provision of mattresses and blankets to those obliged to stay in custody overnight) the situation remained unsatisfactory.**

As for the cells in the Police Station at Dicle University, they were very small, dark and unventilated. Despite the relatively short periods of time that detainees would be held in the station, such conditions are quite unacceptable. **The CPT recommends that steps be taken immediately to remedy these shortcomings.**

36. In **Istanbul**, some modest improvements had been made to conditions of detention in the Law and Order Department of the Police Headquarters, pursuant to the recommendations in the CPT's second report (cf. CPT/Inf (2007) 3, paragraphs 62 to 67). The sets of three cells in the Homicide and Theft Sections had been converted into sets of two cells; consequently, the cells had been enlarged from 2.2 m<sup>2</sup> to 3.6 m<sup>2</sup>. Further, a wooden floor had been fitted and ventilation improved somewhat via grids in the doors. A bench had been fitted in the cells in the Theft Section, and apparently the same was to occur in the Homicide Section. In both Sections however, the cells remained without proper lighting. The larger holding rooms of the different sections had been equipped with wooden floors, and in some of them benches had been installed. In addition, an effort had been made to improve ventilation and lighting. As for the metal bar cages referred to in the CPT's second report (cf. CPT/Inf (2007) 3, paragraph 67), they had been removed.

By contrast, there had been no discernible change to the conditions in the general detention area on the ground floor of the Law and Order Department, with the exception of the installation of wooden floors in the holding rooms. The numerous improvements recommended in the CPT's second report (cf. CPT/Inf (2007) 3, paragraph 66) had not been implemented.

Nor had any improvements been made to conditions of detention in the Anti-Terror Department. The Head of the Department explained that this was in part due to a bomb explosion which had severely damaged a considerable part of the Department's premises; a second reason was that a new police headquarters building would soon enter into service. The delegation observed for itself that the first of the Department's two cell areas was clearly unusable. As for the second area, the cells remained as the CPT had found them during its second visit to Turkey (cf. CPT/Inf (2007) 3, paragraph 60, second sub-paragraph); the cells were small (3 m<sup>2</sup>), had no lighting and were poorly ventilated - nevertheless, they remained equipped with a bed and blankets.

37. The CPT acknowledges that an attempt had been made to improve conditions of detention in at least some parts of the Istanbul Police Headquarters. However, at the time of the periodic visit they remained quite unsatisfactory, in particular in the Homicide Section, the Anti-Terror Department and the general detention area of the Law and Order Department.

In the Homicide Section and the Anti-Terror Department, persons were frequently detained for many days in dark cells measuring less than 4 m<sup>2</sup>; this is not acceptable to the CPT. The situation was different, but little better, in the general detention area; there, large numbers of people were detained in overcrowded conditions for lengthy periods. The CPT's delegation found 17 detainees sitting on the floor (no bench was available) of one of the holding rooms measuring 14.5 m<sup>2</sup>; the custody register showed that some of them (eg. those awaiting the execution of a court order already made concerning them) had been held in the area for up to two weeks. Detainees alleged that they were offered no possibility of outdoor exercise but were merely allowed access to the garage-type facility in the detention area from time to time. Further, they complained that there were no proper washing facilities for them; and the delegation noted for itself that those facilities remained inadequate.

38. The Head of the Istanbul Police told the delegation that new police headquarters premises would enter into service during the Spring of 1993, and that conditions of detention in those premises would be in accordance with the CPT's recommendations. Under these circumstances, the CPT shall refrain for the time being from making further recommendations concerning material conditions at Istanbul Police Headquarters. **However, the CPT wishes to know whether the above-mentioned new police premises have now entered into service and, if so, to receive information on which Departments have been transferred to those premises.**

**Further, the CPT would like to receive a full description of the cellular accommodation and interrogation facilities in the new police premises, as well as an account of any further improvements to detention areas in the existing Headquarters premises which may be underway or planned.**

39. In its second report, the CPT drew attention to the very poor conditions of detention on the third floor of the Beyoğlu District Central Police Station, which housed an investigation section of the Istanbul Police (cf. CPT/Inf (2007) 3, paragraph 69). During the periodic visit, the CPT's delegation observed that material conditions in the section's principal holding room remained unchanged, apart from the marginal benefit derived from a few holes which had been bored in the steel plate covering the window. Apparently a fixed bench had been installed some eight months earlier, but was removed shortly afterwards on the basis that it might result in injuries to detainees; however, the brackets used to fix the bench remained (and were certainly more dangerous than the bench could ever have been).

**The CPT can only reiterate the recommendation made in its second report, to the effect that conditions of detention in this police service should be radically improved.**

40. The CPT's delegation subsequently came across another such investigation section of the Istanbul Police, located in the basement of the Eminönü District Central Police Station. Conditions of detention in this police service were also far from satisfactory.

Detained persons were held in a multi-occupancy cell measuring approximately 15m<sup>2</sup>. It was dark, poorly ventilated, had no means of rest (eg. bench) and was dirty. Further, the three persons in custody at the time of the delegation visit (all arrested at 2.00 am that day) had been provided with neither mattresses nor blankets. It should be added that the custody register showed that persons might be detained for lengthy periods; four persons had been held for one week the previous month. **The CPT recommends that steps be taken immediately to improve conditions of detention in the above-mentioned cell.**

The cell was situated alongside a quite large and well-lit holding room equipped with benches. Four cubicles with barred fronts, varying in size between 0.7 to 0.9 m<sup>2</sup>, had been installed along one of the walls. They were not equipped with any means of rest; consequently, persons confined within the cubicles could either stand or sit (there was insufficient room to lie) on the floor. Police officers said that someone might be detained in one of the cubicles for 1 to 2 hours while awaiting interrogation. Of course, it may on occasion be necessary to take special precautions vis-à-vis a particular detainee; however, the above-mentioned cubicles are not an acceptable detention facility. **The CPT recommends that the cubicles be removed forthwith.**

Another room in the basement area was devoid of any fittings, save for a row of spotlights (which apparently were out of order) and two sturdy metal hooks on the ceiling. Police officers stated that this room was used as a detention area and for identification purposes, but not for the questioning of suspects. Regardless of the use to which the room is put, the metal hooks can serve no legitimate purpose; **the CPT recommends that they be removed forthwith.**

41. The detention facilities used by the other police services at the Beyoğlu and Eminönü District Central Police Stations were of a somewhat higher standard, **though some of the cells had inadequate lighting and the provision of mattresses and blankets to those obliged to stay in custody overnight did not always appear to be guaranteed. Similar remarks could be made as regards the detention facilities in other police stations visited by the delegation in Istanbul.** Further, it was clear from the custody register at the Eyüp District Central Police Station that the station's 5m<sup>2</sup> cell might be used to accommodate up to three (and on occasion even four) persons overnight; **such an occupancy level is clearly excessive.**

42. Finally, in the course of the periodic visit, a CPT delegation examined for the first time conditions of detention in police establishments in **Adana**. The delegation focused its attention on the Police Headquarters.

The CPT is particularly concerned by the situation found in the Anti-Terror Department. Its set of 12 single cells offered deplorable conditions of detention. The cells were extremely small (1.60 x 1.05 = 1.68m<sup>2</sup>), totally dark, and had no means of ventilation apart from a small flap in the door (a flap which might, or might not, be left open). The cells were fitted merely with a wooden ledge, 29 centimetres in width i.e. adequate for sitting but not for lying down; consequently, detainees slept on the cell floor (police officers stated that blankets and a cushion would be provided at night). Under the law, detainees could spend up to 15 days in such a cell (excluding interrogations and visits to sanitary facilities), and consultation of the Department's custody register showed that stays in excess of 10 days were not uncommon.

The multi-occupancy cells in the Law and Order Department were on the whole of an adequate standard for short stays; however, the delegation observed that the cells could be grossly overcrowded. For example, it found 15 persons detained in a cell measuring 12.5m<sup>2</sup>, all of whom had spent the night in the cell without mattresses or blankets. Some of the detainees alleged that they had been held in the cell for several days.

43. The CPT has had occasion in the past to point out that the effect on a detainee of being held in an excessively small, dark and unventilated cell may often in itself amount to torture or inhuman or degrading treatment. **It recommends that steps be taken immediately to enlarge the cells in the Anti-Terror Department at the Adana Police Headquarters and to equip them with adequate lighting, ventilation and rest/sleeping facilities. If such changes should not prove feasible, the cells should be withdrawn from service without delay.**

**The CPT also recommends that conditions of detention in the Law and Order Department at the Adana Police Headquarters be reviewed in the light of the remarks in paragraph 42.**

## **B. Prisons**

### **1. Introduction**

44. The CPT's periodic visit to Turkey provided an opportunity to take stock of improvements to conditions of detention in the Central Closed Prison of Ankara and Diyarbakır 1 Prison, following the recommendations and comments in the reports drawn up after the Committee's first two visits to Turkey.

The CPT also visited Adana Prison and Diyarbakır II Prison for the first time.

45. In addition, the CPT's delegation returned to Bayrampaşa Prison on the outskirts of Istanbul. As in 1991, the aim of going to the establishment was to interview detainees who had recently been in police custody; the delegation did not examine in detail the situation within Bayrampaşa Prison itself. The CPT intends to remedy this lacuna in due course, as there is no doubt that the establishment - one of the largest prisons in Turkey - merits a visit in its own right.

Nevertheless, the CPT wishes to state here that its delegation gained a poor impression of the situation in the women's ward of Bayrampaşa Prison. The ward was very cold at the time of the visit, as well as dirty and untidy. More importantly, there was a state of tension in the ward of a degree rarely encountered by a CPT delegation, due, at least in part, to the presence of a prisoner who was clearly in need of psychiatric care. Staff themselves admitted that fights among prisoners were a regular occurrence.

**The CPT recommends that steps be taken without delay to improve physical conditions within the women's ward at Bayrampaşa Prison and to ensure that mentally ill prisoners are not held in the ward, but placed instead in a hospital facility.**

**Further, the CPT would like to receive information on the activities (work, education, recreation) available to prisoners in the ward, on the facilities for nursing mothers and their children, and on the incidence of assaults and self-injury within the ward.**

### **2. Torture and other forms of ill treatment**

46. No allegations of torture by prison staff were heard by the CPT's delegation in the course of the periodic visit. Further, hardly any allegations of other forms of ill-treatment by prison staff were made.

More generally, the delegation observed that although staff-prisoner relations tended to be very limited in scope - staff clearly preferring to leave prisoners to their own devices - such contacts as existed were marked by a spirit of civility.

### **3. Improvements to conditions in Ankara Central Closed and Diyarbakır I Prisons**

#### **a. Ankara Central Closed Prison**

47. The CPT's delegation was disappointed to find that little progress had been made in improving conditions of detention in this establishment since the visit in 1991; if anything, conditions had worsened. On several specific issues (the mentally ill, women's ward, visiting facilities), the situation found was at variance with the information provided in the follow-up report provided by the Turkish authorities on 14 February 1992.

48. In the report on its second visit, the CPT observed that a new **reception area for newly-arrived prisoners** (situated under the new visiting area) had been brought into service, and commented favourably upon conditions within it (cf. CPT/Inf (2007) 3, paragraph 72). Unfortunately, the situation had been reversed since that visit; the area set aside for new arrivals had been allocated to certain prisoners considered to be vulnerable, and the old reception area was back in operation. This decision had been taken by the public prosecutor, who explained that it was forced upon him by overcrowding within the establishment. Conditions in the old reception area remained as described in the CPT's first report (cf. CPT/Inf (2007) 1, paragraph 141) i.e. unhygienic and overcrowded, with poor lighting and ventilation.

**The CPT recommends that the old reception area be taken out of service again at the earliest possible opportunity, and that in the meantime steps be taken immediately to improve the level of hygiene within the area.**

49. As regards the prison's **segregation unit (Ward 14)**, the delegation noted that, as previously recommended, the ground floor of the ward remained out of use and a limit of two prisoners per cell was applied on the upper floor. However, there were no signs of the planned general refurbishment of the ward of which the CPT had heard during its second visit (cf. CPT/Inf (2007) 3, paragraph 76). Conditions of detention remained mediocre and, at the time of the periodic visit, the temperature within the premises was very low.

**The CPT wishes to be informed whether it is intended to refurbish the existing premises of ward 14, and, if so, when and in what way.**

50. In both its first and second visit reports, the CPT recommended that Ward 14 cease to be used as a place of detention for mentally ill inmates; and in their follow-up report of 14 February 1992 (Chapter IV, paragraph 50) the Turkish authorities stated that such prisoners were now held in the prison infirmary and, where necessary, transferred to state hospitals for treatment. The CPT is therefore very concerned that during the periodic visit, two psychiatrist members of the delegation met three prisoners in Ward 14 who were in urgent need of psychiatric care.

One prisoner (A. A.) was suffering from serious psychiatric illness; he displayed signs of a paranoid psychosis with systemised delusion. Another prisoner (B. A.) was also seriously ill; he was in a state of decompensated psychosis, displaying fear and delusion on a theme of bodily mutilation. Neither of these prisoners were receiving any medication, and both were being held in an environment which was totally unsuitable for persons in their state of health. Such prisoners should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. A third prisoner (R. A.) had a very primitive personality, with some mental deficiency as well as a depressive reaction to his situation and to a sense of failure. Once again, the environment in ward 14 was quite unsuited to such a prisoner; he should be cared for in the prison infirmary and, if necessary, be transferred to a psychiatric hospital.

**The CPT recommends that the Turkish authorities ensure that the position as set out in their follow-up report of 14 February 1992 concerning prisoners in need of psychiatric care is applied in practice, and that ward 14 cease to be used to accommodate such prisoners.**

**Further, the CPT would like to be informed of the steps taken since the periodic visit vis-à-vis the three prisoners referred to above, and of where they are currently detained.**

51. Material conditions of detention in the **Women's Ward** continued to leave a great deal to be desired. More specifically, almost two years after the problem was first brought to the attention of the Turkish authorities (cf. CPT/Inf (2007) 1, paragraph 35), the CPT's delegation observed that the toilet on the upper floor of the ward still leaked, with the result that water and urine seeped into the kitchen and washroom areas on the floor below; this represents a serious health hazard. A hot-water system had been installed in the ward, but apparently had been out of operation during the previous two months. The ward as a whole was in a poor state of repair and, on the first floor at least, severely overcrowded.

**The CPT can only reiterate its recommendation that the improvement of material conditions in the women's ward be considered as a matter of urgency. Immediate steps are required to repair the defective toilet facility referred to above.**

52. Turning to **visiting facilities**, the delegation found that, contrary to what was stated in the follow-up report of the Turkish authorities (cf. Chapter IV, paragraph 50), the booths in the old visiting area were still in service. As indicated in earlier reports, conditions within the booths are totally unacceptable: they are excessively small and dirty; further, prisoner and visitor are obliged to shout to make themselves heard. With regard to the new visiting area (cf. CPT/Inf (2007) 3, paragraph 75), the position remained that it was only used on about ten days a year, on the occasion of "open visits" during public holidays.

In its second report the CPT recommended that much greater use be made of the new visiting area; however, during the periodic visit the public prosecutor at the Ankara Prison told the CPT's delegation that it was not possible to implement this recommendation as, according to law, visits must as a rule take place under the closed conditions seen in the visiting booths. If this is indeed the case, then the existing legal provisions on this subject should be reviewed. **In the interests of furthering prisoners' relationships with their family and friends, more open visiting facilities are required.**

**The CPT would also invite the Turkish authorities to increase the basic visit entitlement (half an hour every 15 days) of prisoners.**



53. More generally, Ankara prison remained overcrowded, the adverse effects of which were all too evident in many of the wards. 796 prisoners were held in the establishment on 28 November 1992, an almost identical figure to that recorded when the CPT made its first visit in September 1990. The large scale conditional release of remand and convicted prisoners which occurred on 1 July 1991 (cf. paragraph 32 of the Turkish authorities' six-month report of 31 July 1991) clearly had no lasting effect insofar as Ankara Central Closed Prison was concerned.

54. It is common ground that the existing premises of Ankara Central Closed Prison are basically unsuited to the present-day requirements of a penitentiary establishment (cf. for example, the Turkish authorities' follow-up report of 14 February 1992, paragraph 50, as well as section 1.4 of the report of 14 December 1992 drawn up by the Human Rights Inquiry Sub-Committee). The CPT was therefore very pleased to learn that a new prison was under construction and should enter into service in 1994, at which time the existing premises of Ankara Central Closed Prison would cease to be used as a prison.

**The CPT recommends that a very high priority be given to this project.**

**The CPT would like to be informed of the expected completion date of the new prison, its planned capacity, and the envisaged regime.** On this latter point, the CPT would emphasise that prisoners should not only be allowed to spend a reasonable part of the day outside of their cells/dormitories - a requirement met in all of the prisons in Turkey visited to date by the Committee - but should also be provided with a satisfactory range of activities (work, education, sport).

55. Before leaving Ankara Central Closed Prison, mention should be made of the prison's infirmary, which had undergone a remarkable face-lift since the CPT's last visit. The premises had been painted, the walls adorned with bright paintings, and the beds provided with colourful linen. Marble had also been put to good use, in particular for the sanitary facilities.

Regardless of how the above-mentioned improvements were made possible, they are most welcome.

b. Diyarbakır I Prison

56. The delegation visited the segregation cells in Block E. No structural changes had been made to this unit. However, it was also clear that - in conformity with the CPT's recommendation (cf. CPT/Inf (2007) 3, paragraph 80) - the cells had remained out of service.

57. Conditions of detention in the establishment appeared on the whole to have reached an acceptable level, and few complaints were made on this subject by prisoners. However, information received on the spot would suggest that **the water problem - though much improved - has not been entirely resolved.**

#### 4. Adana Prison

##### a. General remarks

58. Adana Prison is located a few miles outside the city in purpose-built premises dating from 1987, and has an official capacity of 650 prisoners. On the first day of the delegation's visit the establishment was holding 518 inmates, 425 on remand (including 12 women and 55 juveniles) and 93 sentenced (including 3 women and 3 juveniles). The long term objective was apparently to have exclusively remand prisoners. Only one prisoner was charged with an offence under the jurisdiction of State Security Courts; such prisoners were invariably transferred after a few days to Malatya E type Prison, there being no State Security Court in Adana.

##### b. Material conditions

59. Material conditions of detention were on the whole of an acceptable standard. Most of the wards were of an adequate size for the numbers accommodated, in a satisfactory state of repair and quite clean. However, conditions were not as good in the two juvenile wards; in particular, those wards were very crowded (though the number of prisoners was below the wards' official capacities). **The CPT recommends that the Turkish authorities alleviate the de facto overcrowding in the juvenile wards.**

The visiting facilities were similar to those seen in Ankara (cf. paragraph 52) and suffered from many of the same basic defects, though it should be said that the booths were somewhat less sordid.

60. One universal complaint by prisoners was that the prison was inadequately heated in Winter. The delegation noted that the temperature inside the premises was rather low, with the result that many prisoners were in their beds in the middle of the day in an effort to stay warm. The Prison Governor recognised that heating was a problem and commented that it was planned to install heating equipment in the wards.

**The CPT recommends that steps be taken to ensure that the temperature within the prison is kept at a reasonable level. Such steps should include the repair of broken windows.**

61. A fair number of complaints were also heard that food was often cold by the time it arrived on the wards; however, the delegation did not have the opportunity to verify the validity of these complaints. **The CPT invites the Turkish authorities to look into this question and, if necessary, take appropriate remedial measures.**

c. Regime

62. The wards were equipped with television/radio and prisoners had access to newspapers and magazines. Further, throughout much of the day prisoners could use the ward recreation yards, which were large enough for games (eg. volleyball) to be played.

63. However, in other respects, the prison regime left much to be desired. For example, only some 70 prisoners out of more than 500 had a job (book-binding, craftwork, general services). Similarly, the education possibilities were limited, consisting essentially of reading and writing classes and handicraft courses organised by one full-time teacher and three assistants.

Admittedly, the organisation of work and educational activities is not a straightforward matter in a remand prison, given the fairly rapid turnover of inmates. However, it is not uncommon for a remand prisoner to stay at Adana for a considerable length of time. Further, the significant number of juveniles held in the prison calls for a special effort to be made in the area of education.

The delegation was also struck by the absence of any indoor sports facilities in such a modern, purpose-built, establishment (though a good-sized outdoor yard used for inter-ward games did exist).

**The CPT invites the Turkish authorities to enhance regime activities (work, education, sport) at Adana Prison.**

d. Segregation (observation) unit

64. This unit consisted of 96 cells on four open landings. The cells measured 6+m<sup>2</sup> and were all equipped with a washbasin and toilet.

Various types of prisoners might be placed in the unit: those undergoing solitary confinement as a punishment; prisoners who wished to have a break from communal living; the psychiatrically disturbed, pending transfer to a hospital facility; etc. However, the unit was empty at the time of the delegation's visit.

65. The ground floor cells were windowless and had metal doors, with the result that they received no natural light; further, many of the cells were very dilapidated. Apparently, these cells had in the past been used for disciplinary purposes, but had now been taken out of service. **The CPT recommends that the ground floor cells remain out of service until such time as they are provided with natural light and, more generally, renovated.**

Cells on the upper floors had grill fronts through which natural light from the windows high up on the opposite wall could pass, the light getting progressively better the higher the floor. The cells were capable of providing quite adequate accommodation for one person, **though there was an urgent need for routine maintenance and cleaning.**

66. The delegation was informed by the Prison Governor that according to the relevant regulations, someone placed in the unit for disciplinary purposes would not be allowed any outdoor exercise. The CPT had not previously been aware of such a rule and must point out that to deprive completely a prisoner of outdoor exercise is unacceptable. Daily outdoor exercise is widely recognised as constituting a basic right for all prisoners.

**The CPT recommends that all prisoners without exception, including those placed in a segregation unit as a disciplinary sanction, be offered the opportunity to take at least one hour of exercise in the open air every day. If necessary, the legal provisions concerned should be amended in order to guarantee this basic right of prisoners.**

e. Health care

67. The prison's health-care service consisted of a full-time doctor, a part-time dentist, a nurse, and six prison officers who had received basic health care training from the doctor. A post of psychologist was vacant.

68. The delegation formed a favourable impression of the quality of general medical care provided within the establishment; further, prisoners had few complaints to make on this subject.

Nevertheless, it was clear that the prison doctor had a very heavy workload. **It would be far preferable for the health care service in an establishment of the size of Adana Prison (500+ prisoners) to possess two doctors. Further, the vacant post of psychologist should be filled without delay.**

69. The prison had a small (8 bed) infirmary, suitable for treating relatively minor matters and for convalescence. However, a prisoner in need of the treatment facilities of a hospital or a specialist examination would have to be sent to a civil hospital. In this connection, the delegation was informed that such transfers could be subject to serious delays.

**The CPT would stress that whenever prisoners need to be hospitalised or examined by a specialist in a hospital, they should be transported with the promptness and in the manner required by their state of health.**

70. The delegation had the opportunity to examine conditions in one of the outside units to which sick inmates in Adana Prison might be sent, namely the **Closed Unit for prisoners at the Numune General Hospital**. It found that both the material conditions in the Unit and the level of care were entirely acceptable.

71. However, some prisoners whose state of health was such that they had had to be taken from the Closed Unit to the hospital's ordinary wards alleged that on occasion they were chained to their beds.

In this connection, the CPT would recall the recommendation made in the first report (cf. CPT/Inf (2007) 1, paragraph 171), to the effect that prisoners sent to hospital to receive treatment should not be physically attached to their beds or other items of furniture for custodial reasons. Other means of satisfactorily meeting security needs can, and should, be found.

## 5. Diyarbakır II Prison

### a. General remarks

72. Diyarbakır II Prison is located in old buildings at the edge of the walled centre of the city. Prisoners were accommodated in ten dormitories, seven of which were used to detain adult male prisoners on remand (Wards 1 to 7), one for remanded juveniles aged 11 to 17 (Ward 8), one for sentenced adult male prisoners (Ward 9) and one for women, both on remand and convicted (the Women's Section). A total of 390 prisoners were detained there on the day of the visit.

The delegation was unable, due to certain other obligations of its medical members, to make an evaluation of health care services in Diyarbakır II Prison.

### b. Material conditions

73. Material conditions of detention were mediocre throughout the establishment and were particularly poor in the dormitories for juveniles and women.

74. The dormitories for adult male remand prisoners varied in size. The largest (Ward 6) measured 271m<sup>2</sup> and contained 144 beds, although only 54 prisoners were living there. The smallest (Ward 4) measured around 80m<sup>2</sup>, had 54 beds and accommodated 23 prisoners. The pattern of only a half to one third of the available bunk beds being occupied was replicated in each of Wards 1 to 7, with the result that, although not overcrowded, the living space in each was extremely restricted by large numbers of empty beds.

The delegation was told that, until some years ago, the prison had received far higher numbers of sentenced prisoners and its total population had exceeded 1000 prisoners. In recent years, the population had apparently been stable at around 400 prisoners, but it was still equipped with 847 bunk beds.

The CPT considers that an appreciable improvement could be made to the quality of life of inmates in the No.II Prison through the simple expedient of removing the spare capacity beds. **It recommends that the Turkish authorities reduce the number of beds in Wards 1 to 7 in the prison, in line with the normal operating capacities of those areas.**

75. Apart from beds, Wards 1 to 7 each contained tables and chairs, one or more wood burning stoves, several fridges, electric fans and a television set. Natural light was poor, entering through small grilled windows. Artificial light was acceptable; however, power cuts were a frequent occurrence. Ventilation appeared to be sufficient and, when visited in December, the dormitories were comfortably warm.

Each ward also had a washing area which contained lavatories in cubicles, a slop sink with running water and a shower. Prisoners had unrestricted access to these areas; **however, in some wards the lavatories and slop sinks were blocked or otherwise in poor condition.**

76. The occupancy levels were quite different in the dormitory for juveniles (Ward 8) and in the Women's Section.

Ward 8 measured only 14.7m<sup>2</sup>, but it contained 17 beds and 15 juveniles were living there on the day of the visit. This level of occupancy left no space for any other equipment apart from a wood burning stove and a television mounted on a wall bracket.

In the Women's Section, 38 inmates were sharing 30 beds; a situation which placed living space at somewhat of a premium.

Such levels of occupancy are not acceptable to the CPT. A dormitory which provides less than 1m<sup>2</sup> of living space per inmate, or in which there are fewer beds than prisoners, can never be an appropriate place in which to deprive persons of their liberty. **The CPT recommends that the Turkish authorities take urgent steps to reduce the levels of overcrowding in the wards for juvenile and women inmates in Diyarbakır II Prison.**

77. More generally, although material conditions left a great deal to be desired throughout the prison, the delegation was impressed by the efforts made by prisoners and staff to keep the dormitories reasonably clean and to treat each other humanely. The result was to render habitable areas in which life could otherwise rapidly have become intolerable. That said, the prison was extremely dilapidated and in certain areas (for example, where there were large amounts of exposed electrical wiring) potentially unsafe.

**The CPT recommends that the Turkish authorities undertake a programme of renovation of Diyarbakır II Prison or, if that appears uneconomic in view of the age of the buildings, consider relocating the establishment in more modern premises.**

c. Regime

78. All prisoners were unlocked from their dormitories for generous periods of time (from 7.30am to 4.30pm in Winter and from 6.00am to between 8.00 and 9.00pm in Summer). During that time they had access to exercise yards - in the case of Wards 1 to 7 and 9, those yards were of a reasonable size; the yards for juvenile and women prisoners were noticeably more cramped. The delegation gained the impression that most activities were organised by prisoners for prisoners, in either the dormitories or exercise yards. Other communal facilities included a Turkish bath house, a shop and a tea canteen.

79. Only the small number of sentenced prisoners had paid jobs, although certain remand prisoners apparently worked on a voluntary basis. The jobs involved consisted essentially of domestic and general maintenance work; there were no workshops.

As regards education, the delegation was told that external teachers provided basic literacy classes and that prisoners had access to a library located near the classroom area. **The CPT would like to receive further information about the availability of such classes (numbers of teachers and prisoners involved, number of hours of teaching per week, teaching methods employed, etc).**

**More generally, the CPT invites the Turkish authorities to endeavour to develop regime activities for prisoners at Diyarbakır II Prison.**

d. Segregation unit

80. The segregation unit, where prisoners might be sent for disciplinary reasons, could fairly be described as squalid.

There were two small (3m<sup>2</sup>) cells, each of which contained a lavatory. They had iron bar doors facing an ante room which measured around 15m<sup>2</sup>. Neither the ante room nor the cells benefitted from natural light and the whole area was permeated by a rancid smell, which appeared to emanate from the lavatories.

An inspection of the registers revealed that the area had last been used, prior to the delegation's visit, on 22 October 1992, when 5 prisoners had been held there for a day. Further, 2 prisoners had been held there for 15 days, from 5 to 20 October 1992. The Director assured the delegation that on both occasions the cell doors had been left open and the prisoners allowed to circulate in the ante room.

81. Their size alone would render the above-mentioned cells unsuitable for detention for an extended period of time. However, even if prisoners were given access to the ante room, the lack of natural light and the appalling stench render the entire area unsuitable for detention purposes.

**The CPT recommends that the segregation unit in Diyarbakır II Prison be substantially renovated without delay. If such a renovation should not prove feasible, the unit should be taken out of service.**

e. Visiting facilities

82. The physical conditions in the areas currently used for closed visits were very poor. Visits for adult male prisoners took place in cubicles which measured just 0.85m<sup>2</sup>. Prisoners and their visitors occupied identical cubicles on opposite sides of a glass panel, fitted, on the prisoners' side, with a metal grille. The delegation found that it was difficult to hear or see a person on the other side of the grille. Further, both prisoners and visitors were obliged to stand for the duration of the visit. There were similar facilities for juveniles and women prisoners; it should be added that the height of the glass panels in the booths for juveniles made it difficult for the latter even to reach them.

83. The CPT has already stated its dislike of comparable visiting arrangements in other establishments. Such arrangements present a considerable impediment to the achievement of the goal of preserving prisoners' relationships with family and friends. **The CPT recommends that the Turkish authorities improve facilities for visits at Diyarbakır II Prison, with a view in particular to allowing visits to take place under more open conditions (cf. also paragraph 52).**

84. Open visits usually took place in the exercise yards and might last for a full day. The delegation was concerned to hear, however, that women prisoners never received open visits. **The CPT wishes to be informed of whether this is indeed the case and, if so, of the reasons for the imposition of such a restriction.**



## **C. Bakırköy Mental and Psychological Health Hospital**

### **1. Introduction**

85. Bakırköy Mental and Psychological Health Hospital is the largest psychiatric establishment in Turkey and has a country-wide vocation. It is located in extensive grounds on the outskirts of Istanbul, with many of the wards being arranged around an inner garden. At the time of the delegation's visit, the hospital had a total of 2900 beds, about 1800 of which were for the chronically-ill and 1100 for acute cases. The great majority of patients were there on a non-voluntary basis. The hospital employed approximately 1600 staff, of whom 700 were nurses.

86. The hospital performed inter alia a range of forensic functions - assessment of whether arrested persons were substance abusers or drug addicts; observation in order to assess the sanity of patients facing trial; and treatment of detainees/prisoners with psychiatric disorders. The different wards which performed those functions had recently been regrouped into one administrative unit - the Judicial Psychiatry Service - on which the delegation concentrated its attention during the visit.

### **2. Torture and other forms of ill-treatment**

87. No allegations of torture or other forms of ill-treatment by hospital staff were heard by the CPT's delegation in the course of its visit; nor was any other evidence of such practices found. On the whole, staff-patient relations in the hospital appeared to be satisfactory.

### **3. The Judicial Psychiatry Service**

#### **a. General remarks**

88. The Judicial Psychiatry Service had a total of 316 beds divided between: a secure Arrest Unit (the "Tutuklu", with 60 beds); the female judicial service in Ward 40 ("Simtel" ward, with 36 beds); the male judicial service in Ward 33 ("Ozman" ward, with 45 beds); and two "protected treatment services" - the rehabilitation service in Ward 22 (55 beds) and Ward 13 (120 beds), the latter known as "the closed ward on the inner garden". On the day of the visit there were 208 patients in residence, of whom 24 were women.

There were a total of 88 staff: 13 doctors, 30 nurses, 20 medical orderlies and 25 auxiliary staff.

89. The **Arrest Unit** ("Tutuklu") was under the authority of the Ministry of Justice and received different categories of male and female patients: persons arrested and taken to the Hospital by the police, and who on examination by an outpatients department were hospitalised on the basis of a medical decision; persons placed on remand and sent to the Arrest Unit by the court, in order that a report on their criminal responsibility might be drawn up; remand and sentenced prisoners referred for treatment by a prison doctor. The length of stay in the Unit varied from a few days (for those coming from police custody), through several weeks (for observation purposes), to ten weeks or more (for those referred from prison).

**Wards 40** ("Simtel"), **33** ("Ozman"), **22** (rehabilitation service) and **13** ("the closed ward on the inner garden") were under the authority of the Ministry of Health. They received both patients awaiting pre-sentence psychiatric reports and those who had been committed by a judge for a period of at least a year, having been declared criminally irresponsible.

Patients awaiting pre-sentence psychiatric reports would normally spend a comparatively short time in either Ward 40 (women) or 33 (men). Male patients who had been declared criminally irresponsible would begin their stay in the closed section of Ward 33, then, after being moved to the open section of that ward, could be considered for transfer to the rehabilitation service in Ward 22. Those who had committed serious offences and whose condition was classified as chronic would be moved to Ward 13, after several weeks of observation in Ward 33. Such patients might spend several years in Ward 13, exceptionally 10 years or more. Female patients who had been declared criminally irresponsible would be accommodated in Ward 40 for the whole of their stay in the hospital.

90. Material conditions and treatment programmes varied significantly between the different units which formed the Judicial Psychiatry Service. In some cases they were reasonably good, while in others, there was considerable room for improvement. As for the situation found in Ward 13, it is a major source of concern to the CPT.

b. Arrest Unit

91. The Arrest Unit was a single-storey C-shaped building which dated from 1981. It was surrounded by a double perimeter fence, guarded by the Gendarmerie. Inside the Unit, custodial functions were performed by prison officers and medical functions by a staff of 2 psychiatrists and 8 nurses, 5 of whom worked during the day and 3 at night. On the day of the visit there were 28 men and 2 women in custody.

92. Accommodation was provided in bar-fronted rooms, each of which contained two beds and measured approximately 8m<sup>2</sup>. The natural and artificial light, ventilation and heating appeared to be adequate. Apart from beds, some of the rooms were equipped with small cupboards, in others there was no additional furniture. There was a call bell system in each of the Unit's rooms, but it was out of order at the time of the visit; **it would be appropriate to have it repaired as soon as possible**. Sanitary facilities were located elsewhere in the Unit; no complaints were heard about access to them.

93. The rooms were left open for much of the day and patients could move freely around their respective parts of the Unit (thereby largely compensating for the somewhat restricted living space for two persons within the rooms themselves). Patients had access to a day room and both television and newspapers were placed at their disposal. Further, outdoor exercise facilities were adequate.

To sum up, the atmosphere within the Unit was quite relaxed. Nevertheless, **the CPT would invite the Turkish authorities to explore the possibility of broadening the range of activities available to patients.**

94. Most of the Arrest Unit was in a very dilapidated state (apart from the lavatory areas for men, which had been freshly whitewashed), which, in combination with the rather rudimentary nature of the facilities described above, served to produce a gloomy living environment for the patients accommodated there.

The delegation was told that there were plans to renovate the Unit. **The CPT recommends that their implementation be given a high priority - in the event that the Unit is to remain in its present premises (cf. paragraph 109) - and would like to receive details of those renovations.**

c. Ward 40

95. On the day of the visit to Ward 40 there were 24 women patients in residence - 23 who had been committed on the orders of a judge and 1 who was there for observation, pending a psychiatric opinion.

96. The material conditions were satisfactory. The rooms were of a reasonable size for the numbers of patients accommodated (between 1 and 4 per room) and were adequately lit and ventilated. The premises as a whole were clean and in a good state of repair. The delegation was particularly impressed by the patients' day room, which was large and airy.

97. Patients could move freely throughout the ward and also had ready access to the inner garden. They benefitted from a range of activities including cooking and craftwork and dressmaking workshops, in addition to watching television in the day room. The delegation was told that nurses in Ward 40 held a discussion with patients every morning and that they could also attend a rehabilitation workshop (Ward 16) elsewhere in the hospital, although it was apparently rare for patients to take advantage of that latter option.

To sum up, the delegation formed a generally favourable impression of Ward 40.

d. Ward 33

98. Ward 33 was the counterpart of Ward 40, in respect of the treatment of male patients. It was a two storey building; the first floor functioned as a closed unit for the observation of new arrivals and the treatment of patients considered as dangerous, the ground floor functioned as an open unit. There were 39 patients accommodated on the day of the delegation's visit: 27 who had been committed on the orders of a judge and 12 for the preparation of pre-sentence psychiatric reports.

The average length of stay in Ward 33 was in the order of two to four weeks; as regards more particularly patients who had been committed on the orders of a judge, they would subsequently be transferred, either to the rehabilitation unit in Ward 22 (cf. paragraph 102) or to Ward 13 (cf. paragraph 104).

99. Material conditions in Ward 33 were reasonable. The patients' rooms were of a good size and lighting (both natural and artificial) and ventilation were adequate; further there was a large and bright day room.

However, the delegation noted the absence of personal possessions and the general lack of intimacy in the patients' rooms. As elsewhere in the hospital (cf. also paragraph 102), it appeared to be the rule that patients were not allowed to keep their belongings with them and that the walls of the wards should remain undecorated. **In the view of the CPT, this represents an impediment to the creation of a therapeutic environment.**

100. Treatment in Ward 33 consisted mainly of the administration of medicines (principally neuroleptics and anti-depressants); there was little provision for other types of therapeutic activities. That said, no evidence emerged from the observations made, or from conversations with patients, discussions with staff and examination of certain medical records, of any over-medication of patients.

Patients whose state of health permitted it had access to the day room (where television and table games were available) and to the inner garden. However, there were hardly any forms of organised activity. The CPT recognises that patients are held in Ward 33 for comparatively short periods of time; nonetheless, **it considers that it would be desirable to provide a greater variety of non drug-based therapeutic treatment (counselling, group therapy etc) to patients during their stay.**

e. Protected treatment services - Wards 22 and 13

101. The two so-called "protected treatment services" (Wards 22 and 13) differed markedly in the quality of the environments which they provided for patients.

- *Ward 22*

102. Ward 22 (the rehabilitation service) received patients who had progressed satisfactorily in Ward 33, with a view to preparing them for ultimate release. Between 1 and 4 patients were accommodated in good-sized rooms in which both lighting and ventilation were adequate. However, the rooms (and the ward as a whole) had a depersonalised character; there were no cupboards or drawers, no personal effects, and the walls were bare. **The CPT would recall its comment at paragraph 99.**

103. An open regime was in operation, and in fact patients were only allowed to go to their rooms at night. The majority of the patients attended the rehabilitation workshop (Ward 16), where activities such as packaging and craftwork took place in a noticeably relaxed atmosphere. The remaining patients worked in the kitchen or had cleaning or maintenance duties. As in Wards 40 and 33, patients had a day room at their disposal and enjoyed access to the inner garden.

- *Ward 13*

104. Ward 13 was located in an old building surrounded by a high wall and on the day of the visit was accommodating 118 patients. They were chronically ill persons who had committed serious offences (most commonly murder) but had been found not to be criminally responsible. The ward's staff consisted of 3 psychiatrists and 10 nurses.

105. From 8.30 am to 8.30 pm the patients passed their time in a day room or the outside yard (their dormitories being locked). The room measured 120m<sup>2</sup> (i.e. approximately 1m<sup>2</sup> of living space per patient) and was equipped with benches and tables, a television set and a music system. At night, the majority of the patients were kept in two dormitories equipped with bunk beds (one of which measured 86m<sup>2</sup> and contained 48 beds, the other, 102m<sup>2</sup> with 52 beds). A smaller dormitory (41m<sup>2</sup>, 20 beds) was used mainly for especially vulnerable patients or those with somatic illnesses.

It is clear from the above that the ward was grossly overcrowded. Further, the premises were dilapidated and some areas (notably the wash room and lavatories) were dirty and in an advanced state of decay.

106. The patients' overall quality of life was low. Large numbers of mentally-disordered persons were constrained to spend their time in very close proximity to each other, with only television, piped music or table games to divert them. The delegation observed that the result was bedlam. For patients seeking respite from the noise of the day room or the disorderly behaviour of their fellows, the only option was to circulate in the yard, which was roughly-paved and devoid of any equipment apart from a few benches and some toilet facilities.

The treatment of patients consisted essentially of the administration of medication (principally neuroleptics) three times a day. As could only be expected given the grossly inadequate nurse/patient ratio (1:12), there were no developed programmes of psycho- or socio- therapeutic activities (though a handful of patients did attend the rehabilitation workshop in Ward 16). The nurses in the ward had each been assigned up to 30 patients, with whom they attempted to converse every day. Given the physical restrictions imposed by the building, the delegation formed the view that that task must have been difficult, if not impossible, to fulfil.

107. To sum up, Ward 13 was manifestly ill-equipped to care properly for the number and types of patients held there. Material conditions were very poor and there were no meaningful activities for the patients. **The CPT recommends that steps be taken to remedy this situation.**

The delegation was told by the Chief Doctor of Bakırköy Hospital that it was hoped to close Ward 13, as part of the possible transfer of the Judicial Psychiatry Service to a new building (cf. paragraph 108). **The closure of Ward 13 would be a most welcome development; it is unlikely that the above-mentioned shortcomings could be effectively rectified within the confines of the present building.**

f. New premises at Bakırköy Hospital

108. The delegation was shown a newly completed 500 bed unit within the grounds of Bakırköy Hospital, which had been commissioned by the Ministry of Justice. The delegation heard competing accounts about the intended use of the building.

109. **The CPT would like to know whether it is intended to transfer some or all of the forensic services of Bakırköy Hospital into the above-mentioned new premises and, if so, to be informed when that transfer will take place. It also wishes to receive information on the material facilities (including the architectural plans) and on the therapeutic activities to be offered within the new premises, and to be informed of the Ministry which will have responsibility for the premises.**

#### 4. Some general issues of relevance to the CPT's mandate

##### a. Means of physical restraint

110. The delegation was informed by the doctors and care staff that physical restraint was rarely used on patients (on perhaps a few occasions a year). Apparently preference was usually given to the sedation of patients, with physical restraint being used only in cases when it was necessary to restrict the movement of a patient until sedative medication took effect. The delegation received no allegations or evidence to the contrary.

111. Even if resort to physical restraint is infrequent, it is important that its use always be accompanied by appropriate safeguards. In this respect, the CPT considers that any use of physical restraint in respect of a patient should be recorded in both the patient's file and in an appropriate register, with an indication of the times at which the measure began and ended as well as of the circumstances of the case and the reasons for resorting to such means. **The CPT wishes to know whether the practice in Turkey is in conformity with the above-mentioned requirements.**

**It is axiomatic that the use of such methods should always be either expressly ordered by a medical doctor or immediately brought to the attention of such a doctor with a view to seeking his approval.**

##### b. Electro-Convulsive Therapy

112. Electro-Convulsive Therapy (E.C.T.) formed an established part of the treatment programmes in Bakırköy Hospital. However, it appeared that the administration of E.C.T. was not always preceded by any special medication (e.g. the administration of muscle relaxants).

**The CPT would like to receive information about the use of E.C.T. in Bakırköy Hospital.**

##### c. External complaints and inspection procedures

113. The CPT attaches particular importance to patients having access to formal machinery enabling them to lodge complaints with a clearly identified body.

In addition, it is desirable to have regular visits to psychiatric institutions by an independent external body with responsibility for examining the treatment received by patients and authority to discuss matters with them in confidence and make any appropriate recommendations.

**The CPT would like to receive information about the complaints and inspection procedures which currently exist in Turkish psychiatric establishments.**

d. Discharge of patients

114. The placement of patients admitted compulsorily to a hospital should be subject to an automatic review procedure on a regular basis, to establish whether placement remains necessary. As far as the delegation could gather, there was no such automatic review of the placement of those committed in Bakırköy Hospital. **The CPT would like to receive information on this subject.**



### III. FINAL REMARKS

115. Three years have passed since the European Committee for the prevention of torture and inhuman or degrading treatment or punishment first visited Turkey. This report on the Committee's periodic visit in December 1992 should therefore be read in the context created by two previous ad hoc visits; the meetings between the CPT and the Turkish authorities held in September 1992; and the Committee's public statement on Turkey.

It should be stressed that contacts at national level between the CPT and the Turkish authorities have been characterised by a spirit of cooperation. An ongoing dialogue has been maintained on matters of concern and significant progress has been made in implementing some of the recommendations made by the Committee in its earlier reports. However, the practice of torture by the police remains widespread in Turkey.

116. One area in which this report records progress is that of conditions of detention in police establishments. Revised "Custody Regulations" for police and gendarmerie detention areas were issued on 21 September 1992. They adequately address the material facilities to be offered to persons in custody and the CPT has recommended that their implementation be vigorously pursued throughout the whole of Turkey.

Improvements in line with the CPT's previous recommendations have been made to cellular accommodation at Ankara Police Headquarters and, in Diyarbakır, at the Central Interrogation Centre of the Regional Command of the Gendarmerie, the Interrogation Centre of the 1st Department of the Police and the Police Headquarters. However, only modest improvements had been made in Istanbul Police Headquarters, apparently pending its relocation in new premises. Further, cellular accommodation seen in some other police establishments, most notably in Adana Police Headquarters, is not yet acceptable to the CPT.

117. As already indicated in the public statement, the CPT's dialogue with the Turkish authorities on prison matters is, on the whole, progressing satisfactorily. No allegations of torture by prison staff were heard by the CPT's delegation in the course of the periodic visit. Further, hardly any allegations of ill-treatment were heard. Of the establishments previously visited, Diyarbakır I Prison now appears to provide conditions of detention which are, in general, of an acceptable level. By contrast, in Ankara Central Closed Prison, many of the Committee's previous recommendations remain to be implemented. This report also makes recommendations designed to address shortcomings observed in Adana and Diyarbakır II Prisons, which were visited for the first time.

118. An entirely new element in the CPT's periodic visit to Turkey was provided by its visit to the Judicial Psychiatric Service of Bakırköy Mental and Psychological Health Hospital. No allegations of ill-treatment by hospital staff were heard by the Committee's delegation during that visit; nor was any other evidence of such treatment found. The delegation was favourably impressed by staff-patient relations; however, the CPT was concerned about the situation found in Ward 13 at the Hospital.

The CPT intends in the future to visit other kinds of establishments falling within its mandate (for example, military detention centres, non-judicial psychiatric establishments, institutions for the elderly or young people) in order to enrich its dialogue with the Turkish authorities.

119. Regrettably, those positive findings outlined above are overshadowed by the information gathered in the course of the periodic visit (cf. paragraphs 12 to 18) which shows that the problem of torture and other forms of ill-treatment of persons in police custody has not been resolved. Compelling evidence was found of the continuation of acts of torture and other forms of severe ill-treatment by the police against both persons suspected of ordinary crimes and persons held under anti-terrorism provisions. The CPT's public statement on Turkey of 15 December 1992 was the ineluctable consequence of this state of affairs.

The existence and extent of the problem of torture by the police has been established beyond reasonable doubt; efforts must now be concentrated on finding ways of rapidly and effectively combatting this phenomenon.

120. The CPT has highlighted the different types of action required to combat torture and ill-treatment, and made a number of recommendations, comments and requests for information on specific matters (cf. paragraphs 19 to 31). The crucial importance of human rights education for both target groups such as law enforcement officials and the medical profession and for the public at large, and of developing more advanced methods of crime investigation, deserves to be re-emphasised.

121. To successfully combat torture and ill-treatment will require a frank acceptance of the scale of the problem and the determination to take concrete steps towards its eradication. The CPT hopes that, through the continuation of a constructive dialogue with the Turkish authorities, it will be able to assist in that task.

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122. The various recommendations, comments and requests for information formulated by the CPT in this report are listed in Appendix I. The Committee requests the Turkish authorities to provide a report in response within six months.

## APPENDIX I

### LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

#### I. CO-OPERATION WITH THE VISITING DELEGATION

##### comments

- under Article 8.2.c of the Convention, CPT delegations are to be provided with unlimited access to places of detention; 40 minutes goes well beyond the short period which might be required to check the identity of the members of a visiting delegation (paragraph 6);
- on the arrival of a CPT delegation at a police establishment, any impending removal of detainees should be suspended until such time as the delegation has had an opportunity to see those persons about to leave (paragraph 8);
- it is very important for Parties to the Convention to make detailed information on the CPT's terms of reference and the obligations of Parties vis-à-vis the Committee available to all authorities concerned, including relevant health authorities (paragraph 9);
- the situation observed in the Anti-Terror Department of Ankara Police Headquarters (where the detention areas and interrogation rooms were devoid of any sign of normal police activity) was quite artificial (paragraph 10).

#### II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

##### A. Police and Gendarmerie establishments

##### 1. Torture and other forms of severe ill-treatment: new evidence

##### comments

- efforts must now be concentrated on finding ways of rapidly and effectively putting a stop to the practice of torture and ill-treatment by the police, against both persons suspected of ordinary crimes and suspected terrorists. This must be treated as a matter of the highest priority by the Turkish authorities (paragraph 18).

##### requests for information

- full details of all investigations into the circumstances of the death of Mr R.B. on 23 October 1992 (paragraph 15).

## 2. Action to combat torture and ill-treatment

### recommendations

- the Turkish authorities to take appropriate measures:
  - to reduce substantially the maximum periods for which persons suspected of offences falling under the jurisdiction of State Security Courts can be held in police or gendarmerie custody,
  - to clearly define the circumstances under which the exercise by such persons of the right to notify their next of kin of their detention can be delayed and to strictly limit in time the application of such a measure, and
  - to guarantee to such persons, as from the outset of their custody, a right of access to an independent lawyer (though not necessarily their own lawyer) as well as to a doctor other than one selected by the police (paragraph 21);
- medical certificates drawn up by forensic doctors when examining persons at the end of periods of police custody to contain:
  - (i) an account of statements made by the detainee which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment),
  - (ii) an account of objective medical findings based on a thorough examination, and
  - (iii) the doctor's conclusions in the light of (i) and (ii) (paragraph 24);
- forensic doctors to be entitled in appropriate cases to have specialist examinations performed, and to reserve their conclusions until such time as the results of those examinations are available (paragraph 24);
- the Turkish authorities to persevere with their endeavours in the field of human rights education for the police (paragraph 27).

### comments

- a secure means of transmitting medical certificates from forensic doctors to requesting authorities should be ensured (paragraph 24);
- a reinforcement of the resources of Forensic Institutes would be most welcome (paragraph 25);

- a closer involvement of the Turkish Medical Association in the working practices of forensic doctors could provide an additional means of strengthening the professional independence of such doctors (paragraph 26);
- the Turkish Medical Association could contribute a great deal in the context of the training of future doctors, in particular on the subjects of medical ethics and human rights; consideration should therefore be given to establishing appropriate links between medical faculties and the TMA (paragraph 27);
- human rights awareness programmes should be directed towards the general public, in addition to target groups such as law enforcement officials and the medical profession (paragraph 27);
- it is hoped that the comments and information which the CPT has previously requested on the subject of developing more advanced methods of crime investigation will be forwarded in the near future (paragraph 29);
- given the very particular nature of the functions of the Human Rights Inquiry Commission of the Grand National Assembly, it would be appropriate for it to be empowered to require persons to appear before it (paragraph 31).

#### requests for information

- information on the experience to date in the implementation of:
  - Law No 3842, in particular on the operation of the provisions concerning the right of access to a lawyer,
  - the circular of 21 September 1992, concerning the right of access to a doctor (paragraph 20);
- whether a person in respect of whom an extension of police custody beyond four days is requested by the public prosecutor is physically brought before the judge who examines that request (paragraph 20);
- whether the envisaged Ministry of Human Rights is now operational and - if so -detailed information on its activities (paragraph 28);
- the progress of the legislation for the establishment of a corps of judicial police (paragraph 29);
- whether the arrangements made to send Turkish police officers to other European countries in order to study police methods are proving a success, and information on whether other initiatives of this kind are envisaged (paragraph 29);
- concrete measures taken in the light of the report of the Sub-Committee of the Human Rights Inquiry Commission (paragraph 30);

- details of the ongoing activities of the Human Rights Inquiry Commission in Ankara, Diyarbakır and other cities in Turkey (paragraph 30);
- whether the legislation to provide "free entry cards" to members of the Sub-Committee of the Human Rights Inquiry Commission has been adopted (paragraph 31).

3. Conditions of detention

recommendations

- implementation of the revised "Custody Regulations" for police and gendarmerie detention areas to be vigorously pursued throughout Turkey (paragraph 32);
- the eight small cells in the general custody area at Ankara Police Headquarters to remain out of service until such time as they are enlarged and provided with proper lighting and ventilation (paragraph 34);
- work on improving material conditions in the cells of the Anti-Terror Department of the Ankara Police to be given a high priority (paragraph 34);
- steps be taken immediately to improve the conditions of detention in the cells in the Police Station at Dicle University (paragraph 35);
- conditions of detention on the third floor of the building housing the Beyoğlu District Central Police Station (Istanbul) to be radically improved (paragraph 39);
- as regards the detention facilities of the police service situated in the basement of the building housing the Eminönü District Central Police Station (Istanbul):
  - steps be taken immediately to improve conditions of detention in the multi-occupancy cell,
  - the four cubicles with barred fronts in the holding room to be removed forthwith,
  - the metal hooks on the ceiling of an adjacent room to be removed forthwith (paragraph 40);
- steps to be taken immediately to enlarge the cells in the Anti-Terror Department at the Adana Police Headquarters and to equip them with adequate lighting, ventilation and rest/sleeping facilities. If such changes should not prove feasible, the cells to be withdrawn from service without delay (paragraph 43);
- conditions of detention in the Law and Order Department at the Adana Police Headquarters to be reviewed in the light of the CPT's remarks in paragraph 42 (paragraph 43).

comments

- in certain Ankara police stations (for example, the Çankaya District Station), lighting in the cells was not adequate (paragraph 34);
- although some improvements had been made to conditions of detention at the Diyarbakır Police Headquarters, in other respects (eg. provision of mattresses and blankets to those obliged to stay in custody overnight) the situation remained unsatisfactory (paragraph 35);
- some of the cells in the Beyoğlu and Eminönü District Central Police Stations had inadequate lighting and the provisions of mattresses and blankets to those obliged to stay in custody overnight did not always appear to be guaranteed. Similar remarks could be made as regards the detention facilities in other police stations visited by the delegation in Istanbul (paragraph 41);
- the occupancy level in the 5m<sup>2</sup> cell at Eyüp District Central Police Station (Istanbul) was at times excessive (paragraph 41).

requests for information

- whether the new headquarters of the Istanbul police have entered into service and - if so - information on which Departments have been transferred to those premises (paragraph 38);
- a full description of the cellular accommodation and interrogation facilities in the new headquarters of the Istanbul police, as well as an account of any further improvements to detention areas in the existing Headquarters premises which may be underway or planned (paragraph 38).

B. Prisons

1. Bayrampaşa Prison

recommendations

- steps to be taken without delay to improve physical conditions within the women's ward at Bayrampaşa Prison, and to ensure that mentally ill prisoners are not held in the ward, but placed instead in a hospital facility (paragraph 45).

requests for information

- information on the activities (work, education, recreation) available to prisoners in the women's ward at Bayrampaşa Prison, on the facilities for nursing mothers and their children, and on the incidence of assaults and self-injury within the ward (paragraph 45).

2. Improvements to conditions in Ankara Central Closed and Diyarbakır I Prisons

a. Ankara Central Closed Prison

recommendations

- the old reception area to be taken out of service again at the earliest possible opportunity, and in the meantime, steps to be taken immediately to improve the level of hygiene within the area (paragraph 48);
- the Turkish authorities to ensure that the position as set out in their follow-up report of 14 February 1992 concerning prisoners in need of psychiatric care is applied in practice, and that ward 14 cease to be used to accommodate such prisoners (paragraph 50);
- the improvement of material conditions in the Women's ward to be considered as a matter of urgency; immediate steps to be taken to repair the defective toilet facility (paragraph 51);
- a very high priority be given to the construction of a new prison to replace the existing premises (paragraph 54).

comments

- in the interests of furthering prisoners' relationships with their family and friends, more open visiting facilities are required (paragraph 52)\*;

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\* This comment is general in scope.



- the Turkish authorities are invited to increase the basic visit entitlement of prisoners (paragraph 52)\*.

#### requests for information

- whether it is intended to refurbish the existing premises of ward 14, and - if so - when and in what way (paragraph 49);
- the steps taken since the CPT's periodic visit vis-à-vis the three prisoners referred to in paragraph 50, together with details of where they are currently detained (paragraph 50);
- the expected completion date of the new prison, its planned capacity, and the envisaged regime (paragraph 54).

#### b. Diyarbakır I Prison

#### comments

- the water problem - though much improved - has apparently not been entirely resolved (paragraph 57).

#### 3. Adana Prison

#### recommendations

- the de facto overcrowding in the juvenile wards to be alleviated (paragraph 59);
- steps to be taken (including the repair of broken windows) to ensure that the temperature within the prison is kept at a reasonable level (paragraph 60);
- the ground floor cells of the segregation (observation unit) to remain out of service until such time as they are provided with natural light and, more generally, renovated (paragraph 65);
- all prisoners without exception, including those placed in a segregation unit as a disciplinary sanction, to be offered the opportunity to take at least one hour of exercise in the open air every day. If necessary, the legal provisions concerned to be amended in order to guarantee this basic right of prisoners (paragraph 66)\*;
- prisoners sent to hospital to receive treatment not to be physically attached to their beds or other items of furniture for custodial reasons (paragraph 71)\*.

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\* These recommendations and comments are general in scope.

comments

- the Turkish authorities are invited to look into the question of whether food is often cold by the time it arrives on the wards, and, if necessary, to take appropriate remedial measures (paragraph 61);
- the Turkish authorities are invited to enhance the regime activities (work, education, sport) in the establishment (paragraph 63);
- there was an urgent need for routine maintenance and cleaning in the cells on the upper floors of the segregation (observation) unit (paragraph 65);
- it would be far preferable for the health care service in an establishment of the size of Adana Prison (500+ prisoners) to possess two doctors\*. Further, the vacant post of psychologist should be filled without delay (paragraph 68);
- whenever prisoners need to be hospitalised or examined by a specialist in a hospital, they should be transported with the promptness and in the manner required by their state of health (paragraph 69)\*.

4. Diyarbakır II Prison

recommendations

- the number of beds in Wards 1 to 7 in the prison to be reduced, in line with the normal operating capacities of those areas (paragraph 74);
- urgent steps to be taken to reduce the levels of overcrowding in the wards for juvenile and women inmates (paragraph 76);
- a programme of renovation of the prison to be undertaken or, if that appears uneconomic in view of the age of the buildings, the relocation of the establishment in more modern premises to be considered (paragraph 77);
- the segregation unit to be substantially renovated without delay. If such a renovation should not prove feasible, the unit to be taken out of service (paragraph 81);
- facilities for visits to be improved with a view, in particular, to allowing visits to take place under more open conditions (paragraph 83).

comments

- in some wards the lavatories and slop sinks were blocked or otherwise in poor condition (paragraph 75);
- the Turkish authorities are invited to endeavour to develop regime activities for prisoners in the establishment (paragraph 79).

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\* These comments are general in scope.

requests for information

- further information about the availability of literacy classes (numbers of teachers and prisoners involved, number of hours of teaching per week, teaching methods employed, etc) (paragraph 79);
- whether it is the case that women prisoners never receive open visits, and - if so - the reasons for the imposition of such a restriction (paragraph 84).

C. Bakırköy Mental and Psychological Health Hospital

1. The Judicial Psychiatry Service

recommendations

- the implementation of the plans to renovate the Arrest Unit to be given a high priority - in the event that it is to remain in its present premises (paragraph 94);
- steps to be taken to remedy the situation found by the CPT's delegation in Ward 13 (paragraph 107).

comments

- it would be appropriate to repair the call bell system in the Arrest Unit as soon as possible (paragraph 92);
- the Turkish authorities are invited to explore the possibility of broadening the range of activities available to patients in the Arrest Unit (paragraph 93);
- the absence of personal possessions and the general lack of intimacy in patients' rooms - in particular in wards 22 and 33 - represents an impediment to the creation of a therapeutic environment (paragraphs 99 and 102);
- it would be desirable to provide a greater variety of non drug-based therapeutic treatment (counselling, group therapy etc) to patients in Ward 33 (paragraph 100);
- the closure of Ward 13 would be a most welcome development; it is unlikely that its shortcomings could be effectively rectified within the confines of the present building (paragraph 107).

requests for information

- details of the renovations to the Arrest Unit which are planned (paragraph 94);
- whether it is intended to transfer some or all of the forensic services of Bakırköy Hospital into new premises within the grounds of the hospital and - if so - information on when that transfer will take place. In addition, information on the material facilities (including the architectural plans) and on the therapeutic activities to be offered within the new premises, and on which Ministry will have responsibility for the premises (paragraph 109).

2. Some general issues of relevance to the CPT's mandate

- a. Means of physical restraint

comments

- the use of means of physical restraint should always be either expressly ordered by a medical doctor or immediately brought to the attention of such a doctor with a view to seeking his approval (paragraph 111).

requests for information

- whether the practice in Turkey in respect of resort to means of physical restraint is in conformity with the requirements set out in paragraph 111 (paragraph 111);
- information about the use of Electro-Convulsive Therapy in Bakırköy Hospital (paragraph 112);
- information about the complaints and inspection procedures which currently exist in psychiatric establishments (paragraph 113);
- information on the subject of the automatic review of the placement of those admitted compulsorily to hospitals (paragraph 114).

## APPENDIX II

### PUBLIC STATEMENT ON TURKEY

Adopted on 15 December 1992

#### Introduction

1. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has to date organised three visits to Turkey. The first two visits, carried out from 9 to 21 September 1990 and 29 September to 7 October 1991, were of an ad hoc nature. They were visits which appeared to the Committee "to be required in the circumstances" (Article 7, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment). The circumstances in question were essentially the considerable number of reports received by the Committee, from a variety of sources, containing allegations of torture or other forms of ill-treatment of persons deprived of their liberty in Turkey. The reports related in particular to persons held in police custody. The third visit took place from 22 November to 3 December 1992, and formed part of the CPT's programme of periodic visits for that year.

2. Throughout 1991 and 1992 an ongoing dialogue has been maintained between the Turkish authorities and the CPT on matters of concern, based on the reports drawn up by the Committee after its first and second visits and the reports provided by the Turkish authorities in response. This dialogue culminated in a number of meetings between the Turkish authorities and a delegation of the CPT held in Ankara from 22 to 24 September 1992.

Subsequently, at its 14th meeting (28 September to 2 October 1992), the CPT reviewed the action taken by the Turkish authorities upon the recommendations made by the Committee in its visit reports. The Committee concluded that the continuing failure of the Turkish authorities to improve the situation in the light of its recommendations concerning (i) the strengthening of legal safeguards against torture and other forms of ill-treatment in police (and gendarmerie) establishments and (ii) the activities of the Anti-Terror Departments of the Ankara and Diyarbakır Police, justified resort to Article 10, paragraph 2, of the Convention.

3. The Turkish authorities were informed of the conclusion reached by the CPT and, in accordance with the Convention, invited to make known their views. Those views were received on 16 November 1992. The CPT examined the views presented by the Turkish authorities at its 15th meeting, held from 14 to 17 December 1992; on the same occasion, the Committee considered the facts found by the delegation which carried out the periodic visit to Turkey in November/December 1992, in particular insofar as they related to matters of police and gendarmerie custody. By the required majority of two-thirds of its members, the Committee decided to make a public statement.

## **The ad hoc visits**

### **a) first visit**

4. In the report drawn up following its first visit to Turkey in 1990, the CPT reached the conclusion that torture and other forms of severe ill-treatment were important characteristics of police custody in that country. More specifically, in the light of all the information gathered concerning the Anti-Terror Departments of the Ankara and Diyarbakır Police, the CPT concluded that detectives in those departments frequently resorted to torture and/or other forms of severe ill-treatment, both physical and psychological, when holding and questioning suspects. A variety of elements led the Committee to those conclusions.

5. In the first place, the CPT was struck by the extremely large number of allegations of torture and other forms of ill-treatment by the police received in the course of the visit, the wide range of persons making those allegations, and their consistency as regards the particular types of torture and ill-treatment said to have been inflicted. It should be noted that the allegations emanated from persons suspected or convicted of offences under anti-terrorism provisions and from persons suspected or convicted of ordinary criminal offences. As regards the latter, the number of allegations was especially high among persons detained for drug-related offences, offences against property (burglary, robbery, theft) and sex offences. Concerning the types of ill-treatment involved, the following forms were alleged time and time again: suspension by the arms; suspension by the wrists, which were fastened behind the victim (so-called "palestinian hanging", a technique apparently employed in particular in anti-terror departments); electric shocks to sensitive parts of the body (including the genitals); squeezing of the testicles; beating of the soles of the feet ("falaka"); hosing with pressurised cold water; incarceration for lengthy periods in very small, dark and unventilated cells; threats of torture or other forms of serious ill-treatment to the person detained or against others; severe psychological humiliation.

6. The CPT's medical findings must also be emphasised. Indeed, a considerable number of persons examined by doctors in the CPT's visiting delegation displayed physical marks or conditions consistent with their allegations of torture or ill-treatment by the police. The delegation also met several persons in police custody who, while not stating openly that they had been ill-treated, displayed clear medical signs consistent with very recent torture or other severe ill-treatment of both a physical and psychological nature. Some specific cases were described in the Committee's report.

7. Other on-site observations in police establishments visited (relating in particular to the often extremely poor material conditions of detention, the interrogation facilities and the general attitude and demeanour of police officers) did nothing to reassure the CPT's delegation about the fate of persons taken into custody. The same can be said of the circumstances under which certain of the visits took place, in particular at Ankara Police Headquarters, where the delegation was subjected to a series of delays and diversions (and on several occasions given false information) and a number of detainees were removed in order to prevent the delegation from meeting them.

8. In its report the CPT recommended a series of measures to the Turkish authorities designed to combat the problem of torture and other forms of ill-treatment. These measures related in part to the introduction or reinforcement of formal safeguards against such methods (shortening of the maximum periods of custody by the police or gendarmerie; notification of a person's custody to his next of kin or a third party of his choice; access to a lawyer; medical examination of detained persons; a code of practice for the conduct of interrogations).

The Committee also placed considerable emphasis on the need for a major and sustained effort by the Turkish authorities in the areas of education on human rights matters and professional training for law enforcement officials. It is axiomatic that the best possible guarantee against ill-treatment of persons deprived of their liberty is for its use to be unequivocally rejected by such officials.

As for the Anti-Terror Departments of the Ankara and Diyarbakır Police, the Committee recommended that appropriate steps be taken immediately to remedy the situation identified in those services.

9. The implementation of these recommendations was the subject of numerous exchanges between the Turkish authorities and the CPT during 1991. However, by the time of the Committee's second visit, few tangible results had been achieved, with the exception of the drawing up and subsequent revision of Regulations for the conduct of interrogations.

**b) second visit**

10. In the course of its second visit to Turkey in the Autumn of 1991, the CPT found that no progress had been made in eliminating torture and ill-treatment by the police. Many persons alleged that they had received such treatment during the previous twelve months. The types of ill-treatment alleged remained much the same; however, an increasing number of allegations were heard of forcible penetration of bodily orifices with a stick or truncheon. Once again, a number of the persons who claimed to have been ill-treated were found, on medical examination, to display marks or conditions consistent with their allegations. The delegation also had access to a considerable number of reports drawn up during the previous twelve months, at the end of periods of police custody, by doctors belonging to Forensic Institutes; many of them contained findings consistent with particular forms of torture or severe ill-treatment. As regards more specifically the Anti-Terror Departments of the Ankara and Diyarbakır Police, the only conclusion that could be reached in the light of all the information gathered was that torture and other forms of severe ill-treatment continued unabated in those services.

11. In the report on its second visit to Turkey, the CPT reiterated the previously-made recommendations designed to prevent torture and other forms of ill-treatment. Further, the Committee recommended that a body composed of independent persons be set up immediately, with terms of reference to carry out a thorough investigation of the methods used by police officers of the Anti-Terror Departments of the Ankara and Diyarbakır Police when holding and questioning suspects. In the light of the information gathered in the course of the CPT's second visit, it was also pointed out that it would be appropriate for the terms of reference of that body to include the Anti-Terror Department of the Istanbul Police.

### **Review of action taken on the ad hoc visit reports**

12. One year after submission of the CPT's second report, at its meeting of September/October 1992, the Committee reviewed the action taken by the Turkish authorities upon all the recommendations set out in the reports drawn up after its two visits. It was noted that some progress had been made on certain issues. Measures of both a legal and practical nature had been taken in response to the CPT's recommendations on material conditions of detention in police and gendarmerie establishments. The dialogue between the Turkish authorities and the Committee on prison matters also appeared to be bearing fruit. However, implementation of the central recommendations concerning torture and other forms of ill-treatment in police establishments was clearly at a standstill.

13. Legislation going in the direction of the recommendations made by the CPT on the strengthening of legal safeguards against torture and other forms of ill-treatment had been approved by the Turkish Grand National Assembly on 21 May 1992. However, it was subsequently returned by the President of the Republic to the Assembly for reconsideration; and at the time of the Committee's review of the situation, the fate of that legislation was a matter of conjecture.

14. Further, no satisfactory action had been taken on the CPT's recommendation concerning the Anti-Terror Departments of the Ankara and Diyarbakır Police. The Human Rights Inquiry Commission of the Grand National Assembly - to which the task of carrying out the investigation recommended by the Committee was entrusted - had failed to act expeditiously. It was only on 29 June 1992 that the relevant Sub-Committee of the Commission visited Ankara Police Headquarters for the first time (apparently a second visit was carried out on 7 July 1992). Further, at the time of the meetings between the Turkish authorities and a delegation of the CPT held in Ankara towards the end of September 1992, the Sub-Committee had still not apprised the Human Rights Inquiry Commission of its findings. Nor had the Sub-Committee carried out any visits to the Anti-Terror Department of the Diyarbakır Police (or for that matter the Anti-Terror Department of the Istanbul Police). Moreover, from the information provided to the CPT's delegation by a member of the Sub-Committee, it was clear that the visits carried out to the Ankara Police Headquarters had been of a quite perfunctory nature. Furthermore, it was also clear that the Sub-Committee possessed neither the powers nor the relevant professional competence necessary to carry out a "thorough investigation" as envisaged in the recommendation made by the CPT in its second report.

15. It should be added that in the course of the above-mentioned meetings in Ankara in September 1992, information received from officials of the Ministry of the Interior indicated that no credible action had been taken at the internal administrative level in response to the successive recommendations of the CPT concerning the Anti-Terror Departments of the Ankara and Diyarbakır Police. The only investigations instigated had been entrusted to the very police forces which the Committee had concluded were resorting to torture. Not surprisingly, they had led nowhere.



16. In short, more than two years after the CPT's first visit, very little had been achieved as regards the strengthening of legal safeguards against torture and ill-treatment and no concrete steps capable of remedying the situation found by the Committee in the Anti-Terror Departments of the Ankara and Diyarbakır Police had been taken. At the same time, the Committee continued to receive reports of torture and other forms of severe ill-treatment in those departments, as well as in many other police establishments in Turkey.

It was under those conditions that the CPT decided on 2 October 1992 to set in motion the procedure provided for in Article 10, paragraph 2, of the European Convention for the Prevention of Torture.

### **The periodic visit**

17. The information gathered in the course of the CPT's periodic visit to Turkey, from 22 November to 3 December 1992, shows that the problem of torture and other forms of ill-treatment of persons in police custody has not been resolved, despite the importance which had been attached to this subject by the present government when it came to power at the end of 1991. The Committee's delegation was inundated with allegations of such treatment, from both ordinary criminal suspects and persons detained under anti-terrorism provisions. Further, numerous persons examined by the delegation's doctors displayed marks or conditions consistent with their allegations.

18. By way of illustration, reference might be made to the following cases:

- several prisoners charged with offences against property, encountered in the reception unit of Bayrampaşa Prison (Istanbul), who bore fresh haematomas consistent with their allegations that they had recently been subjected to falaka and to beating on the palm of the hands and ventral face of the wrists;
- a prisoner charged with a drug-related offence being held for observation in a forensic section at Bakırköy Hospital (Istanbul), who had a fresh rounded mark on his penis (reddish-brown and slightly swollen edge, whitish centre without induration), consistent with his allegation that an electrode had been placed by the police on that part of his body some five days earlier in order to deliver electric shocks;
- a prisoner charged with smuggling examined at Adana Prison, who displayed haematomas on the soles of his feet and a series of vertical violet stripes (10 cm long/2 cm wide) across the upper part of his back, consistent with his allegation that he had recently been subjected to falaka and beaten on the back with a truncheon while in police custody.

19. Comparable cases in Ankara and Diyarbakır could also have been described, including of persons who had been held by the Anti-Terror Departments of the Ankara and Diyarbakır Police (in particular, cases of motor paralysis of the arms and severe sensory loss consistent with allegations of suspension).

However, the CPT shall instead draw attention to highly incriminating material evidence found in police establishments in those cities.

20. Acting in each case on concordant information independently received from several different sources, the Committee's delegation carried out two impromptu visits to specific rooms situated on the top floors of both the Ankara Police Headquarters (new building) and the Diyarbakır Police Headquarters. The rooms in question were located within the areas occupied by the Law and Order Departments, which deal with ordinary criminal suspects. In the room at the Ankara Police Headquarters, the delegation discovered a low stretcher-type bed equipped with eight straps (four each side), fitting perfectly the description of the item of furniture to which persons had said they were secured when electric shocks were administered to them. No credible explanation could be proffered for the presence of this bed in what was indicated by a sign as being an "interrogation room".

In Diyarbakır, the delegation found the equipment necessary for suspension by the arms in place and ready for use (i.e. a three metre long wooden beam which was mounted on heavily-weighted filing cabinets on opposite sides of the room and fitted with a strap made of strong material securely tied to the middle). On both occasions, the delegation's discoveries caused considerable consternation among police officers present; some expressed regret, others defiance.

### **Conclusions based on the ad hoc and periodic visits**

21. **In the light of all the information at its disposal, the CPT can only conclude that the practice of torture and other forms of severe ill-treatment of persons in police custody remains widespread in Turkey and that such methods are applied to both ordinary criminal suspects and persons held under anti-terrorism provisions. The words "persons in police custody" should be emphasised.**

22. The Committee has heard very few allegations of ill-treatment by prison staff in the different prisons visited over the last two years, and practically none of torture. Certainly, there are problems which need to be addressed in Turkish prisons, but the phenomenon of torture is not one of them. As already indicated, the CPT's dialogue with the Turkish authorities on prison matters is on the whole progressing satisfactorily.

23. Further, in the course of its third visit to Turkey, the CPT visited the largest psychiatric establishment in the country, namely the Bakırköy Mental and Psychological Health Hospital. No allegations of torture or other forms of ill-treatment by hospital staff were heard by the Committee's delegation in the course of that visit; nor was any other evidence of such treatment found. In fact, the delegation was favourably impressed by staff-patient relations.

24. As for the gendarmerie (which is responsible for police functions in rural areas), the CPT has heard allegations that suspects are frequently handled roughly and on occasion even beaten by members of the gendarmerie, in particular when apprehended. Further, the CPT has reason to believe that from time to time, ill-treatment occurs in the course of the transport of prisoners (which is another task performed by the gendarmerie). However, the CPT has heard fewer allegations - and found less medical evidence - of torture or other forms of premeditated severe ill-treatment by members of the gendarmerie.

25. To sum up, as far as the CPT can judge, the phenomenon of torture and other forms of ill-treatment of persons deprived of their liberty in Turkey concerns at the present time essentially the police (and to a lesser extent the gendarmerie). All the indications are that it is a deep-rooted problem.

### **Action required**

26. Action is required on several fronts if this problem is to be addressed effectively. Legal safeguards against torture and other forms of ill-treatment need to be reinforced and new safeguards introduced. At the same time, education on human rights matters and professional training for law enforcement officials must be intensified. In this respect, the recent arrangements to send some 20 Turkish police officers to various other European countries in order to study police methods there are to be welcomed, and the CPT trusts that they represent part of an ongoing process.

Furthermore, public prosecutors must react expeditiously and effectively when confronted with complaints of torture and ill-treatment. On this point, the recent annulment by the Constitutional Court of section 15 (3) of the Law to Fight Terrorism of 12 April 1991 (which severely curtailed the possibilities for public prosecutors to proceed against police officers alleged to have ill-treated persons in the performance of duties relating to the suppression of terrorism) is a very positive development. In order to facilitate effective action by public prosecutors, the medical examinations of persons in police and gendarmerie custody carried out by the Forensic Institutes should be broadened in scope (medical certificates should contain a statement of allegations, a clinical description and the corresponding conclusions). Further, appropriate steps should be taken to guarantee the independence of both Forensic Institute doctors and other doctors who perform forensic tasks, as well as to provide such doctors with specialised training.

Proper managerial control and supervision of law enforcement officials must also be ensured, including through the institution of effective independent monitoring mechanisms possessing appropriate powers. Neither should the issue of the conditions of service of such officials be overlooked, as satisfactory conditions of service are indispensable to the development of a high-calibre police force.

Application of the recently drawn up Custody Regulations, which relate inter alia to material conditions of detention, must also be vigorously pursued throughout the whole of Turkey. Considerable progress in this area has been made in Ankara and Diyarbakır, in pursuance of the CPT's recommendations. However, the situation found recently at Adana Police Headquarters (in particular in the Anti-Terror Department) suggests that in other parts of the country, persons detained by the police or gendarmerie may still be held under totally unacceptable conditions.

27. Particular reference must be made to the recently adopted Law amending some provisions of the Code of Criminal Procedure and of the Law relating to the organisation and procedure of State Security Courts, which entered into force on 1 December 1992. This is a revised version of the text returned to the Grand National Assembly earlier in the year by the President of the Republic. The new Law *inter alia* clarifies the existence of certain fundamental safeguards against ill-treatment, such as the right to have a relative notified of one's custody and the right of access to a lawyer (safeguards which had been provided for previously but which had been largely inoperative in practice), regulates in detail the mechanics of the interrogation process, introduces a right to apply to a judge for the immediate release of an apprehended person and shortens the maximum periods of police/gendarmerie custody. The introduction of these provisions is a most welcome step forward. However, it is a matter of great regret to the CPT that their application to offences within the jurisdiction of State Security Courts has been specifically excluded. Admittedly, the number of offences under the jurisdiction of such courts has also been reduced by the new Law, but it remains considerable: crimes against the State; terrorist offences; drugs and arms-related offences, etc..

28. The CPT wishes to take this opportunity to underscore that it abhors terrorism, a crime which is all the more despicable in a democratic country such as Turkey. The Committee also deplores illicit drug and arms dealing. Further, it is fully conscious of the great difficulties facing security forces in their struggle against these destructive phenomena. Criminal activities of this kind rightly meet with a strong response from state institutions. However, under no circumstances must that response be allowed to degenerate into acts of torture or other forms of ill-treatment by law enforcement officials. Such acts are both outrageous violations of human rights and fundamentally flawed methods of obtaining reliable evidence for combatting crime. They are also degrading to the officials who inflict or authorise them. Worse still, they can ultimately undermine the very structure of a democratic State.

29. Unfortunately, Turkish law as it stands today does not offer adequate protection against the application of those methods to persons apprehended on suspicion of offences falling under the jurisdiction of State Security Courts; on the contrary, it facilitates the use of such methods. Suspects in relation to collectively committed crimes may be held for up to 15 days by the police or gendarmerie (rising to 30 days in regions where a state of emergency has been declared), during which time they are routinely denied any contact with the outside world.

It is true that the provisions of section 13 of the new Law, concerning prohibited interrogation procedures, apply also to persons suspected of offences under the jurisdiction of State Security Courts. However, it would be unwise to believe that these provisions alone will be able to stem torture and ill-treatment. The methods described in section 13 have been illegal for many years under Turkish Law by virtue of the general prohibition of torture and ill-treatment in Article 17 (3) of the Constitution. Further, the stipulation that statements made as a consequence of such methods shall not have the value of evidence is merely a welcome reaffirmation of a principle already recognised by the Turkish legal system.

In reality, the long periods of incommunicado custody allow time for physical marks caused by torture and ill-treatment to heal and fade; countless prisoners have described to CPT delegations the treatment techniques applied by police officers. It should also be noted that certain methods of torture commonly used do not leave physical marks, or will not if carried out expertly. Consequently, it shall often be difficult to demonstrate that a statement has been made as a consequence of ill-treatment. The same point applies to the admissibility of other evidence obtained as a result of ill-treatment (cf. section 24 of the new Law).

30. The CPT does not contest that exceptionally, specific legal procedures might be required in order to combat certain types of crime, in particular those of a terrorist nature. However, even taking into account the very difficult security conditions prevailing in several areas of Turkey, an incommunicado custody period of up to 15 days, let alone 30, is patently excessive; it is clear that a proper balance has not been struck between security considerations and the basic rights of detainees.

The CPT calls upon the Turkish Government to take appropriate measures to reduce the maximum periods for which persons suspected of offences falling under the jurisdiction of State Security Courts can be held in police or gendarmerie custody, to clearly define the circumstances under which the right of such persons to notify their next of kin of their detention can be delayed and strictly limit in time the application of such a measure, and to guarantee to such persons, as from the outset of their custody, a right of access to an independent lawyer (though not necessarily their own lawyer) as well as to a doctor other than one selected by the police.

31. As regards ordinary criminal suspects, the amendments introduced by the above-mentioned Law could deal a severe blow to the practice of torture and ill-treatment. However, much will depend on how the new provisions are applied in practice. This is a matter that the CPT intends to follow carefully in the coming months, in close co-operation with the Turkish authorities. Nevertheless, a number of points should be raised now.

32. The maximum period of police custody for collective crimes (three or more persons), although reduced, remains quite high - up to eight days at the request of a public prosecutor and by decision of a judge. In this regard, the CPT wishes to emphasise that in the interests of the prevention of ill-treatment, it is essential that the person in custody be physically brought before the judge to whom the request for an extension of the custody period is submitted. The new Law is not clear on this point.

33. Although the precise content of the right of access to a lawyer is impressive (cf. in particular sections 14, 15 and 20 of the Law), a potential flaw lies in the fact that, with the exception of persons who are under the age of 18 or disabled, a lawyer will only be appointed if the person in custody so requests. A failsafe procedure will have to be found that ensures detainees are (as the Law requires) informed of their right to appoint a lawyer and not subjected to pressure when considering the exercise of that right. The same point applies as regards the right of persons in custody to make known to a relative of their choice that they have been apprehended. Care will also have to be taken that the possibility offered to take a statement, in certain cases, in the absence of the lawyer appointed by the person detained is not abused.

34. Under the new provisions, public prosecutors are in an even better position to exercise considerable influence over the manner in which police officers perform their duties and, more specifically, treat persons in their custody. The CPT very much hopes that they will make effective use of the possibilities open to them, with a view to the prevention of ill-treatment.

35. The new Law is silent on the question of the right of persons in police or gendarmerie custody to have access to a doctor. However, by a circular issued by the Ministry of the Interior on 21 September 1992, a right of access to a doctor in the form previously recommended by the CPT (i.e. a right for the detainee to be examined by a doctor chosen by him - if appropriate from among a list of doctors agreed with the relevant professional body - in addition to any examination carried out by a state-employed doctor) was recognised. The CPT welcomes this development, though the inclusion of this right in a law would be preferable. Previous circulars relating to important safeguards for detained persons have remained a dead letter.

36. Finally, it should be re-emphasised that the phenomenon of torture and other forms of ill-treatment by the police will not be eradicated by legislative fiat alone. It shall always be possible for the impact of legal provisions to be diminished by ever more expertly applied techniques of ill-treatment. Indeed, it can legitimately be advanced that attacking the root of the problem of torture and ill-treatment involves not so much changing laws as transforming mentalities. This process is required not simply amongst police officers but throughout the criminal justice system.

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37. The CPT is convinced that it would have been counterproductive from the standpoint of the protection of human rights for it to have refrained - as it was requested to do by the Turkish authorities - from making this public statement. **The statement is issued in a constructive spirit. Far from creating an obstacle, it should facilitate the efforts of both parties - acting in cooperation - to strengthen the protection of persons deprived of their liberty from torture and inhuman or degrading treatment or punishment.**