



CPT/Inf (2007) 7

**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 16 to 28 October 1994

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) 8.

Strasbourg, 11 January 2007

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Copy of the letter transmitting the CPT's report

Strasbourg, 24 March 1995

Dear Sir,

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 visit to Turkey from 16 to 28 October 1994. The report was adopted by the CPT at its twenty-fourth meeting, held from 13 to 17 March 1995.

The various recommendations, comments and requests for information formulated by the CPT are summarised in Appendix II to the report. The CPT requests the Turkish authorities to provide a report by 28 August 1995, informing the Committee of the action taken to implement those recommendations and providing reactions and replies to the comments and requests for information made. In the event of the report being forwarded in Turkish, the CPT would ask that it be accompanied by an English or French translation.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

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

Director of the Department of
Human Rights
Ministry of Foreign Affairs
TR - ANKARA

I. INTRODUCTION

A. Preliminary remarks

1. In pursuance of 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 16 to 28 October 1994.

It was in large part a follow-up visit, designed to assess the extent to which the Committee's previous recommendations regarding the prevention of ill-treatment by law enforcement officials and the development of safeguards against such ill-treatment had been implemented. The Committee's delegation also verified improvements to material conditions and the regime in certain establishments which had previously been visited.

In addition, a number of places of detention were visited for the first time, in particular in the south-east region of the country. They included a military prison and holding facilities for aliens, categories of places which had not previously been visited.

B. Composition of the delegation and establishments visited

2. The delegation consisted of the following Committee members:

- Mr Claude NICOLAY, President of the CPT (Head of delegation);
- Mr Bent SØRENSEN, First Vice-President of the CPT;
- Mr Jón BJARMAN;
- Mrs Pirkko LAHTI;
- Mr Leopoldo TORRES BOURSAULT.

The delegation was assisted by:

- Mr Rodney MORGAN, Professor of Criminal Justice, University of Bristol;
- Mr Jean-Pierre RESTELLINI, Head Doctor in the Public Health Service of the Republic and Canton of Geneva;
- Mrs Belgin DÖLAY (interpreter);
- Ms Zeynep BEKDİK (interpreter);
- Ms Verda KIVRAK (interpreter);
- Ms Serra YILMAZ (interpreter);
- Mr Ömer BOZKURT (interpreter).

The delegation was also accompanied by the following members of the CPT's Secretariat:

- Mr Trevor STEVENS, Secretary of the CPT;
- Mr Jan MALINOWSKI.

3. The delegation visited the following places of detention:

Police Establishments

- Ankara Police Headquarters
- Batman Police Headquarters
- Cizre Police Headquarters
- Diyarbakır Police Headquarters
- Interrogation Centre of the 1st Department of the Diyarbakır Police
- Istanbul Police Headquarters
- Mardin Police Headquarters
- Interrogation Centre of the Mardin Police
- Nusaybin Police Headquarters
- Şırnak Police Headquarters

Gendarmerie Establishments

- Batman Provincial Gendarmerie Headquarters
- Cizre Gendarmerie Headquarters
- Diyarbakır Provincial Gendarmerie Headquarters
- Central Interrogation Centre of the Diyarbakır Provincial Gendarmerie Headquarters
- Central Interrogation Centre of the Mardin Provincial Gendarmerie Headquarters

Prisons

- Ankara Central Closed Prison (follow-up visit)
- Cizre Prison
- Diyarbakır I Prison (follow-up visit)
- Diyarbakır II Prison (follow-up visit)
- Diyarbakır Garrison 2nd Class Military Prison
- Mardin Prison
- Şırnak Prison

Holding facilities for aliens

- Istanbul Police Foreigners Bureau
- Aliens Holding Centre (Hac Camp), Silopi

In addition, a number of newly admitted prisoners were interviewed at Bayrampaşa Prison, Istanbul.

C. Co-operation between the CPT and the Turkish authorities

4. The CPT welcomes the opportunity afforded to its delegation to meet the Minister for Justice, Mr Moğultay, as well as the President of the Foreign Affairs Commission of the Turkish Grand National Assembly, Mr Erdal İnönü and other members of the Commission. It is also grateful for the arrangements made for a meeting with the Governor of the State of Emergency region, Mr Ünal Erkan, which proved most interesting.

Further, fruitful meetings were held with senior officials of the Ministries of Foreign Affairs, Defence and Justice at both the outset and end of the visit. The delegation also had useful discussions with officials from the Ministry of Health at the end of the visit.

5. The CPT regrets that no official from the Ministry of the Interior was available to meet its delegation at the outset of the visit. Furthermore, senior officials from that Ministry present at the final talks, in particular the Director General of the Anti-Terror Department, displayed a rather disparaging attitude towards the delegation; despite the medical and material evidence brought to the attention of these officials, the delegation's findings were dismissed as being the echo of mere allegations.

The delegation did not detect among any of the Interior Ministry officials present a clear determination to promote human rights and to combat torture and other forms of ill-treatment.

6. The delegation received a satisfactory reception from both the management and staff at most of the places of detention visited, including those which had not been notified in advance. This was the case, in particular, in the prisons visited, where the delegation was given all the assistance it required (though some delay was encountered in gaining access to the detention area at Cizre Prison).

7. Cooperation was not satisfactory in some of the police/gendarmerie establishments visited. The delegation was subjected to delays of up to one hour before being allowed access to the detention areas at the Cizre Gendarmerie Headquarters and the Anti-Terror Department of the Istanbul Police. Delays of 20 to 30 minutes were also encountered during the visits to the Ankara Police Headquarters. Further, in the course of the second visit to the Ankara Police Headquarters, the delegation was refused access to the detention areas it had previously seen and was denied the possibility of a second interview in private with a detained person held there. **Such impediments are a clear and extremely serious breach of Article 8(2)(c) and Article 8(3) of the Convention¹.**

¹ Article 8 (2) (c) of the Convention states that a Party shall provide the Committee with "unlimited access to any place where persons are deprived of their liberty, including the right to move inside such places without restriction"; Article 8 (3) provides that "the Committee may interview in private persons deprived of their liberty".

8. As regards the delay in access to the detention area of the Anti-Terror Department of the Istanbul Police, it quickly became evident that the period of time in question had been used to remove four detained persons. Discussions with those detainees and other circumstances revealed that the persons concerned were hidden in police vehicles at the Headquarters and that certain of them were subsequently taken elsewhere. A similar situation occurred on the occasion of the first visit to the Ankara Police Headquarters, three detained persons being hastily removed. All the above persons were eventually seen by the CPT's delegation, but this involved a considerable waste of its time.

There were strong indications that similar attempts to prevent the CPT's delegation from meeting certain detained persons occurred at the Law and Order Department (Homicide/Armed Robbery Section) of the Istanbul Police and at the Central Interrogation Centre of the Mardin Provincial Gendarmerie Headquarters.

9. Further, in several of the establishments visited, the statements made by detained persons and/or their demeanour indicated that they had been warned to make no complaints to the CPT's delegation as to the treatment they had received. This was particularly the case at the Batman Provincial Gendarmerie Headquarters, the Cizre Gendarmerie Headquarters, the Anti-Terror Department of the Istanbul Police and the Central Interrogation Centre of the Mardin Provincial Gendarmerie Headquarters. It should be added that the same phenomenon was encountered at Şırnak Prison.

Reference should also be made to the refusal of the Head of the Istanbul Police Narcotics Department to allow the delegation to carry out a detailed examination of certain objects found on the department's premises, an incident which was described in detail in paragraphs 6 and 7 of the letter addressed by the President of the CPT to the Turkish authorities on 9 December 1994.

More generally, a CPT's delegation once again found that certain establishments which regularly hold a considerable number of detainees were practically if not totally empty during the time of the delegation's visit to Turkey. This was particularly the case at the Anti-Terror Department of the Ankara Police, the Interrogation Centre of the 1st Department of the Diyarbakır Police, the Central Interrogation Centre of the Diyarbakır Provincial Gendarmerie Headquarters and the Interrogation Centre of the Mardin Police.

10. Needless to say, **machinations of the kind referred to in paragraphs 8 and 9 are quite incompatible with the principle of cooperation set out in Article 3 of the Convention.**

D. Resort to Article 10, paragraph 2, of the Convention

11. The CPT was informed at its 23rd meeting, held from 28 November to 2 December 1994, of the principal facts found by its delegation during the visit to Turkey in October 1994. In the light of the delegation's findings, the CPT decided to set in motion the procedure provided for in Article 10, paragraph 2, of the Convention.

This was done by a letter dated 9 December 1994, sent by the President of the CPT to the Director of the Department of Human Rights at the Turkish Ministry of Foreign Affairs. Various references shall be made to that letter in the present report, and to facilitate the reader's task it is set out in Appendix I hereto.

12. In pursuance of Article 10, paragraph 2, the CPT invited the Turkish authorities to make known their views. Those views were received on 28 February 1995; they shall be considered separately, this report confining itself to setting out the facts found during the October 1994 visit and the action proposed by the CPT.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

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

a. introduction

13. The CPT's delegation which visited Turkey in October 1994 interviewed a large number of persons who alleged that they had recently been subjected to torture and/or other forms of severe ill-treatment by law enforcement officials. Some of the persons in question were interviewed in prison; however, others were still in the custody of the police or gendarmerie when met by the delegation.

14. A significant proportion of the above-mentioned persons were found on examination by the delegation's doctors to display marks or conditions consistent with the allegations made by them. Further, highly incriminating material evidence of resort to ill-treatment was found in certain establishments and, in particular, in the Narcotics Department of the Istanbul Police and the Batman Provincial Gendarmerie Headquarters.

The forms of torture/severe ill-treatment alleged were essentially the same as those described in earlier CPT reports: suspension by the arms or wrists, electric shocks, hosing with cold water (on occasion followed by exposure to cold air), "falaka" (falanga), beating of the hands, blows to other parts of the body, squeezing of the genitals; in many cases, it was alleged that two or more forms of ill-treatment were inflicted simultaneously and/or successively. Further, one person met by the delegation alleged that he had been subjected to cigarette burns and another that he had been sodomised with a baton. It should be added that during the October 1994 visit, the delegation heard an increasing number of allegations that detainees had been subjected to loud music over long periods.

b. Ankara Police Headquarters

15. The delegation interviewed seven persons at Ankara Central Closed Prison who alleged that they had recently been tortured or severely ill-treated while detained in the **Anti-Terror Department at the Ankara Police Headquarters**. The types of ill-treatment alleged consisted of suspension by the wrists (in both vertical and "Palestinian" positions), electric shocks (one prisoner alleging that he had been strapped to a bed when the shocks were delivered), water spraying with a hose, blows to the body and squeezing of genitals.

On examination by a medical member of the delegation, it was found that two of the above-mentioned persons displayed partial paralysis and sensory loss in both arms. One of them, who alleged that he had been subjected to Palestinian hanging, displayed looseness in the articular capsules of his shoulder joints, swelling and tenderness. These medical findings are consistent with the allegations of suspension by the wrists made by the two detainees.

16. Four young women were being held in the Anti-Terror Department at the Ankara Police Headquarters at the time of the delegation's first visit there. As already indicated, three of them were removed from the Headquarters on the delegation's arrival (cf. paragraph 8); however, it subsequently succeeded in interviewing all of them.

All four claimed that they had been threatened and verbally abused, and three of them alleged that they had been roughly treated or had received blows to the face and other parts of the body and that they had been sprayed with water from a hose. Two of the latter detainees further alleged that they had received electric shocks while attached to an item of furniture. Their descriptions of the procedure followed in this respect (given in the course of separate interviews) were concordant - lengths of wire were wound around a finger and a toe and an electric shock was delivered by a device which produced a humming noise when activated. The detainees were not able to describe the device involved, as apparently they were blindfolded throughout the process.

On examination by one of the delegation's doctors, the three detainees were found to display bruises on the face, chest and legs consistent with their allegations. Moreover, one of the persons who claimed to have received electric shocks while strapped by the legs, the arms and the chest to what she described as a bed-like item of furniture, displayed a swelling 12 cm x 4 cm on the right thigh (under the hip) and a slight swelling and tenderness on the right side towards the back of the chest, consistent with restraint by straps.

17. Further, the delegation interviewed in Diyarbakır I Prison a person who alleged that, while detained at the **Narcotics Department of the Ankara Police Headquarters** approximately one month earlier, he had been subjected to various forms of ill-treatment, in particular falaka. On examination by one of the delegation's doctors the person concerned was found to display signs on the soles of his feet (excessively loose/movable heels and excessively malleable tissue) consistent with the allegation of falaka.

c. Cizre Police and Gendarmerie Headquarters

18. In Diyarbakır I Prison, the CPT's delegation met two persons who alleged that they had been ill-treated while detained at the **Cizre Police Headquarters** approximately four to six weeks earlier. One of them stated that he had been kept naked in a "semi-hanging" position throughout the night by means of handcuffs attached to a cell door, and claimed that he was kept awake by water being periodically splashed over him. He displayed scars on the wrists consistent with his allegation. The other person alleged that his testicles had been squeezed and that he had been subjected to electric shocks delivered through wires wound around an ear and a finger and an ear and the genitals; the electric shocks inflicted on him were apparently of varying intensities and at least some of them had been delivered by a machine which produced a humming noise. He also claimed that he had been suspended by the arms and had received falaka.

The delegation also met two persons who had been detained at the **Cizre Gendarmerie Headquarters** between one and two months earlier. They alleged that they had been subjected to various forms of suspension by the wrists from a metal bar in the interrogation room. Furthermore, one of them told the delegation that his testicles had been squeezed, and that he had been subsequently sodomised with a baton.

19. No one was in custody at the time of the delegation's visit to the Cizre Police Headquarters; however, a number of persons were being detained at the Cizre Gendarmerie Headquarters. These detainees were reluctant to speak with the delegation and many of them gave the impression of being frightened (cf. paragraph 9). The detainees being held in the collective cells chorused "there is nothing wrong here". However, two of the detainees held in individual cells intimated to the delegation that they had been ill-treated, one by suspension by the wrists and the other by electric shocks. A medical examination of the former revealed restricted movement of the arms, swelling and tenderness, conditions which are consistent with his allegations.

20. It should be added that sturdy metal bars/tubes fixed close to the ceiling were found in rooms or areas used for interrogation purposes at both the Cizre Police and Gendarmerie Headquarters; the law enforcement officials present explained that they were water conduits of the heating system. They could be seen to be polished and shiny in certain places; this was particularly the case in the soundproof interrogation room at the Cizre Gendarmerie Headquarters, which had two such bars/tubes, one of them with a central burnished area clearly visible, highly indicative of strong rubbing or friction in that section.

d. police and gendarmerie establishments in Diyarbakır

21. In Diyarbakır I and II Prisons, the delegation interviewed a number of persons who alleged that they had been tortured or ill-treated in police or gendarmerie premises in Diyarbakır. The types of ill-treatment alleged consisted mainly of suspension, electric shocks, falaka and other forms of blows to the body. Medical examinations of the persons concerned revealed few, if any, marks or conditions consistent with the allegations. However, given the time which had elapsed between the alleged ill-treatment and the delegation's visit, any marks or conditions which might have been caused by the kinds of ill-treatment alleged would almost certainly have healed in the meantime.

22. No one was being detained at the **Interrogation Centre of the 1st Department of the Diyarbakır Police** at the time of the delegation's first visit there. Consultation of the custody register showed that it was exceptionally rare for the Centre to be empty. At the time of its second visit, one week later, four persons were in custody, three of whom had apparently not yet been interrogated. All four stated that they had not been ill-treated at the Centre (cf., however, paragraph 26).

At the time of the delegation's first visit to the **Central Interrogation Centre of the Diyarbakır Provincial Gendarmerie Headquarters**, one person was being detained (the custody register revealed that a large number of persons had left the Centre in the days immediately preceding the outset of the CPT's visit to Turkey). The same person was the sole occupant of the Centre when the delegation visited it for a second time one week later, the custody register indicating that he had been the only occupant of the Centre throughout the period 15 to 26 October 1994. Thorough consultation of the register showed that such a low level of activity was extraordinarily rare. The detainee in question said that he was being correctly treated.

A number of persons were being detained at the **Diyarbakır Police Headquarters** when it was visited by the CPT's delegation. None of them stated that they had been ill-treated, though certain of them indicated that they had been ill-treated on previous occasions. One detainee attributed the lack of any ill-treatment during his present period of custody to the fact that he had immediately confessed.

23. Several detained persons interviewed at both Diyarbakır I Prison and the Police Headquarters described in considerable detail the location and layout of a room on the 6th floor of the Diyarbakır Police Headquarters, where they alleged that they had been tortured. These descriptions corresponded perfectly to the room at the Headquarters which was visited in the course of the November/December 1992 visit, and was found to contain the equipment necessary for suspension by the arms (cf. CPT/Inf (2007) 5, paragraph 16). The room in question was visited once again during the October 1994 visit; no obviously incriminating objects were found.

e. Istanbul Police Headquarters

24. The **Anti-Terror Department of the Istanbul Police** was holding 37 persons at the time of the delegation's visit. Many of the detained persons were clearly very frightened and several refused to talk to the delegation. A few detainees stated that they had been correctly treated. However, the majority of the persons in custody stated that they had been tortured or ill-treated in one way or another, the forms of ill-treatment alleged corresponding to those described in paragraph 14.

Six of the persons detained were found on examination by one of the delegation's doctors to display marks or conditions fully consistent with allegations made by them of ill-treatment. Several others displayed marks or conditions which could be considered to be consistent with their allegations.

25. The six specific cases referred to in the preceding paragraph are described in detail below.

- A young man, arrested four days earlier, alleged that he had been suspended by the arms and, whilst in that position, had received electric shocks (electrodes on the penis and a toe). He claimed that, subsequently, he was subjected to two sessions of falaka and beating of the hands, of which the latter had taken place on the previous day.

One of the delegation's doctors found a residual haematoma of 6/2 cm, centred upon a vivid phlyctena, on the plantar arch of the left foot. The sole of the right foot was diffusely blueish. The palm of the right hand displayed a blueish thenar eminence; the same finding was made on the left hand, but the haematoma was lighter and extended to the hypothenar eminence. The person concerned indicated that his urine had been very dark, around 12 hours after the last session of falaka. Motricity and sensibility of the upper limbs were unexceptional. The clinical examination was directly indicative of falaka and beating of the hands.

- a young man alleged that he had been blindfolded and bound to a chair during the first four days of his detention (he had been given food and drink). During one of the first interrogations, on the 5th day of his detention, he alleged that he had received baton blows on the palms of his hands and the small of the back. He was allegedly also sprayed with high pressure cold water and then left exposed to cold air.

A medical examination revealed a flat haematoma of around 1½ cm in diameter, undergoing resorption, on the right thenar eminence, a condition which is directly indicative of beating of the hands.

- an adult man, arrested 7 days earlier, alleged that he had been subjected to Palestinian and cruciform hanging and to electric shocks (electrodes placed on the penis and a big toe), as well as to twisting of the testicles.

Upon examination, one of the delegation's doctors noted, in particular, a blueish haematoma of 4/1 cm on the posterior face of the right armpit, adjacent to a haematoma of around 7 cm in diameter undergoing resorption. He also found extensive sensory-motor loss in both upper limbs, with pain on palpation of both shoulders.

These findings are directly indicative of recent suspension.

- an adolescent, arrested 4 days earlier, alleged that he had received electric shocks (electrodes on the penis and a big toe). He claimed that, during that treatment, he had heard a sound which resembled an electric motor. He also alleged that he had been subjected to Palestinian hanging. Whilst he was in that position, police officers apparently threatened to sodomise him.

A medical examination revealed a persistent hypaesthesia which principally affected the right C6 dermatome, a condition which is fully consistent with Palestinian hanging.

- a middle-aged man, arrested 9 days earlier, alleged that he had been subjected to Palestinian hanging at the El Azir police station. He claimed that, later, in the Anti-Terror Department, he had been subjected to falaka.

Upon examination, one of the delegation's doctors found two haematomas, of respectively 2 and 1 cm in diameter, on the right plantar arch. The sole of the left foot also displayed two haematomas, of 1 cm in diameter, in a more advanced state of resorption. Note was also taken of a scab-covered lesion of around 1½ cm in diameter, on the crest of the left tibia. The doctor noted the persistence of a hypaesthesia affecting the C6, C7 and C8 dermatomes of both upper limbs; muscular force was conserved. The person concerned indicated that he experienced thoracic pain on inhalation, mainly on the right side.

The medical examination of both plantar arches was directly indicative of falaka. Similarly, the sensory loss in both upper limbs was indicative of Palestinian hanging.

- an adult man, arrested 4 days earlier, alleged that he had been subjected to Palestinian hanging and to electric shocks (electrodes on the penis and a toe), accompanied by twisting of the testicles and blows to the genital organs. He also claimed that he had been subjected to falaka and that his head had been struck against a wall. The person concerned complained of pain in both shoulders, paralysis of his right arm and headaches.

On examination, one of the delegation's doctors noted the presence of haematomas on the soles of both feet, mainly on the plantar arches, as well as several reddish lesions on the back. Note was also taken of a fresh haematoma on the antro-internal face of the right knee and, on the vertex, of a small scab-covered lesion, centred upon a bloody swelling, which was undergoing resorption. An examination of the genital organs revealed nothing of note.

A neurological examination revealed extensive paresis of both upper limbs, predominant on the right. Note was also taken of a hypaesthesia affecting the C6, C7, C8 and TH1 dermatomes of both upper limbs.

To sum up, the clinical examination revealed lesions of both brachial plexuses which were directly indicative of Palestinian hanging. Further, the haematomas on the soles of the feet were fully consistent with falaka.

26. Three of the six persons referred to in paragraph 25 were among the four initially concealed from the delegation (cf. paragraph 8). The fourth person concealed was in a terrified state when the delegation subsequently met him, and refused to say anything or be examined. However, the delegation met him again at a later stage of the visit to Turkey, in the Interrogation Centre of the 1st Department of the Diyarbakır Police. There he told the delegation that he had been ill-treated while in the custody of the Anti-Terror Department of the Istanbul Police (suspension by the arms, squeezing of the genitals, blows to the body); at Istanbul he had complied with a warning not to say anything to the delegation. He stated that he had not been ill-treated after having been seen by the delegation in Istanbul.

In the absence of a doctor, the person concerned was not medically examined by the delegation.

27. In the course of its interviews at Bayrampaşa Prison with newly admitted prisoners (cf. paragraph 3), the delegation met three persons who had very recently been detained in the **Narcotics Department of the Istanbul Police**. Two of those persons alleged that, while in the custody of that department, they had suffered electric shocks, falaka and had been sprayed with cold water. One of the persons claimed to have caught sight of the device used to deliver the electric shocks, which he described as a black crank-operated telephone. On examination by a medical member of the delegation, both these persons were found to display haematomas on the soles of their feet consistent with their allegations of falaka.

The CPT's delegation subsequently visited the Narcotics Department, which had six persons in custody. Certain of them indicated that they had been correctly treated. However, after considerable hesitation, three of the persons detained alleged that they had been ill-treated. Two of them alleged that they had been subjected to falaka. On examination by a medical member of the delegation, one of these persons was found to display marks on the soles of his feet (both plantar arches displayed extensive swelling, with haematomas undergoing resorption) which were fully consistent with that allegation. No marks were visible on the soles of the feet of the second person, though he did display a haematoma of around 1 cm in diameter on the lower left palpebra, consistent with his allegation that he had been punched in the face.

Further, two of the detained persons alleged that they had been subjected to electric shocks. One of them thought that the device used might have been a telephone which he had observed in the interrogation area in the course of cleaning that area on the orders of the police. The second stated categorically that it was an old black telephone, with green/yellow and white/brown coloured wires - he had apparently been able to see it at the time of its use because his blindfold came loose. He also stated that his arms had been attached to a pole when the shocks were delivered.

The circumstances of the discovery by the CPT's delegation of a black crank-operated telephone and a beam and pole equipped with a strap in the Narcotics Department has already been described in considerable detail (cf. paragraphs 7 and 8 of the letter of 9 December 1994 from the President of the CPT to the Turkish authorities).

28. One newly admitted inmate interviewed at Bayrampaşa Prison alleged that he had recently been ill-treated in the Homicide/Armed Robbery Section of the **Law and Order Department of the Istanbul Police** (suspension by the arms accompanied by blows to the feet and genitals). He declined a medical examination, stating that there were no marks on his body.

In the course of a visit to the different sections of the Law and Order Department, the CPT's delegation did not find any persons who openly alleged that they had been ill-treated. However, certain persons being held in the Organised Crime Section alleged that they had heard cries coming from an adjacent interrogation room (cf. paragraph 35). Further, a person being held in the Homicide/Armed Robbery Section stated that although he himself had not been ill-treated, three other persons who had been ill-treated had been removed from that section shortly before the delegation's visit. After some considerable time and effort (due in part to the fact that the Homicide/Armed Robbery Section did not have a custody register), it was established that three persons had indeed very recently left the section. Police officials stated that they had been taken to the scene of their alleged crimes in the context of the investigation.

The delegation subsequently met the three persons concerned, each of whom displayed considerable fear. One of them categorically refused to speak to the delegation; the second, in tears throughout the interview, stated that she had been correctly treated; the third, after initially refusing to speak to the delegation, alleged that he had been subjected to suspension by the arms and falaka - the material conditions of the interview were such that a medical examination was impossible.

f. police and gendarmerie establishments in Mardin

29. At the time of the visit, no persons were being held at the Mardin Police Headquarters or the **Interrogation Centre of the Mardin Police**. As regards more particularly the latter establishment, it had been empty since 17 October 1994, on which date 31 detainees had left. Thirteen of those persons had been remanded in custody and the delegation spoke with certain of them in Mardin Prison. Two of them displayed conditions fully consistent with allegations of suspension by the arms made by them.

In one case, the medical examination revealed a considerable reduction in the force of both upper limbs, that symptomatology being slightly more prevalent on the right side. In both arms, propulsion, abduction and retropulsion were rendered very difficult by the pain which even passive movements produced in both articular humeral capsules. A poorly systematised, bilateral hypaesthesia was also noted.

In the second case, the medical examination showed that abduction in both upper limbs was limited to around 45° and propulsion to 55°. Retropulsion was limited to 30°. The person concerned displayed cubital deformities on both upper limbs. Muscular testing revealed extensive losses on both sides, to a slightly greater extent on the right. There was a bilateral, distal hypaesthesia, with slight prevalence of that symptomatology in the area of the right median nerve. Bilateral hyporeflexivity in both upper limbs was also noted.

Both clinical examinations were directly indicative of a recent suspension by the arms.

30. Several prisoners interviewed in Diyarbakır alleged that they had been severely ill-treated some months previously in the **Central Interrogation Centre of the Mardin Provincial Gendarmerie Headquarters**.

Nine persons were in custody at the time of the delegation's visit to that Interrogation Centre; two of them alleged that they had been punched and kicked in the course of their detention, while the rest stated that they had been correctly treated.

Two of the nine persons in detention told the delegation that several persons had been removed from the premises shortly before its arrival. From the information provided by those detainees, the delegation focused its attention on four persons who, according to the custody register, had left the Interrogation Centre some two days earlier, their destination not being indicated. After protracted discussions involving both the Gendarmerie and the Mardin Public Prosecutor (in the course of which the delegation was provided with contradictory accounts of the detainees' movements), the four persons concerned were brought by the Gendarmerie to the delegation's hotel. They stated that they had been released on 21 October and that they had been correctly treated by the Gendarmerie.

g. other police and gendarmerie establishments

31. No one was in custody at the time of the delegation's visits to the Police Headquarters at Batman, Nusaybin and Şırnak.

As regards the Provincial Gendarmerie Headquarters of Batman, it was holding one person who made no complaints about his treatment (cf., however, paragraph 9 above).

32. Specific reference must be made to certain objects found in the cell area of the **Batman Provincial Gendarmerie Headquarters**.

Firstly, a black crank-operated telephone was discovered in the detention area, in a cell being used for storage purposes. The original black cord of the telephone had been fitted with a very long extension (+ 3m) of a rudimentary nature, consisting of two leads each of which ended with some 10 cm of bare wire. On testing the telephone, the delegation observed that an electric current could be produced between the two wires by turning the handle. Officers present said that it was an old telephone which was no longer in use and was merely being stored in the detention area. In support of this contention, they fetched two other crank-operated telephones (of a distinctly more modern design) from other parts of the Headquarters; however, the delegation observed that no extension was fitted to the original cords of the latter telephones and that the cords did not end in bare wire. No explanation could be provided for the presence of the extension fitted to the telephone found in the detention area; it should be added that the fact that the two bare wires could easily come into contact with each other would rule out its use as a telephone while equipped with that extension.

Secondly, the delegation observed that the cell area was fitted with two large loudspeakers, one at each end of the corridor onto which the cells opened. No credible explanation could be provided for the presence of the loudspeakers (it was initially advanced that they were listening devices, an explanation which was subsequently withdrawn). On having the loudspeakers tested, the delegation observed that they were in working order and capable of producing a very high volume of sound.

33. It should be added that in the course of its interviews with detained persons in the various prisons visited, the CPT's delegation heard many allegations of ill-treatment **in other police and gendarmerie establishments not visited by the delegation.**

For example, the delegation met two newly-admitted prisoners at Bayrampaşa Prison who alleged that they had been subjected to electric shocks (electrodes on the penis and a finger), falaka and blows to the back at the Eminönü Police Station in Istanbul. On being examined by a medical member of the delegation, one of them was found to display marks on the soles of his feet (painful swelling of the whole sole of the foot) consistent with falaka, and the other, marks on his back (fresh haematomas in the lumbar region, of 1 to 2 cm in diameter) consistent with recent blows to the back. Another newly admitted prisoner at Bayrampaşa Prison was found to display marks (blueish haematomas undergoing resorption, affecting the soles of both feet; on the hands, haematomas undergoing resorption, affecting the thenar and hypothenar eminences - on the right hand, the haematoma was centred upon a suffusion of coagulated blood, 4 mm in diameter, located between the cutis and the epidermis) fully consistent with his allegations that he had recently been subjected to falaka and beaten on the hands while detained at the Eyüp Police Station in Istanbul.

Reference can also be made to a prisoner interviewed at Diyarbakır I Prison who displayed conditions in his shoulders consistent with his allegation that he had been subjected to repeated sessions of vertical hanging by the arms while detained by the police in Van.

h. supplementary remarks

34. The material conditions of detention found in the various police and gendarmerie establishments visited shall be discussed in detail in a subsequent section of the report (cf. paragraphs 56 to 84). However, the CPT must already in this section recall once again that the effect on a detainee of being held in an excessively small, dark and unventilated cell may in itself amount to torture. Regrettably, the CPT's delegation which visited Turkey in October 1994 found detainees being held (on occasion for lengthy periods) under precisely such conditions, in particular at the Cizre Gendarmerie Headquarters and the Central Interrogation Centre of the Mardin Provincial Gendarmerie Headquarters.

35. Finally, one cannot end this section without referring to the design and equipment of certain of the interrogation facilities observed by the CPT's delegation in the course of its visit. The interrogation facilities at the Narcotics Department and the Organised Crime Section of the Law and Order Department of the Istanbul Police could fairly be described as sinister, and they were at least psychologically very oppressive in many other establishments. In numerous of the interrogation facilities seen, the person being questioned would find himself confronted inter alia with a battery of blinding lights; the use of such techniques cannot be considered legitimate.

The overall impression was of a system which belonged to another age.

2. Action to combat torture and ill-treatment

36. It is evident from the information gathered by the CPT's delegation in the course of its visit in October 1994 that torture and other forms of severe ill-treatment of persons detained by the law enforcement agencies continue to be widespread in Turkey. Further, a fair amount of that information related to detained persons who were not suspected of terrorist offences; it follows that it would be quite misleading to present the problem of torture and ill-treatment as simply being an unfortunate consequence of the scale of terrorist activity in Turkey.

In its Public Statement of 15 December 1992, the CPT emphasised that the phenomenon of torture and other forms of ill-treatment of persons deprived of their liberty in Turkey was a deep-rooted problem. **Regrettably, despite the efforts employed over some five years by the CPT, in cooperation with certain Turkish authorities, it is clear that to date one has done little more than scratch the problem's surface.**

37. The CPT shall not rehearse once again all the different types of action required to address this situation; they have already been adequately set out in the Public Statement (CPT/Inf (93) 1, paragraphs 26 to 36), the report on the visit to Turkey in 1992 (CPT/Inf (2007) 5, paragraphs 19 to 31), and the CPT's comments on the reply of the Turkish authorities to that visit report (letter of 21 September 1994 from the President of the CPT to the Director of Human Rights in the Turkish Ministry of Foreign Affairs). However, some points deserve to be underlined in this report.

38. Already at an early stage of its activities, the CPT expressed dissatisfaction at the manner in which the Ministry of the Interior had responded to its recommendations (cf. the report on the CPT's second visit to Turkey, in 1991; CPT/Inf (2007) 3, paragraphs 18 to 25). That Ministry's reluctance to cooperate in a meaningful way with the CPT has remained a constant feature of the Committee's relations with the Turkish authorities, and was demonstrated once again in the course of the most recent visit to Turkey (cf. paragraph 5).

As was pointed out in the letter of 9 December 1994 sent by the President of the CPT to the Director of the Department of Human Rights, "if there is one measure which could have an immediate and notable effect, it is vigorous action by the Ministry of the Interior at the internal administrative level to stamp out ill-treatment by the police". It is not an adequate response on the part of that Ministry to attempt to place the entire responsibility for the taking of action onto the shoulders of public prosecutors; **the CPT wishes to receive clear evidence of concrete steps taken by the Ministry of the Interior to put its own house in order.**

39. Of course, the instigation, in appropriate cases, of legal proceedings against law enforcement officials is an important tool in the fight against torture and ill-treatment. In this regard, the CPT has noted with the greatest of interest that a judicial inquiry has been commenced in relation to the information gathered by its delegation in October 1994 concerning the treatment of certain persons detained by the Narcotics Department of the Istanbul Police (cf. letter of 8 December 1994 addressed to the President of the CPT by the Permanent Representative of Turkey to the Council of Europe). **The Committee looks forward to receiving further information on this subject.**

40. More generally, the CPT emphasised in its Public Statement (paragraph 26) that public prosecutors must react expeditiously and effectively when confronted with complaints of torture and ill-treatment. It must be stressed on this point that the delegation which visited Turkey in October 1994 once again heard many allegations from detained persons that they had complained to the public prosecutor about the treatment they had received at the hands of the law enforcement agencies, but that he had displayed no interest in those complaints.

The delegation was left with mixed feelings after its discussions with three public prosecutors. The Chief Public Prosecutor at the Diyarbakır State Security Court displayed an open attitude and, more specifically, a willingness to consider ways of reinforcing safeguards against ill-treatment. However, the delegation was perplexed by his apparent lack of knowledge of the existence of allegations of ill-treatment in the Diyarbakır region. The Chief Public Prosecutor met by the delegation in Mardin gave the impression of a man who was ill at ease in a very difficult situation. As for the delegation's meeting with the Chief Public Prosecutor in Istanbul, this is described in some detail in paragraph 8 of the President's letter of 9 December 1994; further comment would be superfluous.

The CPT presumes that it does not have to recall the duties of public prosecutors in a State which accepts the principle of the rule of law.

41. In this context, the CPT wishes to pay tribute to the Minister for Justice, Mr Mehmet Moğultay, for his remarkable address to newly appointed judges and public prosecutors on 27 December 1994.

In the CPT's opinion, that address should be required reading for all judges and public prosecutors.

42. In its Public Statement (paragraph 26), and the report on its 1992 visit (CPT/Inf (2007) 5, paragraph 24), the CPT emphasised that in order to facilitate effective action by public prosecutors, the medical examinations of persons detained by the police/gendarmerie carried out by forensic doctors should be broadened in scope; the certificates drawn up after such examinations should contain an account of relevant statements made by the detainee, an account of objective medical findings based on a thorough examination and the doctor's conclusions in the light of those two elements. This led the Turkish Ministries of Health and Justice to issue circulars on 22 and 23 December 1993 on the drawing up of forensic certificates, which were in accordance with the CPT's recommendations.

However, from contacts with relevant professional bodies and discussions with individual forensic doctors during the course of the October 1994 visit, it transpired that the above-mentioned circulars were not yet being fully applied in practice. It was suggested to the delegation that forensic doctors could be subject to pressures of a diverse nature, as a result of which to follow to the letter the terms of the circulars would not always be an attractive approach.

43. One forensic doctor met by the delegation, at the Sultanahmet Branch Forensic Office in Istanbul, considered that it was inappropriate to record allegations of ill-treatment made by a detained person, and intimated that he refrained completely from drawing up a certificate when allegations made related to types of ill-treatment which in principle did not leave any physical marks (e.g. suspension by the arms, electric shocks, spraying with cold water). The attitude of this doctor is all the more disquieting in view of the fact that many detained persons are taken to the Sultanahmet Branch Forensic Office for examination on their departure from the Istanbul Police Headquarters. It must be added that the delegation was not impressed by the manner in which this doctor "examined" a detained person brought before him during the meeting: at a distance of several metres and in the presence of several other persons in a large office area, the doctor inquired whether the person had any complaints; the person replied by the negative and was taken away.

44. In order to ensure that the circulars of 22 and 23 December 1993 are complied with, **the CPT recommends that a standardised and mandatory forensic medical form be issued, this form to contain distinct sections for the detainee's statements, the doctor's findings and the doctor's conclusions. The form should also recall that the doctor is entitled to request specialist medical examinations when necessary.**

Further, the CPT would reiterate that a secure means of transmitting the medical form to the relevant public prosecutor should be ensured (cf. also CPT/Inf (2007) 5, paragraph 24); law enforcement officials should not have access to its contents.

Needless to say, in accordance with good medical practice, and in the interests of both the detained person and the forensic doctor, the examination of a detained person:

- **should be carried out under conditions offering due privacy for the person examined;**
- **should be conducted out of the hearing and, unless the doctor concerned requests otherwise, out of sight of law enforcement officials.**

45. The CPT has on several occasions emphasised the need for appropriate steps to be taken to guarantee the independence of forensic doctors; **the information gathered during the October 1994 visit suggests that such steps are particularly necessary vis-à-vis non Forensic Institute based doctors who are called upon to perform forensic tasks.**

46. Reference must also be made once more to the importance of specialised training. As stated in paragraph 11 of the President's letter of 9 December 1994, it was evident that certain of the doctors carrying out forensic tasks whom the CPT's delegation met in October 1994 had not received proper training for the duties they were called upon to perform. Two experts appointed by the Bureau of the CPT, Professor Jacques Bernheim and Doctor Jean-Pierre Restellini, subsequently held talks in Ankara from 24 to 26 January 1995 on the subject of the training of forensic doctors with, on the one hand, officials of the Ministries of Health and Justice and, on the other hand, representatives of the Turkish Medical Association. Although some divergences surfaced in the course of those discussions as regards the precise approach to be followed, there was unanimity as to the need to improve the training of forensic doctors.

The matter remains under consideration, and **the CPT very much hopes that it will be possible in the near future to take concrete steps in this area.**

47. As regards the frequency of medical examinations of detained persons, despite the fact that the Custody Regulations of 21 September 1992 stipulate that persons detained by the police/gendarmerie should be examined both at the outset and at the end of their custody, the information gathered during the October 1994 visit indicates that a medical examination at the outset of custody is very rare.

The CPT recommends that steps be taken to ensure full compliance with Section 3 c. of the above-mentioned Regulations.

Further, the CPT recommends that persons held for lengthy periods by the law enforcement agencies, and more particularly persons suspected of collective offences falling under the jurisdiction of the State Security Courts, be examined on a regular basis (e.g. at least once every 48 hours) by a forensic doctor. This is the procedure followed in comparable situations in certain other countries, and it has proven an effective means of combatting both ill-treatment and unfounded allegations of ill-treatment.

48. Turning to legal safeguards against ill-treatment, none could be more fundamental than the requirement that the fact of someone's detention should be formally recorded without delay. Consequently, the CPT must reiterate (cf. also paragraph 5 of the President's letter of 9 December 1994) that it was extremely concerned to learn that the delegation which visited Turkey in October 1994 established beyond any possible doubt that the persons removed from the Anti-Terror Department of the Ankara Police on the occasion of the delegation's first visit there (cf. paragraph 8 above) had been held for two days without any formal record being made of the fact of their detention.

Further, a close examination of the custody records in certain other law enforcement establishments revealed a disturbing number of imprecisions. It must be emphasised in this connection that the many recent "disappearances" in Turkey, and the associated allegations, render it all the more in the legitimate interests of the law enforcement agencies that their custody recording procedures be beyond reproach.

The CPT recommends that steps be taken immediately to ensure:

- **that whenever a person is detained in a law enforcement establishment, for whatever reason (including for identification purposes) and for whatever length of time, the fact of his detention is formally recorded without delay;**
- **that the subsequent transfer or release of the detained person is formally recorded without delay, in the former case together with an indication of the person's destination;**
- **that a failure to comply with the above recording requirements is made a serious offence.**

49. As already indicated in the President's letter of 9 December 1994, the information gathered during the October 1994 visit renders all the more serious the continuing failure of the Turkish authorities to implement the CPT's recommendations concerning the strengthening of legal safeguards against ill-treatment in respect of persons suspected of offences falling under the jurisdiction of State Security Courts (cf. paragraphs 29 and 30 of the Public Statement; paragraph 21 of the report on the visit to Turkey in November/December 1992 (CPT/Inf (2007) 5); paragraph 6 of the letter to the Ministry of Foreign Affairs of 21 September 1994). **For so long as there is no positive development in this area, the Turkish authorities will find it hard to convince anyone that they are serious in their intent to put a stop to torture and ill-treatment.**

50. As regards other criminal suspects, the situation as regards legal safeguards against ill-treatment - albeit improved as a result of Law No. 3842 - remains far from ideal.

The CPT wishes to reiterate once more its recommendation that a detained person (suspected of involvement in a collective crime), in respect of whom an extension of police custody beyond four days is requested by the public prosecutor, be systematically brought before the judge who examines that request.

Further, the information gathered in the course of the October 1994 visit indicates that the provisions on access to a lawyer introduced by the above-mentioned Law are not yet being properly applied in practice. As stated in paragraph 10 of the President's letter of 9 December 1994, "Far too few people are benefitting from access to a lawyer while detained by the law enforcement agencies. Further, even in those cases where there is access to a lawyer, it would appear that this tends to occur at a relatively late stage of the period of police custody and that the confidentiality of the discussions between the detained person and the lawyer is not always guaranteed."

The CPT recommends that steps be taken to ensure that the provisions of Law No. 3842 on access to a lawyer are given full effect.

51. Of course, to exercise a right presupposes that the person concerned is aware of its existence. In this connection, Law No. 3842 provides that detained persons shall be informed, inter alia, of their right to remain silent, to appoint a lawyer and request his presence at the taking of a statement or the interrogation, and to inform a relative of their detention.

In order to ensure that full information on rights is provided, **the CPT recommends that a form setting out those rights be drawn up and systematically given to persons detained by the police/gendarmerie at the outset of their custody. The form should be available in different languages and the person concerned should be asked to certify that he has been informed of his rights.**

As regards more particularly access to a lawyer, the form should spell out that the detained person is entitled to see the lawyer at any time and in private (cf. Article 20 of Law No. 3842). Further, it should indicate the detained person's right to be medically examined by a doctor of his own choice (cf. Section 3 d. of the Custody Regulations of 21 September 1992).

52. Finally, the CPT wishes to stress again the importance of appropriate human rights education and professional training, as well as the potentially significant role of the Turkish Parliament's Human Rights Inquiry Commission, in the fight against torture and ill-treatment.

In this regard, **the CPT trusts that it shall receive in due course the information requested in paragraphs 8, 9 and 10 of the President's letter of 21 September 1994 to the Director of Human Rights in the Turkish Ministry of Foreign Affairs.**

3. Conditions of detention

a. introduction

53. At the outset, the CPT wishes to highlight the general criteria employed by the Committee vis-à-vis material conditions of detention in establishments of law enforcement agencies. All cells should be of a reasonable size for the number of persons they are used to accommodate and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in custody should be allowed to comply with the needs of nature when necessary in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods should, as far as possible, be offered outdoor exercise every day.

54. There is no doubt that efforts continue to be made by the Turkish authorities to improve material conditions of detention in police/gendarmerie establishments. However, progress in this area is very slow, and the CPT was disappointed to learn that some of the cellular accommodation seen by the Committee's delegation in October 1994 still offered deplorable conditions of detention.

55. As indicated in the CPT's report on the 1992 visit to Turkey (cf. CPT/Inf (2007) 5, paragraph 32), the Custody Regulations of 21 September 1992 can be considered as adequately addressing the material facilities to be offered to persons in the custody of the police or gendarmerie, **though they might usefully be amended to include a specific mention of the need to guarantee detained persons ready access to drinking water and of the desirability of persons held for extended periods being offered outdoor exercise on a daily basis.**

Before setting out the findings as regards the particular police and gendarmerie establishments visited in October 1994, **the CPT wishes to reiterate its recommendation that implementation of the Custody Regulations be vigorously pursued throughout the whole of Turkey.**

b. Ankara

56. Conditions in the cellular accommodation at the Narcotics Department of the Ankara Police Headquarters remained satisfactory (cf. also CPT/Inf (2007) 5, paragraph 34), though ideally they should be provided with access to natural light.

The Department still had a few small cells of the type seen in the course of the CPT's visits in 1990 and 1991. They were not being used for holding detainees, and the CPT trusts that this will remain the case.

57. In the Anti-Terror Department, the construction of three cells meeting the requirements laid down by the CPT (and replacing part of a suite of small cells) had been completed (cf. CPT/Inf (2007) 5, paragraph 34, second sub-paragraph); they were of adequate size (with a surface area of about 7.5 m²), had a covered floor and were furnished with a bed and mattress. The cells were well ventilated and adequately lit (although they did not benefit from natural light). The delegation was informed that the construction of seven further new cells would commence shortly.

A second suite of 21 small cells had also been demolished; in its place, a large holding cell (of some 33 m²) had been built, as well as a storage room. The former was furnished with wooden benches along two of its walls; it was well ventilated, **but the lighting was unsatisfactory.**

However, eight cells close to an interrogation area and a suite of 11 cells close to the newly built cells, all measuring between 2 and 3 m², had not been enlarged or otherwise improved (with the exception of some cells which had been recently painted). Further, a number of persons interviewed by the delegation claimed to have been detained in such cells for extended periods. These cells are not acceptable for use as detainee accommodation for overnight stays; **the CPT recommends that they also be demolished without delay and replaced by new cellular accommodation of the types described above.**

58. The Homicide Section possessed inter alia a suite of eight small (3 m²) cells which did not have any means of lighting or ventilation; four of them had a "do not use" sign hanging from the door. These cells are only fit to be used for temporary holding purposes (i.e. detention for a matter of hours), and this subject to the strict proviso that they are equipped with adequate lighting and ventilation; use of the cells for overnight stays would necessitate their enlargement. **The CPT recommends that all of the above-mentioned cells be withdrawn from service until the necessary improvements are made.**

The only cell occupied by a detainee at the time of the delegation's visit to the Homicide Section was of an adequate size (7 m²), **but had no lighting.**

59. The delegation also revisited the large holding rooms in the general custody area at the Ankara Police Headquarters. It was observed that **the lighting in these rooms was deficient;** ventilation, on the other hand, appeared to be adequate.

c. Batman

60. **Batman Police Headquarters** possessed 8 individual cells and 2 multi-occupancy holding cells.

Conditions in the individual cells were very poor. The cells were extremely small (1.3 to 1.5 m²), had no lighting (either artificial or natural) or means of rest and were poorly ventilated; further, most of them were in a dirty condition. Such cells are unfit for holding a detainee for any length of time whatsoever; however, they were used to accommodate persons suspected of terrorist offences, who could be detained for lengthy periods (up to a maximum of 30 days).

The holding cells offered distinctly better conditions of detention, and in particular were much larger (respectively 7.5 and 13 m²) and equipped with a means of rest, mattress and blankets. However, **the lighting in the largest cell was deficient.**

61. The detention area at the **Batman Provincial Gendarmerie Headquarters** had 12 individual cells and 1 larger holding cell, the latter apparently used for female suspects. The individual cells were very small (2.8 m²), totally dark and had no evident means of ventilation. However, they were fitted with a bench and were quite clean. The use of such cells for temporary holding purposes might be considered tolerable (subject to their being provided with proper lighting and ventilation), but they are certainly not acceptable for overnight stays. Unfortunately, they were in practice frequently used to accommodate persons held for lengthy periods; the one person in custody at the time of the delegation's visit had already been held in an individual cell for 5 days.

The holding cell was of a fair size (14 m²) and was well lit; it contained two beds, equipped with mattresses and blankets.

62. **The CPT recommends that steps be taken immediately to enlarge the individual cells in the Batman Police Headquarters and the Batman Provincial Gendarmerie Headquarters (cf. also Section 2 a. of the Custody Regulations) 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.**

d. Cizre

63. At the **Cizre Police Headquarters**, all of the individual cells measured less than 2.5 m², and some less than 2 m². None of the cells benefitted from natural light nor had any means of ventilation or artificial lighting; however, some of them were equipped with a bench. In addition, there were two multi-occupancy cells (of about 10 m²) and an overflow holding room (of over 45 m²). They were sparsely furnished with some benches. Only in the large overflow holding room was lighting good; it benefitted from both artificial and natural light. The state of repair and cleanliness of the detention area as a whole, and in particular of the sanitary facilities, left something to be desired.

64. The situation was even worse at the **Cizre Gendarmerie Headquarters**, despite its acceptable state of cleanliness and repair. The four individual cells - which measured slightly less than 1 m² each and were very poorly ventilated and lit - were unacceptable for any form of detention, regardless of its length. The two multi-occupancy cells measured 5.25 m² and 8 m², a partitioned sanitary annex (consisting of a washbasin and toilet) excluded. At the time of the visit the two collective cells were occupied by five and six detainees respectively, who had just enough space to squat together or lie side by side on the blankets that had been made available to them.

Sanitary facilities, consisting of a clean toilet and washbasin, were available for the occupants of the individual cells. However, many complaints were heard about their use being arbitrarily controlled by the officers present in the detention area; detainees complained that they were not allowed to use the sanitary facilities more than twice a day.

65. **The CPT recommends that steps be taken immediately to enlarge the individual cells at the Cizre Police and Gendarmerie Headquarters and to equip all the cells in those establishments with adequate lighting, ventilation and rest/sleeping facilities. If such changes should not prove feasible, the cells should be withdrawn from service.**

The CPT also recommends that the number of persons held in the "multi-occupancy" cells at Cizre Gendarmerie Headquarters be significantly reduced; preferably, not more than one person should be held overnight in the smaller of the two cells and not more than two in the larger. Further, steps should be taken to ensure that all persons held at Cizre Gendarmerie Headquarters are allowed to comply with the needs of nature when necessary (cf. also paragraph 53 above).

e. Diyarbakır

66. No significant progress was observed in respect of material conditions of detention at the **Diyarbakır Police Headquarters**.

The two holding rooms in the Narcotics Department (cf. CPT/Inf (2007) 5, paragraph 35) were very dirty and in a poor state of repair. Further, the multi-occupancy holding rooms for general use at the Headquarters remained poorly lit (though they do now possess adequate ventilation, assuming they are not overcrowded). More importantly, the custody register indicated that during the night preceding the delegation's visit, two of the holding rooms (which each measure some 15 m²) had between them held 24 persons; when the delegation saw the two rooms, they were still accommodating 17 persons, some of them children under 14 years of age.

67. **The CPT recommends that steps be taken to improve conditions of detention at Diyarbakır Police Headquarters, in the light of the remarks in paragraph 66.**

As regards more particularly the multi-occupancy holding rooms, they should not hold more than five persons overnight (in this connection, the Diyarbakır Police might inter alia consider bringing back into service one of the Headquarters' holding rooms which was being used for storage purposes at the time of the delegation's visit).

Further, if it is found necessary to take minors into police custody, they should be held in quite distinct accommodation and not mixed together with adult suspects.

68. Material conditions of detention at the Interrogation Centre of the 1st Department of the Diyarbakır Police were adequate, though ideally the cells should have access to natural light. As indicated in the report on the CPT's visit in 1992 (cf. CPT/Inf (2007) 5, paragraph 35), conditions there had been considerably improved as compared to the deplorable situation observed in 1990 and 1991. The Committee is pleased to note that the premises have subsequently been kept in a good state of repair.

69. As regards the **Diyarbakır Gendarmerie**, the delegation discovered with considerable surprise that the premises of the Central Interrogation Centre were still being used for detention purposes. In complete contradiction to the information provided to the CPT's delegation in 1991 and 1992, the new detention facilities located at the Provincial Gendarmerie Headquarters were being used to accommodate gendarmerie officers undergoing disciplinary punishment, not criminal suspects.

Conditions of detention at the Interrogation Centre remained as observed in 1992. The cells were of an adequate size (6.5 m²), clean and equipped with a camp bed. However, lighting in the cells remained totally inadequate, as did the ventilation.

The CPT recommends that steps be taken immediately to provide the cells at the Central Interrogation Centre of the Regional Command of the Diyarbakır Gendarmerie with adequate lighting and ventilation.

Conditions at the new detention facilities referred to earlier were on the whole satisfactory, with the notable exception of the possibility of outdoor exercise (cf. paragraph 84).

f. Istanbul

70. The CPT was disappointed to learn that conditions of detention at the Istanbul Police Headquarters remained as described in the report on the 1992 visit (CPT/Inf (2007) 5, paragraphs 36 and 37) and, as regards the Narcotics Department, the report on the 1991 visit (CPT/Inf (2007) 3, paragraph 65). They leave a great deal to be desired in all Departments, and are particularly poor in the Anti-Terror and Narcotics Departments, in the Homicide/Armed Robbery Section of the Law and Order Department and in the general detention area on the ground floor of the last-mentioned Department.

71. The CPT refrained from making any further recommendations in the report on the 1992 visit concerning the situation at the Istanbul Police Headquarters, in view of the fact that new police headquarters premises were scheduled to enter into service during the Spring of 1993.

In their reply to that report, the Turkish authorities indicated that the entry into service of the new premises had been put back to Spring 1994; at the time of the October 1994 visit, those premises had still not entered into service.

72. The CPT's delegation took the opportunity of its presence in Istanbul to visit the site of the new police headquarters; it found a building which was clearly still some way from completion.

The delegation was shown the parts of the building which will be used by the Anti-Terror and Law and Order Departments for detention purposes. A detailed assessment of these areas was impossible given the amount of work which still had to be done. Nevertheless, from the observations made, it appeared that more thought needed to be given to cell lighting, sleeping platforms for those held overnight, the provision of sanitary facilities and outdoor exercise (on this last point, see also paragraph 84).

The CPT recommends the Turkish authorities:

- **to verify that the new police headquarters premises in Istanbul will meet the requirements of the Custody Regulations of 21 September 1992 and the general criteria referred to in paragraph 53;**
- **to take appropriate steps to accelerate the entry into service of the new police headquarters.**

g. Mardin

73. **Mardin Police Headquarters** was used for the detention of persons suspected of ordinary criminal offences. The custody register indicated that it received a relatively small number of detainees, most of whom would be held for a maximum of 24 hours. However, stays of up to a week occasionally occurred.

74. The Headquarters possessed three individual cells and a large multi-occupancy cell.

The individual cells measured 4.3 m², which is an acceptable size for temporary holding purposes, but scarcely adequate for persons kept in custody overnight. The cells were equipped with a bench and blankets, but no mattresses were in evidence. The cells had adequate artificial lighting and ventilation; however, they did not have direct access to natural light. The large holding cell was equipped in a similar manner.

The detention area as a whole was rather dirty, and the sanitary facilities were in a poor state of repair.

75. The CPT recommends that steps be taken to improve conditions of detention at Mardin Police Headquarters, in the light of the remarks in paragraph 74.

As regards more particularly persons detained at the Headquarters for an extended period, steps should be taken to provide them with cellular accommodation meeting the requirements set out in Section 2 a. of the Custody Regulations of 21 September 1992.

76. Terrorist suspects detained by the Mardin Police were accommodated in a quite distinct Interrogation Centre. This facility was found to possess 13 cells, which clearly had very recently been painted. The cells were all of an acceptable size for overnight stays (ranging in size from 6 to 9 m²), and were equipped with a bed and mattress. However, none of them had access to natural light and in some of them the artificial light was deficient or even non-existent. Further, the ventilation was inadequate in at least certain of the cells.

The CPT recommends that steps be taken immediately to provide all the cells in the Interrogation Centre of the Mardin Police with adequate lighting and ventilation.

77. The basement level detention area at the Central Interrogation Centre of the Mardin Provincial Gendarmerie Headquarters contained 23 individual cells and 2 multi-occupancy cells.

Conditions of detention in the individual cells were appalling. They were very small (their sizes ranging from under 2 m² to a maximum of 3.5 m²), pitch-dark and totally devoid of ventilation (save a small aperture in the door which the delegation observed was normally kept closed). Admittedly, the floor of the cells was fitted with a wooden board, and detained persons were provided with a mattress and blanket. However, these items and the cells as a whole were in a thoroughly filthy state; vomit and/or excrement was to be found under certain of the mattresses and boards. The delegation met two persons who had been held in two of the above-mentioned cells (both measuring under 3 m²) for several days; their material environment was scarcely fit for an animal, let alone a human being.

Conditions of detention in the two multi-occupancy cells were distinctly better. They each measured approximately 18 m² and, at the time of the delegation's visit, were not overcrowded. The cells were equipped with blankets, and the detainees being kept in custody overnight had been provided with mattresses. However, there was no artificial light in the cells, and a small window at the back of each cell would at best give only limited access to natural light.

78. The CPT recommends that steps be taken immediately to enlarge the individual cells at the Central Interrogation Centre of the Mardin Provincial Gendarmerie 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.

Steps should also be taken to provide adequate lighting in the multi-occupancy cells as well as to ensure that the detention area as a whole is kept in a clean and hygienic state.

h. Nusaybin

79. The detention facilities of the Nusaybin Police Headquarters had two multi-occupancy cells, measuring 17 and 29 m², furnished with two and three beds respectively. There was a further room - said to be used to accommodate female detainees - which was equipped with a bed. Contrary to the cells, which were separated from the corridor by metal bars, this room had an ordinary door and glass window to the corridor. An interrogation room within the detention area was also used as "overflow" accommodation; it was furnished with two beds, a table and chairs. The premises were clean and well lit, and the cells had small windows to the outside, allowing some access to natural light and ventilation. The only significant criticism that could be made is that the beds were not equipped with mattresses (blankets, on the other hand, were available) - this issue is dealt with subsequently (cf. paragraph 81).

i. Şırnak

80. Şırnak Police Headquarters was of recent construction and had entered into service some six months prior to the delegation's visit. This renders it all the more disturbing that the Headquarters' cellular accommodation failed by a long way to meet the requirements of the Custody Regulations of 21 September 1992, in particular as regards cell sizes. Of the 19 cells in the Headquarters, 17 measured under 2 m²; their dimensions were such that most detained persons would not even be able to lie down within them.

The CPT recommends that steps be taken immediately to bring the cellular accommodation at Şırnak Police Headquarters into conformity with the Custody Regulations of 21 September 1992.

j. supplementary remarks

81. In a number of the law enforcement establishments visited, it was apparent that mattresses were not available. In this connection, the CPT wishes to stress once again that a person held in custody overnight should be provided with a mattress.

The CPT recommends that appropriate steps be taken to ensure that this requirement is met; if necessary, the Custody Regulations should be clarified on this point.

82. As regards personal hygiene, the delegation noted that sanitary facilities were often in a poor state of repair and that commodities such as soap and towels were generally absent. It is also interesting to note in this connection the case of the detained person seen by the delegation successively in the Anti-Terror Department of the Istanbul Police and the Interrogation Centre of the 1st Department of the Diyarbakır Police (cf. paragraph 26). He had been detained over a period of twelve days, and was met for the first time on the day after his arrest. At that time he was wearing a blood-stained shirt (the result of an injury to the head apparently sustained shortly after his arrest); when he was met the second time, some ten days later, he was still wearing the same shirt, which he had not changed or apparently had a chance to wash.

The CPT would recall that persons in police/gendarmerie custody should be allowed to comply with the needs of nature in clean and decent conditions and be offered adequate washing facilities (cf. also Section 2 c. of the Custody Regulations).

83. Most persons met by the delegation complained that they had received very little to eat and drink while in the custody of the police or gendarmerie. On occasion, food was only available to detainees who had the means to pay for it; this was confirmed by law enforcement officials met in certain of the places of detention visited. As regards persons undergoing lengthy detention periods, it appeared that they received bread and water with cheese and/or olives.

In this connection, the CPT would recall that detained persons should be given at least one full meal per day (cf. also Section 3 f. of the Custody Regulations).

84. Finally, the delegation noted that persons detained in police or gendarmerie premises were not offered the possibility of outdoor exercise throughout their - on occasion lengthy - period in custody; this was the case even for the gendarmerie officers undergoing disciplinary punishment held in the new detention centre at the Diyarbakır Provincial Gendarmerie Headquarters.

The CPT has already indicated (cf. paragraph 53) that persons held for extended periods should, as far as possible, be offered outdoor exercise every day. The CPT appreciates that implementation of this measure vis-à-vis criminal suspects could give rise to security difficulties in some law enforcement establishments; however, most large establishments will possess a secure internal courtyard which could be used for outdoor exercise (e.g. the yard adjacent to the general detention area at the Law and Order Department of the Istanbul Police Headquarters).

The CPT recommends that the Turkish authorities explore the possibility of offering outdoor exercise on a daily basis to persons held for extended periods by the law enforcement agencies. Further, the need for outdoor exercise facilities for detainees should be taken into account in the design of new premises.

There can be no justification for denying outdoor exercise to gendarmerie officers undergoing disciplinary punishment. **The CPT recommends that steps be taken immediately to ensure that such officers held at the new detention facilities at the Diyarbakır Provincial Gendarmerie Headquarters are offered outdoor exercise on a daily basis.**

B. Holding facilities for Aliens

85. It should be stated at the outset of this section that the delegation which visited Turkey in October 1994 heard hardly any allegations of physical ill-treatment of persons detained under the Aliens legislation.

However, following the visit, the Committee received reports to the effect that certain illegal aliens had been ill-treated during December 1994 while held in police custody in Istanbul, and more specifically at the Tarlabası Police Station. By letter of 10 February 1995, the President of the CPT requested the Turkish authorities' observations on this subject.

1. Istanbul Police Foreigners Bureau

86. Persons deprived of their liberty in Istanbul under the Aliens legislation were in principle held at the Istanbul Police Foreigners Bureau (though apparently recourse was also had to police stations in the event of many persons being held).

The Bureau's detention facility was located in the basement of the building; at the time of the delegation's visit, it was (exceptionally) empty.

87. The basement contained a bar-fronted multi-occupancy cell which was equipped with a wall bench. It had very recently been painted (the paint was still not fully dry) and was spotlessly clean, as was the basement area as a whole. However, the cell was poorly lit and there was no evidence of mattresses or blankets.

The delegation was informed that male detainees would be kept within the cell, whereas female detainees would stay in the adjacent corridor. The delegation had heard allegations that large numbers of persons could be held in the cell and corridor. However, the Bureau's officials stated that no more than 20 persons would be held at any given time in the basement area; unfortunately, in the absence of a custody register, it was not possible to check the veracity of that statement. It should be said, nevertheless, that to place 20 persons in the existing facilities would itself be manifestly excessive. This is all the more true in view of the fact - admitted by the Bureau's officials - that stays of up to 15 days in the basement detention area could occur.

The CPT was also concerned to learn that the delegation's discussions with the Bureau's officials revealed that there was no budget for feeding persons detained. Further, detainees subsequently met at the Silopi Holding Centre stated that they had not been adequately fed whilst detained in Istanbul at the Foreigners Bureau.

88. Without prejudice to the recommendation of a more general nature to be made in paragraph 96, **the CPT recommends the Turkish authorities to take immediate steps to ensure that conditions of detention at the Istanbul Police Foreigners Bureau are brought into conformity with the criteria set out in paragraph 53 above.**

2. The Aliens Holding Centre (Hac Camp) at Silopi

89. This resting place for pilgrims (Hac Dinlenme Tesisleri) located some 10 kilometres from the border with Iraq was turned, in the late 1980's, into a camp to accommodate persons fleeing troubles in northern Iraq. It had apparently at one time accommodated several thousand such persons; however, at the time of the delegation's visit, the number of persons from Iraq had been reduced to approximately 1500. As regards the vast majority of these persons (some 1400), the Office of the United Nations High Commissioner for Refugees (UNHCR) had concluded - on examining their cases - that they did not run a risk of persecution in the event of their return to Iraq; consequently, they had not been recognised as "refugees" and it was expected that they would be repatriated in the near future. The remainder of the Iraqis had been recognised as refugees and were awaiting resettlement elsewhere.

90. In recent times, the Hac Camp had also been used as a holding centre for illegal aliens of African origin, most of whom had been arrested by the police in Istanbul and Ankara. Officials of the Istanbul Police Foreigners Bureau explained that this particular category of illegal alien posed serious problems for the Turkish authorities. They did not come from a country with which Turkey had a land border. Further, even when the country of origin was known (which was often not the case), considerable difficulties had been encountered in agreeing upon repatriation arrangements. Under these circumstances, transporting the aliens across the country to Silopi had evolved as a stop-gap measure, pending a definitive solution.

91. Some 160 illegal aliens of African origin were in the Holding Centre at the time of the delegation's visit, and their position appeared to be particularly precarious.

From the information provided to the delegation, it emerged that these persons were not considered as falling within the competence of the UNHCR, which consequently had not formally examined their cases from a refugee status standpoint; nevertheless, the UNHCR had provided them with some material support. With the impending departure of the Iraqis, the UNHCR was on the point of withdrawing that support and the camp was due to close. However, no one, either at national or local level, appeared to have a clear idea about what was going to become of the Africans.

It was on this group of persons that the delegation focused its attention in the course of its visit.

92. The living conditions for the illegal aliens were poor. They were accommodated in tents set up on open ground. The tents were small in relation to the numbers (between 4 to 6 per tent) involved, a problem exacerbated by the fact that, depending upon climatic conditions, cooking also had to take place inside them. Further, the tents were in a poor state of repair; allegations that they leaked when it rained were quite credible, as was the allegation that the whole area where they were encamped became a mud swamp with rain.

Sanitation consisted of a rudimentary latrine; it was apparently emptied from time to time, but was full on the day of the delegation's visit. A building with additional sanitary facilities, comprising toilets, washbasins and showers, was available some distance away from the area occupied by the illegal aliens. They were required to take water in buckets from those facilities to their section of the camp, both for cooking and other uses.

Each person received a ration of 5 kilos of rice, 5 kilos of peas or beans and a half a gallon of cooking oil per period of 20 days, as well as a loaf of bread per day. Calor gas was also supplied. The UNHCR had in the past provided additional food to supplement these meagre rations, but this practice had recently ceased.

It should be added, however, that the health service at the Holding Centre appeared to be basically adequate, including in relation to the illegal aliens.

93. As already indicated, at the time of the delegation's visit, the future of the illegal aliens was anything but certain. The information gathered suggested that the Turkish authorities did not have a coordinated policy on the subject; whereas the police authorities had continued to arrest illegal aliens of African origin and send them to Silopi, the local authorities in Silopi had started to refuse to accept the arrival of any more such persons. Further, there was clear evidence that illegal aliens with some financial means were given the possibility of "escaping" from the Holding Centre.

94. The concerns of the CPT as regards the situation of illegal aliens of African origin are all the greater given allegations it has received of drastic measures taken to remove them from Turkish territory. The delegation alluded at the final talks to the information it had gathered, according to which on 1 January 1994, the Turkish authorities had attempted to force the illegal aliens at Silopi to cross the Iraqi border under the threat of the use of arms. Further, by letter of 10 February 1995, the President of the CPT asked for the Turkish authorities' observations on reports received by the Committee according to which some illegal aliens of African origin were recently forcibly deported from Turkey to Greece, over the border near to Edirne.

Needless to say, such acts would be inexcusable.

95. At the end of the visit in October 1994, the CPT's delegation requested information on the steps being taken to resolve the plight of the illegal aliens of African origin held at Silopi. That request was reiterated in letters from the President of the CPT to the Turkish authorities dated 23 December 1994 and 10 February 1995. **The Committee trusts that this information will be provided in the very near future.**

3. Supplementary remarks

96. The administrative detention of illegal aliens raises particular problems. It involves depriving of their liberty persons who are not suspected of criminal offences and who -through no fault of the national authorities - may have to be detained for a prolonged period. To this must be added the inevitable communication difficulties caused by language barriers and the possibility of tension arising between detainees of different nationalities or ethnic groups. These different factors plead in favour of accommodating illegal aliens in centres specifically designed for that purpose rather than in ordinary police detention facilities.

The CPT therefore recommends the Turkish authorities to explore the possibility of creating specific centres for persons detained under the Aliens legislation, offering material conditions of detention and a regime appropriate to their legal situation.

The staff assigned to such centres should be very carefully selected and receive appropriate training. They should have well developed skills in interpersonal communication and be familiar with the detainees' different cultures; at least some of them should have appropriate language skills. Further, such staff should be taught to recognise possible symptoms of stress displayed by detainees (whether post-traumatic or induced by socio-cultural changes) and to take appropriate action. They should certainly not have racist attitudes (a trait which regrettably was detected among the officials of the Istanbul Police Foreigners Bureau met by the CPT's delegation).

97. Persons detained under the Aliens legislation should benefit from certain fundamental safeguards, and more particularly:

- the right to notify a close relative or third party of their choice of their detention;
- the right of access to a lawyer;
- the right of access to a doctor.

As far as the CPT's delegation could ascertain, none of these rights were guaranteed to persons detained at the Istanbul Police Foreigners Bureau, and only the third at the Silopi Holding Centre.

The CPT recommends that steps be taken to ensure:

- **that persons detained under the Aliens legislation are granted the rights referred to above;**
- **that a form (to be available in appropriate languages) setting out those rights is systematically given to such persons at the outset of their custody.**

98. Finally, it is axiomatic that it would be in violation of both national and international legal obligations for someone to be returned to a country where they run a risk of being subjected to torture or to inhuman or degrading treatment or punishment. **The CPT would like to receive a detailed account of the precise measures taken in practice by the Turkish authorities in order to ensure that such a situation does not occur.**

C. Civil prisons

1. **Torture and other forms of ill-treatment**

99. The CPT's delegation heard no allegations of torture and hardly any allegations of other forms of ill-treatment of prisoners by prison staff (cf., however, paragraph 101). As stated in the CPT's letter of 9 December 1994, the information gathered by its delegation suggests that persons held in the prison establishments visited run little risk of physical ill-treatment at the hands of prison staff.

100. It was observed that staff-prisoner relations still tended to be very limited in scope (cf. also document CPT/Inf (2007) 5, paragraph 46). However, at **Cizre Prison**, the delegation observed that the atmosphere was relaxed and a reasonably good relationship had been established between inmates and prison staff, as well as with the Public Prosecutor. The Prosecutor moved at ease within the detention areas of the prison and was accessible to inmates who wished to address themselves to him.

The CPT can only encourage the Turkish authorities to seek to develop positive relations between staff and prisoners.

101. The delegation learned that a grave incident had occurred shortly before its visit, on 4 October 1994, in Diyarbakır I ("E-Type") Prison. Apparently a prisoner had refused on several occasions to voluntarily accompany the gendarmerie escort which had been instructed by the relevant public prosecutor to take him for further questioning. Finally, a large number of gendarmerie officers entered the prison to conduct him by force. This resulted in a major confrontation between prisoners and gendarmerie and prison officers, in the course of which a number of prisoners were injured.

The CPT's delegation heard allegations both from prisoners and other sources that the gendarmerie officers and even certain prison staff had intentionally ill-treated prisoners in the course of the incident. However, the relevant authorities stated that no more force than necessary to re-establish order was used. The delegation was not in a position to interview any of the prisoners directly involved in the incident, all 299 of them having been transferred to another prison.

The CPT understands that the prison's Director, the Public Prosecutor and the responsible gendarmerie officer signed a joint report on the incident. **The CPT requests the Turkish authorities to forward to it a copy of that report. The Committee would also like to receive information on any administrative or judicial inquiries instigated following the incident.**

102. More generally, a large number of persons interviewed by the delegation alleged that instances of ill-treatment in the prisons visited did occur when the gendarmerie or other outside forces entered the prison for whatever purpose, be it to carry out a general search of all detention premises or particular sections of the prison or to take charge of a prisoner requiring escort to court or to another establishment. The delegation heard that in these cases violence and abuse (including appropriation of belongings and/or documents) were commonplace. Moreover, allegations were heard that prisoners were often ill-treated in the course of their transport, or even in the court premises of destination.

The CPT recommends that gendarmerie officers responsible for searching prison premises or escorting prisoners be issued with clear instructions to the effect that the ill-treatment of prisoners is strictly prohibited and, if it occurs, shall be the subject of severe sanctions.

As regards more particularly the searching of prison premises, it is well known that the intervention of outside forces in a prison establishment can often create a high-risk of ill-treatment of prisoners. Consequently, **the CPT would like to receive the Turkish authorities' views on the possibility of assigning the task of searching prison premises to prison officers.**

2. Conditions of detention in Ankara Central Closed Prison and Diyarbakir I and II Prisons

a. Ankara Central Closed Prison

103. The CPT's delegation noted certain improvements as compared to the situation observed in 1992. Nevertheless, as admitted by the prison management itself, the fundamental inadequacy of the existing premises limits the extent to which improvements can be made. Consequently, the CPT was pleased to learn that 75 to 80% of the construction work of the new Ankara-Ayaş Closed Prison has now been completed. **The CPT recommends that a very high priority be given to the completion of this new prison.**

104. The CPT was pleased to note that the **old reception area** had once again been taken out of service (cf. also CPT/Inf (2007) 5, paragraph 48). All reception procedures were carried out at the main entrance and in the administration section of the prison, and newly-arrived prisoners were assigned to a ward without delay. Prisoners were allocated to wards according to their offences and, to some extent, the preference stated by the prisoners themselves.

105. As regards the **segregation unit (Ward 14)**, the CPT's delegation noted that the ground floor remained out of use. As regards the first floor, some minor refurbishment work had taken place, **but conditions of detention remained mediocre** (cf. also CPT/Inf (2007) 5, paragraph 49). At the time of the visit, none of the cells were used to accommodate more than two prisoners; however, the delegation was told that on occasion three prisoners could be held to a cell. In this connection, **the CPT would recall its recommendation that no more than two prisoners be accommodated in each cell** (cf. also CPT/Inf (2007) 1, paragraphs 138 and 139).

The CPT has noted with satisfaction that no prisoners in urgent need of psychiatric care were being held in the segregation unit at the time of the visit, in line with its earlier recommendations (cf. CPT/Inf (2007) 1, paragraph 140, CPT/Inf (2007) 3, paragraph 77 and CPT/Inf (2007) 5, paragraph 50); **it trusts that this will continue to be the case.**

106. Attempts had been made to improve conditions of detention in the **Women's Ward**, in line with the CPT's recommendations (cf. CPT/Inf (2007) 1, paragraph 135, CPT/Inf (2007) 3, paragraph 75 and CPT/Inf (2007) 5, paragraph 51), and some slight progress was observed by the delegation. The prison's Director stated that any repair work was quickly undermined by the general deterioration of the building, and improvements were therefore ephemeral. Water seepage apparently continued, but plumbing work done in respect of the toilet had for the time being proved successful.

The degree of overcrowding in the Women's Ward at the time of the October 1994 visit was entirely unacceptable. The ward was accommodating 51 women and three children (aged 1 to 5). Bed-sharing was the norm; on occasion, up to five women shared two beds placed side by side. The ward was so crammed that there was hardly any space to pass between the bunk beds.

The CPT recommends that immediate steps be taken to reduce overcrowding in the Women's Ward. It also invites the Turkish authorities to continue their attempts to improve material conditions in the ward.

107. There were no special facilities for the children in the Women's Ward. In this connection, it should be emphasised that mothers and children represent a particularly vulnerable group in prison. Efforts should be made to place them in a favourable social and educational environment; preferably, there should be a suitably-equipped creche facility, and the assistance of nursery nurses as well as specialised medical care should be guaranteed. **The CPT invites the Turkish authorities to review the existing arrangements for mothers and children at the Ankara Central Closed Prison and in Turkish prisons generally, in the light of these remarks.**

The CPT would also like to be informed of the length of time during which a mother is allowed to keep her child in prison.

108. As regards **visiting arrangements**, the delegation was informed that use of the new facilities for open visits was still restricted to certain public holidays (cf. CPT/Inf (2007) 5, paragraph 52). However, the premises of the old visiting area were much cleaner than in the past and the quality of audition in the booths was patently better. Furthermore, the delegation was informed that prisoners are now entitled to weekly visits.

While acknowledging these improvements, the CPT wishes to stress once again that in the interest of furthering prisoners' relations with their families and friends, more open visiting arrangements are required. **Consequently, it must reiterate its recommendation that much greater use be made of the new visiting area.**

b. Diyarbakır I and II Prisons

109. The delegation observed that **Diyarbakır I Prison** was overcrowded at the time of the visit (1,076 inmates on 20 October 1994, as compared to an official capacity of 625), and noted that shortly before the visit it had been severely overcrowded (accommodating over 1,300 prisoners). To cope with the overcrowding, an administrative building as well as the old infirmary had been converted into provisional detention facilities. **The delegation noted that these premises left a lot to be desired, particularly as regards hygiene and the availability of sanitary facilities.**

110. The delegation was informed of the construction of a new section in the prison, which was due to come into service at the end of November 1994. It was foreseen that this section would increase the prison's official capacity by 300, to 925.

The CPT would like to receive confirmation that the above-mentioned new section has now entered into service.

It would also like to be informed whether the provisional detention facilities referred to above have now been taken out of service.

111. As regards material conditions of detention at **Diyarbakır II Prison**, the situation was slightly better than that observed in 1992. In particular, in line with the CPT's recommendation, more space had been created in the wards by removing spare beds. Further, the visiting facilities in the women's ward had been improved, and the ward as a whole had been painted and provided with some additional space and improved kitchen facilities.

112. However, conditions of detention in the establishment remained mediocre. With the exception of the women's ward, there was little evidence of any repairs having been carried out to the building; the premises continued to be in a very dilapidated state.

No improvements had been made to the prison's main visiting facilities; they were still in the very poor condition described in the report on the 1992 visit (cf. CPT/Inf (2007) 5, paragraph 82). Similarly, conditions in the segregation unit remained very much the same as those observed in 1992; there had simply been a rudimentary and ineffectual attempt to improve ventilation. The area was still unsuitable for detention purposes.

113. It should be added that the occupancy level in the dormitories for women and juveniles, which were the subject of criticism in the report on the 1992 visit (cf. CPT/Inf (2007) 5, paragraph 76), remained unsatisfactory. At the time of the October 1994 visit, the women's ward accommodated 53 persons, a population level representing extreme overcrowding. As regards the juveniles, they had been placed in a slightly larger dormitory measuring some 23 m²: however, with a capacity of 15 and an actual occupation of 14 at the time of the visit, the dormitory was still extremely overcrowded. More generally, material conditions in the juvenile dormitory were of a very poor standard.

114. In the report drawn up after the 1992 visit, the CPT recommended that the Turkish authorities undertake a programme of renovation of Diyarbakır II Prison or, if that appeared uneconomic in view of the age of the building, consider relocating the establishment in more modern premises (cf. CPT/Inf (2007) 5, paragraph 77). In their reply to that report, the Turkish authorities admitted the inadequacy of the present building and indicated that it was planned to build a new prison.

The CPT recommends that a high priority be accorded to the construction of a new prison to replace the existing premises of Diyarbakır II Prison. It would like to receive information on progress made in this connection.

Pending the entry into service of the new prison, the CPT recommends that:

- **improvements be made to the visiting facilities for adult male and juvenile prisoners, having regard to the remarks made in paragraphs 82 and 83 of the report on the 1992 visit (CPT/Inf (2007) 5);**
- **further efforts be made to reduce overcrowding in the wards for women and juveniles and, more generally, to improve material conditions in the juveniles' dormitory;**
- **the segregation unit be taken out of service;**
- **efforts continue to be made to maintain the prison's premises in an acceptable state of repair and cleanliness.**

115. Unlike in 1992 (cf. CPT/Inf (2007) 5, paragraph 72), the delegation which carried out the visit in October 1994 was in a position to evaluate the medical services in Diyarbakır II Prison. The Prison's health care service consisted of a head doctor (part-time), a deputy doctor (full-time), a dentist (part-time) and one qualified nurse (full-time). Taking into account the number of prisoners accommodated in the establishment (approximately 500), **the CPT recommends that the number of nursing staff be increased. Further, it would be desirable for a psychologist and/or psychiatrist to visit the prison on a regular basis.**

116. The situation regarding prisoners' medical records was totally unsatisfactory. The results of medical examinations of prisoners were placed together in a single file and no attempt had been made to subdivide the file, be it nominally, chronologically, by type of examination or by type of treatment; in other words, it was a jumble. Admittedly, a register existed, indicating the names of persons attending medical consultations; however, this register contained no information concerning the diagnosis, treatment prescribed, supplementary tests/examinations carried out outside the prison and their results, ... To sum up, under the present situation it was quite impossible to retrace the medical history of a patient.

The CPT wishes to stress that a medical record should be compiled for each prisoner, containing diagnostic and treatment information as well as an on-going account of the patient's progress and of any specialist examinations carried out. When a prisoner is transferred, the record should be forwarded to any subsequent doctor concerned.

The CPT recommends that the Turkish authorities take immediate steps to establish individualised medical records as described above.

Further, the CPT recommends that steps be taken to ensure the strict confidentiality of all medical data; at the time of the visit, the confidentiality of medical data was not guaranteed.

117. Finally, the CPT was concerned to learn that prisoners on remand who did not have the necessary financial resources might not receive the medication they had been prescribed.

The CPT recommends that steps be taken immediately to ensure that all prisoners are guaranteed the provision of the medication required by their state of health.

3. Conditions of detention in prisons visited for the first time

a. Cizre Prison

118. Cizre Prison is a 25 year old local remand centre with a theoretical capacity of 45 prisoners, divided between four dormitories; one dormitory was reserved for women prisoners. In addition to remand prisoners, persons sentenced by the Şırnak or Cizre courts awaiting the outcome of an appeal can also be held there, as well as some sentenced prisoners who occasionally are allowed to remain at their own request. The Public Prosecutor told the delegation that local residents often preferred to stay in Cizre Prison despite its basic unsuitability for prisoners serving sentences, because of the proximity to their own social environment, and also because of the prison's size and its relaxed atmosphere.

119. At the time of the visit, the prison had ten remand and eight sentenced male prisoners, accommodated in two separate dormitories; the other two dormitories were closed. The dormitories measured over 45 m² (sanitary annexe and kitchen excluded) and each of them disposed of an open air exercise yard. They had access to natural light and good ventilation; however, **artificial lighting was poor**. They were suitably equipped (including a television set and a fridge) and in a satisfactory state of repair.

b. Mardin Prison

120. The delegation made only a brief visit to Mardin Prison; its principal objective in going there was to interview persons who had recently been in police/gendarmerie custody. Consequently, it did not examine closely the conditions of detention in the establishment. However, the delegation did ascertain that the prison's health-care service left a great deal to be desired.

121. The staff of the health-care service consisted of one young doctor, carrying out the one year obligatory service to the State after having completed his studies, and one nurse. The delegation was informed that no other medical staff visited the establishment, not even a dentist. Such a staffing level is quite inadequate for an establishment which has a capacity of 600 prisoners and was accommodating some 550 at the time of the visit.

The CPT recommends that steps be taken to reinforce substantially the staff resources of the health-care service at Mardin Prison. This reinforcement should involve: the appointment on at least a part-time basis of an experienced doctor as head of the health-care service; regular visits by a dentist; an increase in the number of nursing staff.

Further, it would be desirable for a psychologist and/or psychiatrist to visit the establishment on a regular basis.

122. Just as at Diyarbakır II Prison, the delegation observed that no individualised medical records were kept at Mardin Prison. Consequently, **the recommendation made on this subject in paragraph 116 in respect of Diyarbakır II Prison equally applies to Mardin Prison.**

c. Şırnak Prison

123. Şırnak Prison consisted of a converted farm-house. It acted as a remand centre and, in principle, only accommodated persons for a short period of time (15 to 20 days), though the prison's register indicated that exceptionally persons might be held in the establishment for several months.

124. The Prison was accommodating 18 prisoners at the time of the visit, who were distributed between three dormitories, each measuring some 15 m². The dormitories were adequately furnished and in a satisfactory state of cleanliness; however, they were poorly lit, cold and humid.

During the day, prisoners had ready access to a central common room and to an outside exercise yard. The common room was furnished with a long table and benches; it was very poorly lit (and had no access to natural light) and ventilated. As for the exercise yard, it resembled a building site; it offered very little space for standing or walking, let alone other forms of physical exercise.

125. The CPT recommends that steps be taken to improve material conditions at Şırnak Prison, taking into account the remarks made above, and to ensure that no one is held in the establishment for a prolonged period.

4. Activities for prisoners

126. The almost total absence of any organised programme of activities for prisoners was a common feature of all the civil prisons visited. In each of the prisons, only a handful of prisoners had a job and there were no organised recreational or sport activities. Further, there was much scope for the development of educational activities, in particular as regards the young prisoners held at Ankara and Diyarbakır II Prisons.

Consequently, the CPT wishes once again to invite the Turkish authorities to endeavour to develop regime activities for prisoners in the establishments visited by its delegation, as well as in Turkish prisons in general.

127. In this connection, the CPT has taken note with interest that a project entitled "A Turkish Model for Prisons", providing for the construction of prisons complying with UN and European standards, is currently being developed. The CPT trusts that the provision of appropriate regime activities for prisoners shall be fully taken into account in the development of this project.

The objective should be to ensure that all prisoners, including those on remand, are able to spend a reasonable part of the day (eight hours or more) outside their cells/dormitories, engaged in purposeful activities of a varied nature (work, preferably with a vocational value; education; sport; recreation/association).

D. Diyarbakır Garrison 2nd Class Military Prison

128. The Diyarbakır Garrison 2nd Class Military Prison holds ordinary soldiers (privates) and sub-officers/officers awaiting trial for criminal offences as well as, in certain cases, convicted soldiers and officers. The Prison had an official capacity of 111 (96 privates and 15 sub-officers/officers) and was holding 130 prisoners at the time of the visit.

129. The CPT's delegation heard no allegations of torture or any other form of ill-treatment by military personnel performing supervisory duties at the prison. Both privates and sub-officers² stated, without exception, that their relations with supervisory staff were very good, and the truthfulness of this comment was fully borne out by the delegation's own observations.

130. The Prison was grossly overcrowded, in particular in the areas for private soldiers; for example, 62 privates slept in a dormitory of some 70 m² and 30 other privates slept in a dormitory of slightly over 40 m². Admittedly, during the day they had access to dining areas and a courtyard; however, such a level of occupation is entirely unacceptable. It should be added, that the outside courtyard for privates was quite inadequate in size for the numbers involved.

The parts of the prison reserved for sub-officers and officers were less overcrowded; however, the number of beds available in the two dormitories used for sleeping (14 beds in a dormitory of 25 m² and 11 beds in a dormitory of 14 m²) indicated that this might not always be the case.

Despite the overcrowding, the prison premises were in a satisfactory state of repair and very clean.

131. The delegation was informed that the problem of overcrowding should be eased in the not too distant future by the construction of an annexe to the Prison. **The CPT recommends that a high priority be given to the implementation of this project.**

132. Aside from overcrowding, the other major problem in the prison, fully admitted by the authorities, was the almost total absence of any organised activities for prisoners; there was no work, no training, no education and practically no sport activities. The delegation was informed that attempts would be made to address this problem in the context of the construction of the new annexe to the prison. **The CPT would like to receive further information on the measures envisaged in this regard.**

² No officers were being detained at the time of the visit.

133. **The CPT recommends that visiting arrangements at the prison be reviewed, in respect of both privates and sub-officers/officers.** As regards the former, the thick wire mesh separating the prisoner from his visitor, combined with poor lighting on the visitor's side, meant that the prisoner had difficulty in seeing his visitor. More generally, such closed booth-type visiting facilities present a considerable impediment to the achievement of the goal of preserving prisoners' relations with their families and friends. In the interest of furthering such relations, more open visiting arrangements are required.

As regards the sub-officers/officers, they received their visitors in a corridor; while offering a more relaxed atmosphere than in the visiting booths for privates, a corridor is a far from ideal place to receive one's visits from family members or friends.

134. The CPT's delegation was very impressed by the prison's health-care service. The service was staffed by a young doctor performing his military service (who reported to a more senior doctor of the Garrison), assisted by a soldier-nurse. This staffing level was adequate for the numbers involved; further, in case of need, sick prisoners could be sent to a military hospital or to the University Hospital of Diyarbakır. The health-care service premises were adequately equipped and the young doctor directly in charge displayed a high degree of competence. Particular reference should be made to the excellent individualised medical records established in respect of each prisoner; this made a striking contrast with certain of the civil prisons visited.

APPENDIX I

**Letter from the President of the CPT to the Director of Human Rights
in the Turkish Ministry of Foreign Affairs**

Strasbourg, 9 December 1994

Dear Director,

1. At its 23rd meeting, held from 28 November to 2 December 1994, the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) was informed of the principal facts found by its delegation during the visit to Turkey from 16 to 28 October 1994.

The CPT was pleased to note that the information gathered by its delegation suggests that persons held in the prison establishments visited run little risk of physical ill-treatment at the hands of prison staff. Further, it is clear that efforts continue to be made to improve material conditions of detention in both prison and police/gendarmerie establishments (though it is equally evident that much remains to be done in this field, especially as regards the latter establishments).

The visit in October was the first occasion on which a CPT delegation had examined conditions in a military prison in Turkey. The CPT wishes to emphasise that, notwithstanding problems in respect of overcrowding and the activities available to prisoners, the delegation's overall impression of the situation at the Diyarbakır Garrison Second Class Military Prison was quite favourable.

2. However, the Committee was deeply disturbed to learn that a CPT delegation had once again found convincing evidence of recourse by members of the law enforcement agencies to torture and other forms of severe ill-treatment, both in respect of persons suspected of terrorist offences and of other criminal suspects.

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Director of the Department of Human Rights
Ministry of Foreign Affairs
ANKARA

3. A considerable number of persons examined by the delegation's doctors displayed marks and/or conditions consistent with allegations of ill-treatment made by them. For instance, certain prisoners accused of ordinary crimes who had very recently arrived at Bayrampaşa Prison were found on examination to bear haematomas on the soles of their feet consistent with their allegations that they had been subjected to falaka while in police custody. Another case of a prisoner, not accused of a terrorist offence, bearing lesions compatible with falaka was found in Diyarbakır. As regards persons suspected of terrorist offences, several persons detained by the Anti-Terror Department of the Istanbul Police were found on examination to bear marks consistent with their allegations of having been beaten on the hands and/or subjected to falaka, and two detainees displayed partial paralysis and sensory loss in both arms, a condition fully consistent with the allegations of "palestinian hanging" which they had made. Comparable cases of paralysis of the arms and sensory loss consistent with allegations of suspension were found in Ankara and Mardin, and another person displaying physical conditions consistent with his allegation of suspension by the arms was found in Cizre.

The above cases are just examples; full information on the delegation's medical findings will be provided in the visit report.

4. Further, although some progress was discernible in the area of material conditions, a CPT delegation once again encountered persons - at Cizre (Gendarmerie Headquarters), Istanbul (Anti-Terror and Narcotics Departments) and Mardin (Central Interrogation Centre of the Provincial Gendarmerie Headquarters) - who had been held for prolonged periods in very small, dark, poorly ventilated and, on occasion, filthy cells. As the CPT has had occasion to point out in the past, such conditions may often amount in themselves to torture or inhuman or degrading treatment or punishment.

5. It should be added that the police attempted - in vain - to prevent the delegation from meeting a number of persons who were found to display marks or conditions consistent with allegations of ill-treatment. This was the case at the Ankara and Istanbul Anti-Terror Departments, where, upon the delegation's arrival, the persons in question were removed hastily from the premises.

Moreover, the CPT was extremely concerned to learn that its delegation established beyond any possible doubt that the persons removed from the Anti-Terror Department of the Ankara Police had been held there for two days without any formal record being made of the fact of their detention.

6. Attention must also be drawn to certain objects found in detention/interrogation areas. In the Narcotics Department of the Istanbul Police and the Provincial Gendarmerie Headquarters at Batman, the delegation found crank-operated telephones which had been adapted in such a way as to facilitate the infliction of electric shocks (ie. the original black cord had been fitted with a very long extension of a rudimentary nature, consisting of two leads each of which ended with some 10 centimetres of bare wire). At Istanbul, the telephone was located on the top of a cupboard, next to material (ie. a long wooden beam and a shorter pole, one of which was equipped with a strap) clearly resembling the equipment for suspension discovered during a previous visit to Turkey. The discovery of a loudspeaker system in the detention area at Batman Provincial Gendarmerie Headquarters should also be mentioned; this lent credibility to allegations heard that detained persons had been subjected to loud music for long periods. No convincing explanations were provided for the presence of these different objects.

7. The circumstances of the discovery at the Istanbul Police Narcotics Department of the objects referred to in the preceding paragraph, and the subsequent meeting with the Chief Public Prosecutor, Mr Avni Bilgin, deserve to be highlighted; they are indicative of the full scale of the problem of ill-treatment in Turkey.

The delegation's visit to the Narcotics Department was triggered by interviews with several persons at Bayrampaşa Prison who alleged they had, inter alia, received electric shocks while in the Department's custody. Such allegations were also made by certain of the persons actually being held in the Department at the time of the delegation's visit. Two of the persons concerned claimed that they had caught sight of the device used, which they described in some detail, one of them even indicating the colour of the wires.

The telephone discovered by the delegation was in the area which had been indicated as the place where electric shocks had been delivered, and it fitted perfectly the description given by the detainees. The delegation was able to examine the telephone carefully, as it succeeded in persuading the police officer present at the time of its discovery to take it from the top of the cupboard and place it on a table. However, the police officer insisted on awaiting the arrival of the Head of the Department before moving the beam and pole. On his arrival, the Department Head was requested to have the beam and pole brought down from the cupboard, in order that they could be inspected. He indicated that he wished to examine them in private before responding to that request; however, the delegation declined to leave the room. At the delegation's invitation, he climbed onto a chair and examined the equipment, pulling aside a cover which had partially obscured it. He then replaced the cover, resumed his seat, and stated that he could not accede to the delegation's request to inspect the equipment. Faced by the delegation's insistence, he eventually replied "I've read your previous reports. We all know what they are used for". Notwithstanding that remark, the delegation indicated that it wished to examine the equipment in detail, at which point the Department Head stated that he would have to consult his superiors. He left, and some time later two police officers entered the room stating "we are going to show you the equipment", upon which they seized the telephone, beam and pole, and rushed out of the room. The objects were then hidden from the delegation throughout the remainder of its visit to the Narcotics Department.

8. In the light of the above, the delegation sought a meeting with the competent public prosecutor in Istanbul, and requested that the objects found at the Narcotics Department be brought to that meeting; the meeting took place on 28 October 1994 at the office of the Chief Public Prosecutor, in the presence of the Head of the Narcotics Department and one of his superiors. The telephone device was produced, but the extension (cf. paragraph 6) had been removed. A wooden beam was produced, which could have been the one seen by the delegation at the Narcotics Department, but not the pole; further, the looped strap seen by the delegation was missing. These discrepancies were pointed out by the delegation, but no explanation was forthcoming.

Both the police officers present and the Chief Public Prosecutor vehemently denied that the objects seen by the delegation were used to inflict ill-treatment. The senior police officer present explained that the telephone had been bought in an antique shop by a police officer serving in the Narcotics Department, with a view to having it placed in a museum; it was being kept in the Narcotics Department only for maintenance purposes. As for the beam, it was stated that it was being used in connection with the repair of the lift in the building housing the Narcotics Department; photographs were produced in support of this contention.

The explanation offered concerning the telephone is, literally, incredible. As regards that concerning the beam, it is certainly the case that the lift was being repaired at the time of the visit. However, the fact that the beam was found in an office located some distance from the lift shaft, the refusal of the police to allow the delegation to examine the beam, and the failure to produce before the public prosecutor other equipment which was with the beam (ie. the pole and strap) all serve to cast serious doubts upon the veracity of that explanation. These doubts can only be reinforced by the comment made by the Head of the Narcotics Department concerning the equipment, when it was discovered by the delegation (cf. paragraph 7, third sub-paragraph). It can therefore only be a matter of great concern that the Chief Public Prosecutor clearly indicated that he was quite satisfied with the explanations provided by the police. The CPT is also surprised by the opinion of a more general nature which he expressed on the subject of the status of international treaties - "Governments can sign agreements, international conventions. Whether or not they afterwards abide with the rules of these agreements is up to them. These conventions are not binding. There are no sanctions".

9. Regrettably, it is evident from the facts found in the course of the visit to Turkey in October 1994, that the conclusion reached in paragraph 21 of the CPT's public statement of December 1992 remains valid today; torture and other forms of severe ill-treatment of persons detained by the law enforcement agencies continue to be widespread in Turkey.

10. In the public statement, and in the context of the ongoing dialogue with the Turkish authorities, the different types of action required to address this problem have been clearly identified. Some of those issues will be discussed again in the Committee's report on the most recent visit to Turkey.

However, it should be stated already that the information gathered during that visit renders all the more serious the continuing failure of the Turkish authorities to implement the CPT's recommendations concerning the strengthening of legal safeguards against ill-treatment for persons suspected of offences falling under the jurisdiction of State Security Courts (cf. paragraphs 29 and 30 of the public statement; paragraph 21 of the report on the visit to Turkey in November/December 1992 (CPT/Inf (2007) 5); paragraph 6 of the letter to the Ministry of Foreign Affairs of 21 September 1994). Moreover, it would seem that, even as regards other criminal suspects, the provisions on access to a lawyer introduced in December 1992 are not yet being properly applied in practice. Far too few people are benefitting from access to a lawyer while detained by the law enforcement agencies. Further, even in those cases where there is access to a lawyer, it would appear that this tends to occur at a relatively late stage of the period of police custody and that the confidentiality of the discussions between the detained person and the lawyer is not always guaranteed. Consequently, the effectiveness of this safeguard against ill-treatment is being significantly undermined.

11. Reference must also be made to the role played by doctors appointed by the State to carry out forensic tasks, the importance of which was emphasised in both the public statement (paragraph 26, second sub-paragraph) and the report on the visit to Turkey in November/December 1992 (CPT/Inf (2007) 5, paragraphs 22 to 26). The present system of detained persons routinely being examined by a forensic doctor at the end of their period of custody is, in principle, a significant safeguard against ill-treatment, provided certain conditions are met, ie. the formal and de facto independence of forensic doctors is guaranteed, such doctors are provided with specialised training, and the mandate given to them (and hence the medical certificates which they establish) is sufficiently broad in scope. However, if those conditions are not met, the present system could have the perverse effect of rendering it all the more difficult to combat torture and ill-treatment.

In this connection, it became clear during the visit in October 1994 that the excellent Ministry of Health circular of 22 December 1993 on the drawing up of forensic institute medical certificates (cf. Appendix 6 of the Turkish Government's reply to the CPT's report on its visit to Turkey in November/December 1992, as well as paragraph 7 of the letter of 21 September 1994 from the CPT to the Ministry of Foreign Affairs) was not yet being fully applied in practice. Further, it was evident that certain of the doctors carrying out forensic tasks whom the delegation met had not received appropriate training for the duties they were called upon to perform.

12. It should be reiterated that attacking the root of the problem of torture and ill-treatment involves not so much changing laws as transforming mentalities, a process which is required not only amongst police officers but throughout the criminal justice system. The significance of this latter point was all too obvious during the CPT's delegation's discussions with certain public prosecutors and forensic doctors in the course of its visit in October 1994.

This will involve considerable and long-term efforts in the area of human rights education and professional training. The CPT wishes to take this opportunity to call upon the Turkish authorities to persevere with and intensify their endeavours in this field (cf. also paragraphs 7 to 9 of the CPT's letter of 21 September 1994 to the Ministry of Foreign Affairs).

13. Needless to say, if significant progress is to be made it is essential for the relevant national authorities to be fully committed to combatting torture and ill-treatment. In this connection, the CPT has noted with satisfaction the statement in the letter of 23 November 1994 sent by Mr Bilgin Unan, Ambassador and Deputy Under-Secretary of State, to the Committee's President, in which he reiterated "la détermination inébranlable du Gouvernement turc de promouvoir le respect des droits de l'homme et de combattre toutes formes de torture ou de mauvais traitements".

The CPT is convinced of the determination of the Turkish Ministries of Justice, Foreign Affairs and Health in this respect. However, the Committee has long entertained doubts about whether the same degree of determination is shared by the Ministry of the Interior. The attitude of that Ministry during the CPT's most recent visit did nothing to dispel those doubts. This point is of crucial importance, because if there is one measure which could have an immediate and notable effect, it is vigorous action by the Ministry of the Interior at the internal administrative level to stamp out ill-treatment by the police.

14. In the course of the visit in October 1994, several of the delegation's interlocutors referred to the great problems faced by the Turkish authorities as a result of the scale of terrorist activities in the country. Very much the same point was made in the Turkish Government's reply to the report drawn up after the CPT's visit to Turkey in November/December 1992, and is reiterated in the previously-mentioned letter from Ambassador Unan.

On more than one previous occasion, the CPT has made clear its position on the subject of terrorism and has recognised the serious difficulties faced by the Turkish authorities in this regard. Turkey is entitled to the understanding and support of others in its struggle against this destructive phenomenon. However, the Committee has also emphasised that the response to terrorism must never be allowed to degenerate into acts of torture or other forms of ill-treatment by law enforcement officials; refraining from such acts is one of the hallmarks of a democratic State.

15. Further, it should be reiterated that the information at the CPT's disposal clearly demonstrates that acts of torture and ill-treatment are also inflicted by law enforcement officials upon detained persons who are not suspected of terrorist offences. Consequently, it would be quite wrong to assume that the problem of torture and ill-treatment is simply a corollary of the scale of terrorist activity in Turkey.

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16. In the light of the gravity of the situation described above, the CPT has reached the conclusion that it must once again envisage having resort to Article 10, paragraph 2, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment.

Consequently, in pursuance of Article 10, paragraph 2, of the Convention, the CPT invites the Turkish authorities to make known their views. Those views should be received by 17 February 1995. It would be most useful if the Turkish authorities could, at the same time, inform the CPT of the "mesures jugées urgentes" (cf. Ambassador Unan's letter of 22 November 1994) taken in the light of the observations made by the Committee's delegation at the end of the recent visit to Turkey.

Yours faithfully,

Claude NICOLAY

APPENDIX II

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

A. Law enforcement agencies

1. Action to combat torture and ill-treatment

recommendations

- a standardised and mandatory forensic medical form to be issued; this form to contain distinct sections for the detainee's statements, the doctor's findings and the doctor's conclusions. The form should also recall that the doctor is entitled to request specialist medical examinations when necessary (paragraph 44);
- steps to be taken to ensure full compliance with Section 3 c. of the Custody Regulations of 21 September 1992 (paragraph 47);
- persons held for lengthy periods by the law enforcement agencies, and more particularly persons suspected of collective offences falling under the jurisdiction of the State Security Courts, to be examined on a regular basis (e.g. at least once every 48 hours) by a forensic doctor (paragraph 47);
- steps to be taken immediately to ensure that:
 - . whenever a person is detained in a law enforcement establishment, for whatever reason (including for identification purposes) and for whatever length of time, the fact of his detention is formally recorded without delay;
 - . the subsequent transfer or release of the detained person is formally recorded without delay, in the former case together with an indication of the person's destination;
 - . a failure to comply with the above recording requirements is made a serious offence (paragraph 48);
- an ordinary criminal suspect (suspected of involvement in a collective crime), in respect of whom an extension of police custody beyond four days is requested by the public prosecutor, to be systematically brought before the judge who examines that request (paragraph 50);
- steps to be taken to ensure that the provisions of Law No. 3842 on access to a lawyer are given full effect (paragraph 50);

- a form setting out their rights to be systematically given to persons detained by the police/gendarmerie at the outset of their custody. The form should be available in different languages and the person concerned should be asked to certify that he has been informed of his rights. As regards more particularly access to a lawyer, the form should spell out that the detained person is entitled to see the lawyer at any time and in private (cf. Article 20 of Law No. 3842). Further, it should indicate the detained person's right to be medically examined by a doctor of his own choice (cf. Section 3 d. of the Custody Regulations of 21 September 1992) (paragraph 51).

comments

- the address made by the Minister for Justice, Mr Mehmet Moğultay, to newly appointed judges and public prosecutors on 27 December 1994 should be required reading for all judges and public prosecutors (paragraph 41);
- a secure means of transmitting forensic medical forms to the relevant public prosecutor should be ensured; law enforcement officials should not have access to their contents (paragraph 44);
- in accordance with good medical practice, and in the interests of both the detained person and the forensic doctor, the examination of a detained person should be carried out under conditions offering due privacy for the person examined and should be conducted out of the hearing and, unless the doctor concerned requests otherwise, out of sight of law enforcement officials (paragraph 44);
- steps to guarantee the independence of forensic doctors are particularly necessary vis-à-vis non Forensic Institute based doctors who are called upon to perform forensic tasks (paragraph 45);
- the CPT very much hopes that it will be possible in the near future to take concrete steps in the area of specialised training for doctors carrying out forensic tasks (paragraph 46);
- for so long as there is no positive development as regards the strengthening of legal safeguards against ill-treatment in respect of persons suspected of offences falling under the jurisdiction of State Security Courts, the Turkish authorities will find it hard to convince anyone that they are serious in their intent to put a stop to torture and ill-treatment (paragraph 49).

requests for information

- clear evidence of concrete steps taken by the Ministry of the Interior to put a stop to ill-treatment by law enforcement officials (paragraph 38);
- further information on the judicial inquiry commenced in relation to the information gathered by the CPT's delegation in October 1994 concerning the treatment of certain persons detained by the Narcotics Department of the Istanbul Police (paragraph 39);
- the information requested in paragraphs 8, 9 and 10 of the President's letter of 21 September 1994 to the Director of Human Rights in the Turkish Ministry of Foreign Affairs (paragraph 52).

2. Conditions of detention

recommendations

- implementation of the Custody Regulations of 21 September 1992 to be vigorously pursued throughout the whole of Turkey (paragraph 55);
- the eight small cells close to an interrogation area and the suite of 11 small cells close to the newly built cells (all measuring between 2 and 3 m²) in the **Anti-Terror Department of the Ankara Police Headquarters** to be demolished without delay and replaced by new cellular accommodation (paragraph 57);
- the suite of eight small (3 m²) cells in the **Homicide Section at the Ankara Police Headquarters** to be withdrawn from service until the necessary improvements are made as to lighting and ventilation and, if they are to be used for overnight stays, until they are enlarged (paragraph 58);
- steps to be taken immediately to enlarge the individual cells in the **Batman Police Headquarters** and the **Batman Provincial Gendarmerie Headquarters** (cf. also Section 2 a. of the Custody Regulations) 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 (paragraph 62);
- steps to be taken immediately to enlarge the individual cells at the **Cizre Police and Gendarmerie Headquarters** and to equip all the cells in those establishments with adequate lighting, ventilation and rest/sleeping facilities. If such changes should not prove feasible, the cells to be withdrawn from service (paragraph 65);
- the number of persons held in the "multi-occupancy" cells at **Cizre Gendarmerie Headquarters** to be significantly reduced; preferably, not more than one person should be held overnight in the smaller of the two cells and not more than two in the larger. Further, steps to be taken to ensure that all persons held at Cizre Gendarmerie Headquarters are allowed to comply with the needs of nature when necessary (paragraph 65);
- steps to be taken to improve conditions of detention at **Diyarbakır Police Headquarters**, in the light of the remarks in paragraph 66 (paragraph 67);
- the multi-occupancy holding rooms in **Diyarbakır Police Headquarters** not to hold more than five persons overnight (paragraph 67);
- minors taken into police custody to be held in quite distinct accommodation and not mixed together with adult suspects (paragraph 67);
- steps to be taken immediately to provide the cells at the **Central Interrogation Centre of the Regional Command of the Diyarbakır Gendarmerie** with adequate lighting and ventilation (paragraph 69);
- the Turkish authorities to verify that the **new police headquarters premises in Istanbul** will meet the requirements of the Custody Regulations of 21 September 1992 and the general criteria referred to in paragraph 53, and to take appropriate steps to accelerate the entry into service of the new police headquarters (paragraph 72);

- steps to be taken to improve conditions of detention at **Mardin Police Headquarters**, in the light of the remarks in paragraph 74; as regards more particularly persons detained at the Headquarters for an extended period, steps to be taken to provide them with cellular accommodation meeting the requirements set out in Section 2 a. of the Custody Regulations of 21 September 1992 (paragraph 75);
- steps to be taken immediately to provide all the cells in the **Interrogation Centre of the Mardin Police** with adequate lighting and ventilation (paragraph 76);
- steps to be taken immediately to enlarge the individual cells at the **Central Interrogation Centre of the Mardin Provincial Gendarmerie** 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 (paragraph 78);
- steps to be taken to provide adequate lighting in the multi-occupancy cells at the **Central Interrogation Centre of the Mardin Provincial Gendarmerie**, as well as to ensure that the detention area as a whole is kept in a clean and hygienic state (paragraph 78);
- steps to be taken immediately to bring the cellular accommodation at **Şirnak Police Headquarters** into conformity with the Custody Regulations of 21 September 1992 (paragraph 80);
- appropriate steps to be taken to ensure that mattresses are provided to persons held in custody overnight; if necessary, the Custody Regulations to be clarified on this point (paragraph 81);
- the Turkish authorities to explore the possibility of offering outdoor exercise on a daily basis to persons held for extended periods by the law enforcement agencies; further, the need for outdoor exercise facilities for detainees to be taken into account in the design of new premises (paragraph 84);
- steps to be taken immediately to ensure that gendarmerie officers undergoing disciplinary punishment held at the new detention facilities at the **Diyarbakır Provincial Gendarmerie Headquarters** are offered outdoor exercise on a daily basis (paragraph 84).

comments

- the Custody Regulations of 21 September 1992 might usefully be amended to include a specific mention of the need to guarantee detained persons ready access to drinking water and of the desirability of persons held for extended periods being offered outdoor exercise on a daily basis (paragraph 55);
- the lighting in the recently-built large holding room in the **Anti-Terror Department at the Ankara Police Headquarters** was unsatisfactory (paragraph 57);
- the cell occupied by a detainee at the time of the delegation's visit to the **Homicide Section of the Ankara Police Headquarters** had no lighting (paragraph 58);

- the lighting in the large holding rooms in the general custody area at the **Ankara Police Headquarters** was deficient (paragraph 59);
- the lighting in the largest of the two multi-occupancy holding cells at the **Batman Police Headquarters** was deficient (paragraph 60);
- persons in police/gendarmerie custody should be allowed to comply with the needs of nature in clean and decent conditions and be offered adequate washing facilities (cf. also Section 2 c. of the Custody Regulations) (paragraph 82);
- detained persons should be given at least one full meal per day (cf. also Section 3 f. of the Custody Regulations) (paragraph 83).

B. Holding facilities for Aliens

recommendations

- immediate steps to be taken to ensure that conditions of detention at the **Istanbul Police Foreigners Bureau** are brought into conformity with the criteria set out in paragraph 53 of the report (paragraph 88);
- the Turkish authorities to explore the possibility of creating specific centres for persons detained under the Aliens legislation, offering material conditions of detention and a regime appropriate to their legal situation (paragraph 96);
- the staff assigned to centres for persons detained under the Aliens legislation to be very carefully selected and receive appropriate training. They should have well developed skills in interpersonal communication and be familiar with the detainees' different cultures; at least some of them should have appropriate language skills. Further, such staff should be taught to recognise possible symptoms of stress displayed by detainees (whether post-traumatic or induced by socio-cultural changes) and to take appropriate action. They should not have racist attitudes (paragraph 96);
- steps to be taken to ensure that persons detained under the Aliens legislation are granted the right to notify a close relative or third party of their choice of their detention, the right of access to a lawyer, and the right of access to a doctor; a form (to be available in appropriate languages) setting out those rights to be systematically given to such persons at the outset of their custody (paragraph 97).

requests for information

- information on the steps taken vis-à-vis the illegal aliens of African origin held in the Aliens Holding Centre (Hac Camp) at Silopi (paragraph 95);
- a detailed account of the precise measures taken in practice by the Turkish authorities in order to ensure that persons are not returned to a country where they run a risk of being subjected to torture or to inhuman or degrading treatment or punishment (paragraph 98).

C. Civil Prisons

1. Torture and other forms of ill-treatment

recommendations

- gendarmerie officers responsible for searching prison premises or escorting prisoners to be issued with clear instructions to the effect that the ill-treatment of prisoners is strictly prohibited and, if it occurs, shall be the subject of severe sanctions (paragraph 102).

comments

- the Turkish authorities are encouraged to seek to develop positive relations between staff and prisoners (paragraph 100).

requests for information

- a copy of the report on the incident which took place on 4 October 1994 in **Diyarbakır I Prison** and which was signed by the prison's Director, the Public Prosecutor and the responsible gendarmerie officer, as well as information on any administrative or judicial inquiries instigated following that incident (paragraph 101);
- the views of the Turkish authorities on the possibility of assigning the task of searching prison premises to prison officers (paragraph 102).

2. Conditions of detention in Ankara Central Closed Prison and Diyarbakır I and II Prisons

recommendations

- a very high priority to be given to the completion of the new Ankara-Ayaş Closed Prison (paragraph 103);
- no more than two prisoners to be accommodated per cell in the segregation unit (Ward 14) of **Ankara Closed Prison** (paragraph 105);
- immediate steps to be taken to reduce overcrowding in the Women's Ward of **Ankara Central Closed Prison** (paragraph 106);
- much greater use to be made of the new visiting area at **Ankara Central Closed Prison** (paragraph 108);

- a high priority to be accorded to the construction of a new prison to replace the existing premises of **Diyarbakır II Prison**; pending the entry into service of the new prison:
 - . improvements to be made to the visiting facilities for adult male and juvenile prisoners, having regard to the remarks made in paragraphs 82 and 83 of the report on the 1992 visit (CPT/Inf (2007) 5);
 - . further efforts to be made to reduce overcrowding in the wards for women and juveniles and, more generally, to improve material conditions in the juveniles' dormitory;
 - . the segregation unit to be taken out of service;
 - . efforts to be made to maintain the prison's premises in an acceptable state of repair and cleanliness (paragraph 114);
- the number of nursing staff in **Diyarbakır II Prison** to be increased (paragraph 115);
- immediate steps to be taken to establish individualised medical records for persons held in **Diyarbakır II Prison** (paragraph 116);
- steps to be taken to ensure the strict confidentiality of all medical data concerning persons held in **Diyarbakır II Prison** (paragraph 116);
- steps to be taken to ensure that all persons held in **Diyarbakır II Prison** are guaranteed the provision of the medication required by their state of health (paragraph 117).

comments

- conditions of detention remained mediocre in the segregation unit (Ward 14) of **Ankara Central Closed Prison** (paragraph 105);
- the CPT trusts that it will remain the case that prisoners in urgent need of psychiatric care are not placed in the Segregation Unit of **Ankara Central Closed Prison** (paragraph 105);
- the Turkish authorities are invited to continue their attempts to improve material conditions in the Women's Ward of **Ankara Central Closed Prison** (paragraph 106);
- the Turkish authorities are invited to review the existing arrangements for mothers and children at the **Ankara Central Closed Prison** and in Turkish prisons generally, in the light of the CPT's remarks (paragraph 107);
- the administrative building and the old infirmary, which had been converted into provisional detention facilities at **Diyarbakır I Prison**, left a lot to be desired, particularly as regards hygiene and the availability of sanitary facilities (paragraph 109);
- it would be desirable for a psychologist and/or psychiatrist to visit **Diyarbakır II Prison** on a regular basis (paragraph 115).

requests for information

- information on the length of time during which a mother is allowed to keep her child in prison (paragraph 107);
- confirmation that the new section, which at the time of the visit was under construction at **Diyarbakır I Prison**, has now entered into service (paragraph 110);
- information on whether the provisional detention facilities in the administration building and the old infirmary at **Diyarbakır I Prison** have now been taken out of service (paragraph 110);
- information on progress made on the planned construction of a new prison to replace the existing premises of **Diyarbakır II Prison** (paragraph 114).

3. Conditions of detention in prisons visited for the first time

recommendations

- steps to be taken to reinforce substantially the staff resources of the health-care service at **Mardin Prison**; this reinforcement to involve: the appointment on at least a part-time basis of an experienced doctor as head of the health-care service; regular visits by a dentist; an increase in the number of nursing staff (paragraph 121);
- immediate steps to be taken to establish individualised medical records for persons held in **Mardin Prison** (paragraph 122);
- steps to be taken to improve material conditions at **Şırnak Prison**, taking into account the remarks made in paragraph 124, and to ensure that no one is held in the establishment for a prolonged period (paragraph 125).

comments

- artificial lighting in the dormitories at **Cizre Prison** was poor (paragraph 119);
- it would be desirable for a psychologist and/or psychiatrist to visit **Mardin Prison** on a regular basis (paragraph 121).

4. Activities for prisoners

comments

- the Turkish authorities are invited to develop regime activities for prisoners in the establishments visited by its delegation, as well as in Turkish prisons in general (paragraph 126);

- the objective should be to ensure that all prisoners, including those on remand, are able to spend a reasonable part of the day (eight hours or more) outside their cells/dormitories, engaged in purposeful activities of a varied nature (work, preferably with a vocational value; education; sport; recreation/association) (paragraph 127).

D. Diyarbakır Garrison 2nd Class Military Prison

recommendations

- a high priority to be given to the implementation of the project to build an Annexe to Diyarbakır Garrison 2nd Class Military Prison (paragraph 131);
- the visiting arrangements at the prison to be reviewed, in respect of both privates and sub-officers/officers (paragraph 133).

requests for information

- further information on the measures envisaged to address the problem of the lack of organised activities for prisoners at Diyarbakır Garrison 2nd Class Military Prison (paragraph 132).