



CPT/Inf (2007) 8

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

from 16 to 28 October 1994

The Turkish Government has authorised the publication of this response. The report of the CPT on its October 1994 visit to Turkey is set out in document CPT/Inf (2007) 7.

Strasbourg, 11 January 2007

Note:

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

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INTRODUCTION

1. Turkey has been a Party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment since 1 February 1989 and has therefore been subject, since that date, to supervision by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Under the terms of the Convention the CPT has visited Turkey on the following dates:

9 - 21 September 1990	Ad hoc visit
29 September - 7 October 1991	Ad hoc visit
22 - 25 September 1992	Talks with officials
22 November - 3 December 1992	Periodic visit
7-9 December 1993	Top-level talks
16-28 October 1994	Periodic visit

2. At the close of the above-mentioned ad hoc and periodic visits the CPT drew up reports. On 21 December 1992, in accordance with Article 10, paragraph 2 of the Convention, it also issued a "Public Statement" on Turkey.

3. The Turkish Government has endeavoured to introduce improvements in compliance with the proposals made in the reports drawn up by the CPT as a result of its previous two ad hoc visits and periodic visit to Turkey. As indicated by the Under-Secretary to the Ministry of Foreign Affairs, Ambassador Özdem Sanberk, in his letter of 22 February 1995 to the President of the CPT, Mr Nicolay, the Turkish Government has pursued the same approach since the latest visit, and in the spirit of cooperation provided for by Article 3 of the Convention, has seriously and meticulously examined the CPT's views and proposals and endeavoured to introduce the necessary improvements.

4. It must be emphasised that the Turkish Government is determined to pursue and intensify its efforts to strengthen and protect human rights in accordance with the international conventions to which it is party. The Government considers that its duty to give effect to human rights and fundamental freedoms to the full extent provided for by international instruments derives first and foremost from its responsibility to the Turkish people. The principles set forth in these instruments, which also bear Turkey's signature, are fully consonant with Turkish society's attitudes and aspirations.

The Turkish Government also regards preventing the ill-treatment of persons deprived of their liberty or taken into custody as an important part of the exercise of human rights.

It wishes to reiterate its pleasure at the close cooperation established with your Committee for the purpose of preventing ill-treatment in police departments.

It is making every effort, to the extent permitted by current circumstances, to comply with the recommendations for the prevention of ill-treatment made in your Committee's various reports.

Following the issue of the Committee's latest report, and in view of the importance attached by the Turkish State to the Committee and its recommendations, Dr Safa Reisoğlu, a member of the Committee, was invited to a meeting of the National Security Council chaired by the President of the Republic and also attended by the Prime Minister, at which he provided detailed information on the Committee's approach, practices and recommendations.

5. The Turkish Government has submitted to Parliament, with the joint signature of the main political parties, a package of comprehensive amendments to the 1982 Constitution intended to strengthen parliamentary democracy, human rights and fundamental freedoms. The Turkish Parliament has agreed by an overwhelming majority to the amendment of some articles of the Constitution.

I should like to quote a part of the address given by Prime Minister Çiller to mark the tabling of the Constitutional amendments in Parliament: "Turkey has signed international legal instruments of its own free will. Turkey adopted the European Convention on Human Rights because it was fully consonant with its own principles and beliefs. The Turkish State considers that compliance with the concepts and principles set forth in the international instruments relating to human rights and democracy which it has signed and ratified is a duty arising from its own free will".

6. The Turkish Government fully shares the view stated in the letter of 9 December 1994 from the President of the CPT to the effect that the fight against terrorism must not be allowed to degenerate into acts of torture or other forms of ill-treatment by law enforcement officials and that such a development is incompatible with the principle of the rule of law.

However, it must be borne in mind that the fight against the terrorism of the PKK, which has designs against Turkey's territorial integrity and has chosen the method of armed struggle and bloodshed, has a psychological dimension and that the horrific effects of terrorism arouse in some members of our security forces a state of mind which may give rise to acts of torture or ill-treatment against terrorists or their collaborators when they are apprehended.

7. Terrorism in Turkey pursues its savage and ruthless course. Between 1984, when the PKK launched its terrorist campaign, and 23 June 1995, 4,727 civilians and 3,825 law enforcement officials lost their lives as a result of terrorism. The terrorists' targets include elderly people, women and even newborn babies. From 1984 to 1994 the PKK completely destroyed 437 villages and 375 hamlets in 13 provinces of south east Anatolia. In the 1993-94 school year alone, the PKK destroyed 213 schools and caused the closure of 3,395 schools altogether. In 1994, 25 teachers were killed and 12 injured.

8. The security forces, which have to combat widespread and ruthless terrorism and safeguard citizens' lives, are indisputably facing serious difficulties. They would undoubtedly face serious difficulties in any country in the world dealing with a terrorist campaign of this kind and on this scale. It has to be borne in mind that in such a situation, Governments, despite all their efforts, may have difficulty in achieving as effective a control as they might wish. Examples of this have been witnessed in Europe too.

It is acknowledged in international instruments that terrorism is a source of human rights violations and is in itself one of the most serious breaches of human rights. The purpose of drawing the CPT's attention yet again to the terrorist campaign in Turkey is not to make excuses, but to ensure a clearer understanding and more accurate assessment of the situation.

GENERAL MEASURES

9. Information is provided below on the general measures taken by the Turkish authorities in response to the observations and recommendations made in the CPT's report on its delegation's latest visit to Turkey and in Mr Nicolay's letter of 9 December 1994:

1. By instructions to the Ministry of the Interior issued on 13 February 1995 (Appendix 1), the Prime Minister of Turkey ordered instructions to be sent to the offices of provincial governors and to the units concerned, in the light of the observations and recommendations made by the CPT as a result of its visit to Turkey from 16 to 28 October 1994, for measures to be taken to ensure that during police interrogations, irrespective of the offence charged, accused persons were not subjected to ill-treatment and internationally adopted methods of obtaining information were used; the Prime Minister ordered the following points to be addressed in the instructions:

a. When persons are taken into police custody, all the statutory periods and measures shall be carefully complied with.

b. Accused persons, irrespective of the offence charged, shall not be subjected to ill-treatment. The methods used to obtain information from such persons shall be those practised in Europe and the United States.

c. Medical supervision shall be effected in accordance with the Ministry of Health circular of 22 December 1993.

d. Accused persons shall be allowed to communicate with their lawyers in accordance with the relevant statutory provisions.

e. Police centres shall be monitored and any equipment which could be used for purposes of ill-treatment shall be seized.

f. The names of persons taken into police custody shall invariably be recorded.

g. Cells holding persons taken into custody shall be of adequate size and shall comply with health requirements.

h. The statutory procedure shall be applied immediately in respect of police officers or other officials who unlawfully subject accused persons to ill-treatment.

i. In order to ensure full compliance with the above points, governors of provinces and chiefs of police shall continually monitor the police departments under their authority and shall inform the Ministry of the Interior of their findings.

2. By letter of 27 January 1995 (Appendix 2), the Ministry of the Interior stated that it had instructed provincial governors to ensure that meticulous care was taken over allegations of torture and ill-treatment and that investigations concerning allegations received from public prosecutors' offices, from complainants and through other legal channels were speedily completed.

3. By circular of 16 February 1995 (Appendix 3) addressed to the 76 provincial governors' offices, the Office of the Governor of the State-of-Emergency Region, the Directorate of Security and the Gendarmerie Central Command, the Ministry of the Interior listed the points set out in the Prime Minister's instructions referred to in paragraph 1 and ordered meticulous compliance with each one, adding that police and gendarmerie officers were to be continuously reminded by their superiors, in the course of regular in-service training programmes, of their duties with regard to human rights. On 28 April 1995 the Ministry of the Interior issued a further circular to that effect to the network under its authority.

4. The Ministry of Justice reminded the authorities concerned, by circular of 6 February 1995 (Appendix 4), that under Article 90 of the Constitution international treaties ratified by the Turkish Government have the force of law and that those treaties include the European Convention for the Prevention of Torture.

5. By letter of 20 December 1994, the Commander-in-Chief of the Armed Forces ordered the authorities concerned to ensure that the requisite training was provided and that steps were taken to punish any breaches of the regulations. By letter of 15 February 1995 (Appendix 5), the Commander-in-Chief of the Armed Forces indicated that in compliance with this order the Turkish Armed Forces had taken the following steps with regard to human rights:

a. Human rights training for members of the armed forces started on 23 January 1995. Under this scheme training will be given to 160 officers and non-commissioned officers serving in the internal security operation.

b. In addition, as from March 1995, a substantial proportion of members of the armed forces are to receive human rights training as detailed below:

- information for generals and admirals will be provided in the form of a two-hour lecture;
- all members of the armed forces taking part in the special courses set up in connection with the internal security operation will receive four hours' human rights training;

- infantry, armoured corps, artillery and military engineering schools, as well as [gendarmerie] officers' and non-commissioned officers' schools, will receive three hours' training;
- cadets of the Military School and Military Academy, as well as those attending the Armed Forces Academy, will receive two-hour lectures;
- officers, non-commissioned officers, sergeants and privates in units serving in the internal security operation will receive four hours' practical training.

c. The training will cover the following points:

- definition and history of human rights,
- importance and scope of human rights,
- international human rights treaties to which Turkey is a party and under which it has obligations,
- principles governing military personnel's behaviour towards offenders and towards innocent, uninvolved civilians, so as to ensure that military personnel, as soldiers in wartime and as law enforcement officials in peacetime, do not commit human rights violations;
- statutory penalties to be applied to military personnel who commit human rights violations.

In addition, between 16 and 19 May 1995, the Office of the Commander-in Chief of the Armed Forces gave a series of lectures on human rights to officers, non-commissioned officers and specialist sergeants serving in Diyarbakır in the State-of-Emergency Region and in the neighbouring provinces and taking part in the fight against terrorism. A booklet on human rights is in preparation as part of the same training scheme.

The Turkish Government shares the view expressed by the President of the CPT in his letter of 9 December 1994 that attacking the root of the problem of torture and ill-treatment involves not so much changing laws as transforming mentalities. In line with this approach, the Government is intensifying its efforts in the area of human rights education. Human rights are taught as a separate subject in police schools and academies. The scope of this tuition has been broadened and the special textbooks produced on the subject have been updated. Administrative authorities, members of the security forces and prison staff receive in-service training on human rights and courses are held for the purpose.

The book entitled "Human Rights and the Police" by John Alderson, member of a Committee of Experts assisting the European Commission of Human Rights, and the book entitled "Human Rights" by Dr. Feridun Yenisey have been introduced as teaching materials in police schools. The Universal Declaration of Human Rights has been added to the syllabus of the course on the Constitution taught in police schools and tuition has started on the latest amendments to and new provisions inserted into the Code of Criminal Procedure.

Human Rights classes have also been introduced into the curriculum in gendarmerie schools (Appendix 6). In addition, each training course given to sergeants and privates in the Gendarmerie Training Units and to personnel taking part in the courses on the internal security operation, intelligence and [general] operations includes at least four hours of human rights tuition.

In accordance with the European Convention on Human Rights and, more specifically, as part of the measures to prevent acts of torture and ill-treatment, agreements have been reached for twenty police and gendarmerie officers to be sent for training to Council of Europe member countries; so far fourteen of them have completed their courses and returned to Turkey.

In cooperation with other specialist organisations, a seminar on human rights was held for Directorate of Security personnel in Ankara from 25 to 27 April 1995; similar seminars were held in Izmir on 21 and 22 June 1995 and attended by police officers serving in Izmir (Appendices 7, 8 and 9). The series of seminars will continue in the future.

The four-hour human rights lectures/classes given by the heads of the Foreign Affairs Ministry's Human Rights Division to provincial and district governors in five separate locations in 1994 are continuing in 1995 and being extended to senior police officials.

For the 1995-96 academic year it has been decided to introduce "democracy and human rights" as a compulsory subject in primary and lower secondary schools and as an optional subject in upper secondary schools.

6. The Ministry of Health has drawn up a "forensic medical form" (Appendix 11) to facilitate the application of its circular of 22 December 1993 on the production of forensic medical certificates (Appendix 10) and remedy any shortcomings in the provision of forensic medical services. The form was sent to all the relevant institutions and organisations by circular dated 25 January 1995 (Appendix 12).

In line with the recommendation made in your Committee's latest report, the last section of the above-mentioned forensic medical form ("Opinion") has been placed under the heading "Conclusions"; all the relevant institutions and organisations were informed of this change by new circular dated 13 April 1995 (Appendix 13).

The regulations governing the training of specialists in forensic medicine are being revised to ensure that the two-year specialist training in forensic medicine provided under the authority of the Ministry of Justice and in the university hospitals is extended to three years, which will include six months' training in pathology and three months' training in mental health and mental disorders.

7. As requested in your letter of 12 January 1995, interviews with officials of the Ministry of Justice, the Office of the Head of the Ankara Group of Forensic Institutes, the Ministry of Health and the Medical Faculty of Ankara University were arranged for Professor Jacques Bernheim, former Deputy President of the CPT, and Dr Jean-Pierre Restellini, who were sent to Ankara from 24 to 26 January 1995 to hold talks with the Turkish Medical Association and explore ways and means of enabling doctors to contribute as effectively as possible to the proper functioning of criminal procedure. These talks, which further illustrate the importance we attach to co-operation with the CPT, are beginning to produce positive results.

8. To ensure that general practitioners receive training in forensic medicine, the Ministry of Health has designed and set in train a project whereby two doctors in each of 31 pilot provinces will be trained as instructors and will provide this training to doctors in their own provinces.

9. The Ministry of the Interior issued a circular to its central network and to provincial police headquarters on 30 May 1995 instructing custody supervision units to be set up in all provincial and district police headquarters as from 1 August 1995 to provide information, on request, to the relatives of persons taken into custody, irrespective of the grounds for detention, and to the higher authorities; the purpose of the custody supervision units is to secure full compliance with Act No. 3842 and ensure organised and systematic performance of duty and effective internal supervision (Appendix 14).

The units will operate round the clock at provincial and district level. The officers staffing the units will fill in "custody supervision forms" in respect of persons taken into custody; the forms will be sent to the headquarters of the Command Control Centres (EKKM) at provincial level, and from there to the Directorate of Security's National Command Control Centre (AKKM).

The system took effect on 1 August 1995.

10. As part of the work carried out on the recommendation made by the CPT as a result of its previous visits, and brought to the Turkish Government's attention, that the necessary improvements should be made to those holding cells and interrogation centres which do not comply with international standards, it has been established that 1,961 holding cells under the authority of the Directorate of Security and 313 holding cells under the authority of the Gendarmerie Central Command need to be brought up to standard and that new holding cells are needed in 250 gendarmerie stations. This work will require a total expenditure of 330 billion TL. As this amount exceeds the 1995 budgetary resources of the Ministry of the Interior and the organisations under its authority, a request has been submitted to the Office of the Under-Secretary for the State Planning Organisation for 200 billion TL to be allocated to the budget of the Directorate of Security and 130 billion TL to that of the Gendarmerie Central Command (Appendix 15).

11. Lastly, on the Prime Minister's instructions, the National Advisory Council for Human Rights has drawn up a report on "Modern Interrogation Methods and Conditions". The report, which calls for interrogations to be conducted in compliance with the statutory requirements, includes a number of practical proposals, for example that a judicial police force should be set up, that interrogations should be carried out solely by judicial police officers trained for the purpose and equipped with the necessary facilities, that women police officers should also take part in interrogations, that public servants should be interrogated only by public prosecutors, that interrogation sessions should be video- or tape-recorded, that a national committee should be set up to carry out unannounced inspections of interrogation and remand facilities and that interrogation should be based on psychological influence rather than threats or provocation.

12. On 23 July 1995 the Turkish Parliament adopted a 15- article package of amendments to the Constitution. Turkey has thus taken a further step along the path to democracy. Democratisation will undoubtedly contribute, albeit indirectly, to the efforts to introduce improvements in the area of human rights.

The constitutional amendments broaden the right of associations, trade unions, cooperatives and individuals to take part in politics and elections, pave the way for university teachers and students to take part in politics, recognise the right of some groups of civil servants to conclude collective agreements, abolish the system whereby MPs whose political party is dissolved automatically cease to be members of the Turkish Parliament and introduce steps to strengthen local democracy.

SPECIFIC RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION BY THE CPT - MEASURES TAKEN BY THE TURKISH AUTHORITIES

On 4 July 1995 the Ministry of Foreign Affairs issued a circular to the organisations concerned requesting information on the steps taken in response to the recommendations, comments and requests for information made by the CPT in the report on its latest visit. The information received from the organisations is set out in table form on the following pages.

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

**STEPS TAKEN BY THE TURKISH
AUTHORITIES**

A. Law enforcement agencies

1. Action to combat torture and ill-treatment

- 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.

The Ministry of Health has drawn up a "forensic medical form" to facilitate the application of its circular of 22 December 1993 on the production of forensic medical certificates and remedy any shortcomings in the provision of forensic medical services. The form was sent to all the relevant institutions and organisations by circular of 25 January 1995. As recommended in the CPT report, the final section of the forensic medical form ("Opinion") has been placed under the heading "Conclusions"; all the relevant institutions and organisations were notified of the change by a new circular dated 13 April 1995 (Appendix 13). The form contains distinct sections for the detainee's statements (complaints), the doctor's findings and the doctor's conclusions.

- steps to be taken to ensure full compliance with Section 3 c. of the Custody Regulations of 21 September 1992.

The provision contained in section 3 c. of the Custody Regulations that persons taken into custody shall receive a medical examination both before and after interrogation and when they are transferred to the judicial authorities is meticulously complied with; compliance is monitored by senior law enforcement officials. The procedure provided for by the Criminal Code and by their own force's disciplinary regulations is applied in respect of officers infringing this provision.

The Ministry of Health has drawn up a permanent circular on the subject (No. 6068 of 13 July 1995) which has been sent to all the departments under the Ministry's authority and to the Ministry of Justice, the Ministry of the Interior and the Turkish Medical Association. The circular includes instructions for the

forensic medical forms to be transmitted by secure means to the public prosecutors' offices, for the medical examination of detained persons to be conducted in private and for detained persons to be regularly examined by a health centre doctor if there is no forensic doctor in the province concerned (Appendix 16).

- 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.

Orders and circulars are issued to ensure that the medical examination of detained persons is conducted in compliance with the Custody Regulations and practice in this area is also monitored by senior law enforcement officials.

- 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;

While these requirements are being complied with at present, custody supervision units have been set up under the Directorate of Security with effect throughout the provincial police force in order to ensure that efforts in this area are pursued on a sounder and more systematic basis. A copy of the circular on the subject is appended (Appendix 14). The Gendarmerie Central Command has issued a separate order for absolute compliance with these requirements.

. 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;

Proceedings are brought against officers who fail to comply with these requirements on charges of negligence or misuse of authority, as the case may be.

. a failure to comply with the above recording requirements is made a serious offence.

Negligence and misuse of authority (Articles 230 and 240 of the Criminal Code) are among the offences which may be defined as serious.

- 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.

When police custody is extended, the accused may be brought before the judge at the request of the judge examining the application for extension of custody.

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

- 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),

- 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.

- 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.

- 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

Importance is attached to allowing the accused access to a lawyer and those who so request are provided with lawyers from the bar association. In addition, orders and circulars are issued to ensure that the requisite care is taken with regard to accused persons' exercise of their rights under Act No. 3842 and practice in this area is monitored.

This recommendation is borne in mind in the preparatory work, which has now started, on the Custody Regulations and the Regulations for the Conduct of Interrogations (which it is planned to combine). Once the regulations have come into force, forms informing persons in custody of their rights, in other languages as well as Turkish, will be drawn up. Efforts are being made to complete this task as soon as possible.

The text of the address made by the Minister for Justice, Mehmet Moğultay, on 27 December 1994, entitled "A call to young judges and public prosecutors", has been circulated to all judicial authorities for reading by judges and public prosecutors.

As things stand, there is no question of law enforcement officials intervening in the preparation or content of forensic medical forms. However, the necessary additional measures are being taken by the Ministries of Justice and Health to ensure that the forms are securely transmitted to the relevant public prosecutor's office and that law enforcement officials do not have access to their contents.

Current practice complies with this recommendation; in some circumstances, however, members of the security forces may be present during the examination for the safety of the doctor concerned. Orders and circulars are issued to ensure that practice in

hearing and, unless the doctor concerned requests otherwise, out of sight of law enforcement officials.

- steps to guarantee the independence of forensic doctors are particularly necessary vis-a-vis non Forensic Institute based doctors who are called upon to perform forensic tasks.

- steps should be taken in the area of specialised training for doctors carrying out forensic tasks.

- legal safeguards against ill-treatment must be strengthened in respect of persons suspected of offences falling under the jurisdiction of State Security Courts.

- what concrete steps have been taken by the Ministry of the Interior to put a stop to torture and ill-treatment by law enforcement officials?

the matter is along the lines indicated, apart from the exceptions referred to above.

In Turkey medical science is regarded in the same light as it is worldwide: there is no legal provision whatsoever to the effect that doctors, including forensic doctors, are attached to any authority in the performance of their professional duties; in ethical and deontological terms, members of the medical profession are fundamentally independent. It is therefore not considered advisable to introduce statutory provisions to the effect that they are independent in the performance of their duties.

To ensure that general practitioners receive training in forensic medicine, a project has been started whereby two doctors in each of 31 pilot provinces will be trained as instructors and will give this training to doctors in their own provinces.

The Turkish Criminal Code (Articles 243 245) includes provisions prohibiting all forms of torture and ill-treatment. The important point is to apply them carefully where necessary. The question of whether these provisions are properly complied with or not is subject to judicial and administrative supervision and the requisite criminal proceedings are brought against those who, in isolated cases, contravene them. A succession of statistics on the subject has been submitted to the CPT.

- In keeping with the belief that torture and ill-treatment are a disgrace to humanity and in accordance with the international conventions to which Turkey is a party, the Ministry of the Interior holds the view that this is first and foremost a question of training and has therefore introduced human rights tuition into police and gendarmerie schools for the training of law enforcement officials.

- Likewise, the training programmes for 20 law enforcement officials are being pursued in liaison with the Council of Europe; 14 officers

have completed their courses and returned to Turkey; 6 further training programmes are to follow.

- A Human Rights and International Organisations Department has been set up under the Head of the Research, Planning and Coordination Unit in the Ministry of Interior, and a Human Rights Directorate in the Gendarmerie Central Command, to deal with human rights matters. Preparations for setting up a Human Rights Division in the Directorate of Security's Anti-Terror and Operations Department have reached the final stages.

- Custody supervision units and bureaux have been set up in the Directorate of Security's-National Command Control Centre (AKKM) and in the provincial police headquarters' Command Control Centres (EKKM).

- Work has started on revision of the Custody Regulations to meet the needs that have arisen since they were introduced; it is planned to bring the revised Custody Regulations into force as soon as possible.

- Disciplinary offences in the category of torture and ill-treatment are listed in the Police Disciplinary Regulations and similar provisions exist in the gendarmerie force.

- In addition, judicial and administrative proceedings are immediately brought against personnel found to have committed acts of torture and ill-treatment. The orders and circulars issued ensure that the necessary steps and precautions are taken by senior officers to prevent torture and ill-treatment and that when officials commit an offence, their superiors immediately appoint an investigator and set in motion the requisite statutory procedure.

- Police and gendarmerie stations are continuously monitored and, in the event of any occurrence which may be described as ill-treatment of persons by law enforcement officials, the force is alerted to the need for

immediate administrative and punitive measures to prevent such occurrences.

- 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.

Detailed information on the subject is provided under paragraph E.

2. Conditions of detention

- what steps are being taken to ensure that the implementation of the Custody Regulations of 21 September 1992 is closely monitored throughout the whole of Turkey?

Checks and inspections are carried out by senior law enforcement officials to ensure meticulous compliance with the Custody Regulations of 21 September 1992. Orders and circulars are issued requiring closer attention to be paid to the matter and the results are monitored. The latest example was the circular of 16 February 1995 signed by the Minister of the Interior and sent to all provincial governors' offices, all police headquarters and the Gendarmerie Central Command.

- 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 3m²) in the Anti-Terror Department of the Ankara Police Headquarters to be demolished without delay and replaced by new cellular accommodation.

Seven cells in the Anti-Terror Department have been completely refurbished to comply with the Custody Regulations. The suite of 11 cells next to the newly built cells in the same department has been demolished. This area is used for storage purposes.

- the suite of eight small (3m²) cells in the Homicide Section at Ankara Police Headquarters to be withdrawn from service until the necessary improvements are made as to the lighting and ventilation and, if they are to be used for overnight stays, until they are enlarged.

Refurbishment has started with a view to remedying the shortcomings found in the cells; the eight 3m² holding cells have been withdrawn from service. Efforts are being made to secure the necessary funds to enable work on enlarging the cells and bringing the lighting and ventilation up to standard to be completed as soon as possible. A request has been submitted to the State Planning Organisation for a total appropriation of 330 billion TL to remedy these and similar deficiencies throughout the country. The improvements will definitely be made.

- 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.

Work has started on enlarging the cells found to fall short of requirements in the Provincial Police Headquarters and on providing them with adequate light and ventilation; the cells have been withdrawn from service until the works are completed.

The cells in use are disinfected every three days and detained persons are provided with adequate washing facilities. The cells in the Provincial Gendarmerie Headquarters have been enlarged to 7m² and the lighting and ventilation systems have been brought up to standard. These improvements will also be inspected on the spot by a delegation from the Gendarmerie Central Command.

It has been established that the loudspeakers found during your Committee's visit to the holding cells in the Batman Provincial Gendarmerie Headquarters, which the delegation had the impression were used to play very loud music to the detainees, were not used for that purpose. However, in order to avoid any misunderstandings, the loudspeakers have been removed.

It has been established that the crank-operated telephone found in a cell used for storage purposes in the detention area of the Provincial Gendarmerie Headquarters, which is alleged to have been used for the purpose of administering electric shocks, was not used for the purpose claimed and that similar telephones are to be found in the duty officers' rooms and the communications centre and are used for communication purposes; in order to avoid any misunderstanding, all these telephones have been withdrawn from service.

- 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.

The cells found to fall short of requirements in the District Police and Gendarmerie Headquarters have been enlarged and equipped with adequate lighting and ventilation. They have also been tiled and equipped with benches.

- 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 Gizre Gendarmerie Headquarters are allowed to comply with the needs of nature when necessary.

- steps to be taken to improve conditions of detention at Diyarbakır Police Headquarters, in the light of the remarks in paragraph 66.

- the multi-occupancy holding rooms in Diyarbakır Police Headquarters not to hold more than five persons overnight.

- minors taken into police custody to be held in distinct accommodation and not to stay overnight in the same place as adults.

- 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.

- 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.

The necessary steps have been taken to comply with these observations and recommendations. The result will also be inspected on the spot by a delegation from the Gendarmerie Central Command.

The holding rooms and cells in Diyarbakır Police Headquarters which were found to be inadequate have been refurbished and brought up to standard; the facilities are now adequate in terms of size, lighting and ventilation.

Work has started on these improvements. Where possible, they will be effected immediately; those requiring funds will be carried out once the appropriation requested from the State Planning Organisation has been obtained.

Steps are being taken to comply with this recommendation; the Committee will be informed of the results at a later date.

Orders have been given for the interrogation areas in the Regional Command of the Diyarbakır Gendarmerie to be provided immediately with adequate lighting and ventilation.

Since February 1995 the Istanbul Police Headquarters Anti-Terror Department has been operating in the new building. The holding cells in the new headquarters have floor covering and beds. Persons taken into custody are provided with clean blankets and sheets and washing facilities; they also receive adequate food and clothing. Photographs of the holding cells in the new building are appended (Appendix 17).

- steps to be taken to improve conditions of detention at Mardin Police Headquarters, in the light of the remarks in paragraph 74 of the report and more particularly as regards persons detained at the headquarters for an extended period; the police headquarters to be equipped with cells meeting the requirements set out in section 2 c. of the Custody Regulations of 21 September 1992.

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

- steps to be taken immediately to enlarge the individual cells at the Interrogation Centre of the Mardin Provincial Gendarmerie and to equip them with adequate lighting, ventilation and rest/sleeping facilities.

- steps to be taken to provide adequate lighting in the multi-occupancy cells at the 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.

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

- appropriate steps to be taken to ensure mattresses are provided to persons in custody overnight and to clarify the Custody Regulations on this point.

The cells in the Mardin Police Headquarters Interrogation Centre which were found to fall short of requirements have been brought up to the standards laid down in the Custody Regulations in terms of size, lighting and ventilation. The problem will be fully solved on completion of the new interrogation centre, on which construction work began in 1994.

The holding cells in the Interrogation Centre of the Mardin Provincial Gendarmerie have been enlarged to 10x12m². All the existing holding cells have been brought up to the required standards in terms of size, lighting and ventilation. Bunks have been installed in the cells and they now used in this way. These improvements will also be inspected on the spot by a delegation from the Gendarmerie Central Command.

Work has started on bringing the cells in Şırnak Police Headquarters which were found to be inadequate into conformity with the Custody Regulations. The allocation of funds by the State Planning Organisation will assist speedy completion of the work.

At present, persons held in custody are provided with beds, mattresses, blankets etc. as far as possible. This point will be addressed in greater detail in the drafting of the new Custody Regulations.

- 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.

- 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.

- the Custody Regulations of 21 September 1992 to 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.

- The lighting in the recently built large holding room in the Anti-Terror Department at the Ankara Police Headquarters to be brought up to satisfactory standards.

- 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; this deficiency to be remedied.

- the deficiencies in the lighting in the large holding rooms in the general custody area at the Ankara Police Headquarters to be remedied.

- the deficiencies in the lighting in the largest of the two multi-occupancy holding cells at the Batman Police Headquarters to be remedied.

The possibility of offering outdoor exercise on a daily basis to persons held in custody for extended periods is being explored; this point will be taken into account in the design of new premises.

The officials concerned have been ordered 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. Steps have been taken to remedy the shortcomings observed.

Work has started on the revision of the Custody Regulations so as to include the points referred to and efforts are being made to complete the process as soon as possible.

Work on these deficiencies has been completed. The area in question has been withdrawn from service.

Works designed to bring this area up to the required standards in terms of size, lighting and ventilation will soon be completed.

The cell in question has been withdrawn from service until work on it is completed.

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

These recommendations will be complied with and this point will be more clearly stated in the amendments to be made to the Custody Regulations.

- detained persons should be given at least one full meal per day (section 2 c. of the Custody Regulations).

Detained persons' nutritional requirements are currently met as far as possible; however, this recommendation will be borne in mind in the revision of the Custody Regulations.

B. Holding facilities for Aliens

- the necessary 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.

Foreigners brought to the Foreigners Bureau at the Istanbul Police Headquarters are accommodated not in holding rooms, but in the guesthouse until the procedures concerning them are completed. Those who have sufficient resources purchase their own food and those who do not are provided with food by the Bureau. Foreigners held here are covered by the provisions of Article 135 of the Code of Criminal Procedure in the exactly the same way as other persons.

The Bureau has a sufficient number of staff who speak foreign languages and persons who do not speak Turkish are assisted by an interpreter.

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

This recommendation is being studied by the authorities concerned.

- 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 and to take appropriate action. They should not have racist attitudes.

This recommendation is being studied by the authorities concerned.

- 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.

- information on the steps taken vis-a-vis the aliens held in the Aliens Holding Centre (Hac Camp) at Silopi.

Detained persons are assisted in informing their next-of-kin if they so request and are provided with every facility. Attention has been paid to identifying any shortcomings in this area and steps will be taken -including the drawing up of a form - to remedy them.

There are at present no aliens of African origin in the asylum-seekers camp at the Pilgrims' Accommodation Centre (Hac Camp). The camp currently contains 120 asylum-seekers, of whom 119 are of Iraqi origin and 1 of Iranian origin; they are awaiting visas to travel to third countries and all their needs are met by the UNHCR Silopi Branch.

Aliens of African origin were transferred to Silopi from the camp in Kangal District, Sivas province at the end of 1993; with the arrival of others from the provinces of Istanbul, Ankara and Izmir in 1994, the number of aliens of African origin ultimately rose to 170. They later returned to their countries.

During their stay in the camp, all the subsistence and accommodation needs of the aliens of African origin were met by the Camp Director's Office; their health needs were dealt with by the Camp Health Coordinator's Office; during their stay, any shortcomings observed in their living conditions were remedied to the extent permitted by available resources; as they are no longer accommodated in the camp, no steps are being taken or are scheduled on the matter.

- 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.

Turkey determines its policy on refugees and asylum-seekers on the basis of the 1951 Geneva Convention relating to the Status of Refugees, to which it is a Party with geographical restrictions, and the "Regulations governing the principles and procedures to be applied in respect of individual foreigners seeking asylum in Turkey or applying for residence permits in Turkey for the purpose for seeking asylum in another country, to groups of foreigners reaching Turkey's borders with a view to seeking asylum in Turkey and to potential population flows".

On account of the geographical reservation it made to the 1951 Geneva Convention, Turkey has no legal obligation to grant refugee status to persons from countries outside Europe. However, in view of the special circumstances prevailing in the region, persons - usually from Iran and Iraq - may be allowed to stay in Turkey with the status of "provisional asylum seekers", on purely humanitarian grounds, until they leave for a third country. The procedure for sending these people from non-European countries to third countries which have agreed to receive them is dealt with by the UNHCR. In the course of the interviews subsequently conducted by the UNHCR with those granted temporary permission to stay in Turkey, the applicants' suitability for the award of refugee status is assessed in accordance with international standards and those in respect of whom a negative decision is reached have to leave Turkey.

C. Civil Prisons

I. Torture and other forms of ill-treatment

- 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.

At the meetings periodically held by the Ministry of Justice in connection with all Turkish prisons, all chief public prosecutors and prison directors have been alerted to the need to avoid any ill-treatment of both sentenced and remand prisoners during search and transfer operations involving gendarmerie officers and have been instructed to make this clear to the gendarmerie units concerned.

- positive relations to be developed between staff and prisoners.

The requisite circulars are issued on the subject.

- 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.

In the wake of the incident on 4 October 1994, 308 remand prisoners were transferred to Gaziantep Closed Prison. During the incident a remand prisoner died of suffocation as a result of being crushed in the crowd, but at the close of the investigation neither the administration nor the security forces were found to have been at fault on any count in the incident and the proceedings were therefore terminated. There were no other issues calling for investigation.

- the views of the Turkish authorities on the possibility of assigning the task of searching prison premises to prison officers.

The task of conducting searches inside prison premises is in principle carried out by the prison officers on duty. In unusual and exceptional circumstances, if it becomes apparent that the prison officers will be unable to perform this task, the prison administration requests the security forces to provide assistance.

2. Conditions of detention in Ankara

Central Closed Prison and Diyarbakır I and II Prisons

- priority to be given to the completion of the new Ankara-Ayaş Closed Prison.

As the 2000-place closed prison under construction at Ayaş exceeded its estimates before completion it was wound up on 18 October 1994. The Ministry of Public Works has instructed the Ankara Directorate of Public Works to draw up and submit to it summary estimates for completion of the remaining work; on receipt of the new estimates, instructions will be given for the issue of a call for tenders. As present it is impossible to give any information on the date at which the prison will be completed and put into service.

- no more than two prisoners to be accommodated per cell in the segregation unit (Ward 14) of Ankara Closed Prison.

The first floor of Ward 14 in Ankara Closed Prison has been withdrawn from service and therefore does not accommodate any prisoners. Prisoners involved in feuds and sentenced and remand prisoners who are undisciplined and disruptive are held on the second floor of the ward and care is taken to ensure that no more than two persons are held in each cell.

- immediate steps to be taken to reduce overcrowding in the Women's Ward of Ankara Central Closed Prison.

The Women's Ward has been painted and whitewashed, the defective toilets and bathroom facilities have been repaired and are now fit for use, and material conditions in the ward have been improved. To prevent overcrowding in the Women's Ward, political and ordinary prisoners have been separated and are now held in two separate wards.

- how long is a mother allowed to keep her child in prison?

Children are allowed to remain with their mothers until completion of the procedure for handing them over to their nearest relatives or to the Child Welfare Institution.

- greater use to be made of the new visiting area at Ankara Central Closed Prison.

The booths for weekly visits to prisoners have been refurbished and audition in the booths has been improved.

The open visiting area in Ankara Closed Prison is used on national and religious holidays and on mothers' and fathers' days for open visits by sentenced and remand prisoners' families.

- The administrative building and the old infirmary, which were converted into provisional detention facilities at Diyarbakır I Prison, to be brought up to standard as regards hygiene and the availability of sanitary facilities.

- has the new section of Diyarbakır I Prison, which was under construction at the time of the delegation's visit, now entered into service?

- have the provisional detention facilities in the administration building and the old infirmary at Diyarbakır I Prison been taken out of service?

- a high priority to be accorded to the construction of the new prison due to replace the existing premises of Diyarbakır II Prison; pending the entry into service of the new prison, the following steps to be taken:

- 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;

- 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' dormitories;

Further estimates have been drawn up for the refurbishment of the toilet facilities in the wards in Diyarbakır I Closed Prison, and repairs will begin shortly.

The new section built at Diyarbakır I Prison was brought into service in April 1995 and currently accommodates 230 remand prisoners.

No remand or sentenced prisoners are accommodated in the areas alleged to be used as provisional detention facilities. These areas are nevertheless kept clean and in good repair. The areas used as an infirmary are regularly cleaned.

A total of about 1,100 remand prisoners are currently held in Diyarbakır I Closed Prison. About 800 are accommodated in the main building and the remainder in the new building which was recently brought into service.

The architects' design for the construction of prisons complying with the United Nations Standard Minimum Rules for the Treatment of Prisoners and the European Prison Rules has been completed; the prisons will be healthy, safe, equipped with mechanical and electronic facilities and provided with integrated establishments for the rehabilitation of prisoners, and will rely on the system of individual rooms.

The first new-style, 400- place prison based on the completed architects' design will be built in Diyarbakır. The call for tenders issued by the Ministry of Public Works has been completed and, once the award has been approved, construction of the prison will start.

Efforts have been made to reduce overcrowding in the juveniles' and women's wards and to improve material conditions in the juveniles' dormitories.

- the segregation unit to be taken out of service; At the time of the delegation's visit, more than 50 female sentenced and remand prisoners were held in the women's ward; the number has now been reduced to 24.
- efforts to be made to maintain the prison's premises in an acceptable state of repair and cleanliness. New sections have been built in Diyarbakır II Closed Prison to improve the ward system.
- the number of nursing staff in Diyarbakır II Prison to be increased. Diyarbakır II Closed Prison does not have a shortage of health care staff such as to impair health care services for prisoners; these services are operating efficiently with the existing staff. However, once restrictions are lifted on outside appointments, priority will be given to the appointment of health care staff to this prison.
- immediate steps to be taken to establish individualised medical records for persons held in Diyarbakır II Prison. A system of medical cards has been introduced whereby cards containing the medical data on each remand/sentenced prisoner have to be inspected whenever an application for medical care is made.
- 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. Prisoners' medication requirements are met by the state to the extent permitted by the funds allocated to the prison.

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

- 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. In Mardin E-type Closed Prison, healthcare services are provided by a general practitioner and a health officer, assisted by three prison officers; a dentist appointed under an agreement signed with Mardin State Hospital screens prisoners for general dental care purposes; in emergencies, sick prisoners are transferred to the state hospital for the necessary treatment.
- Medical care in the prison is provided by the doctor and his assistants; prisoners receive periodical check-ups and each one now has a personal medical card.

- immediate steps to be taken to establish individualised medical records for persons held in Mardin Prison.

The number of health-care staff in Mardin E-type Closed Prison will be substantially increased and brought up to adequate standards if restrictions are lifted on outside appointments.

- steps to be taken to improve material conditions at Şırnak Prison and to ensure that no one is held in the establishment for a prolonged period.

The prison in Şırnak province, which is rented and in provisional use, is assigned to remand prisoners only; no sentenced prisoners are held there.

In order to improve living conditions in Şırnak Closed Prison, although it is used only on a temporary basis, the Directorate of Public Works has been contacted and a report has been requested on potential improvements to material conditions in the prison; steps have been taken to introduce improvements rapidly on the basis of the forthcoming report.

The Şırnak Provincial Directorate of Education has been contacted and it has been decided to introduce literacy classes for illiterate prisoners.

In view of the prisoners' taste for sport, a ping-pong table has been obtained by drawing on local resources.

It has been decided that talks on specific topics will be given from time to time; as far as religious culture is concerned, the Provincial Mufti's Office has been contacted and the requisite religious education has been introduced.

Work has started on providing the prison with better lighting and better heating to protect it from the cold and damp.

As only remand prisoners are held in Şırnak Closed Prison, the recommendation made in the CPT report, "to ensure that no one is held in the establishment for a prolonged period", is complied with.

- bring the artificial lighting in the dormitories at Cizre Prison up to adequate standards;

No deficiencies were found during the CPT delegation's visit to Cizre Closed Prison, but the artificial lighting was described as poor.

The investigation conducted revealed that the lighting system in Cizre Closed Prison was adequate, but the lighting seemed poor because the networks do not receive 220-volt electric current on account of local conditions. It will be seen that if full-voltage current is provided, the lighting system is entirely adequate.

D. Diyarbakır Garrison 2nd Class Military Prison

- what stage has been reached in implementation of the project to build an annex to Diyarbakır Garrison 2nd Class Military Prison?

The planned annex designed to relieve overcrowding in Diyarbakır 2nd Class Military Prison was completed on 4 April 1995; once refurbishment of the old building was completed, the building was brought into service on 30 June 1995. The number of beds for remand and sentenced prisoners, which stood at 86 before the construction of the annex and refurbishment of the old building, has thus been raised to 142; with 12 extra beds for administrative staff, this means a total increase in capacity of 68 beds. Photographs of the interior of the prison are appended (Appendix 18).

- the visiting arrangements at the prison to be reviewed, in respect of both privates and sub-officers/officers.

Instructions have been issued to the Diyarbakır 7th Army Corps Command for visiting arrangements to be reviewed and for the necessary steps to be taken to introduce organised sporting and educational activities (Appendix 19).

- information on the measures envisaged to remedy the lack of organised activities for prisoners at Diyarbakır 2nd Class Military Prison.

E. Further information on points addressed in the CPT's letter of 9 December 1994 and in our letter of 22 February 1995 providing the CPT with preliminary information

- information on the stage reached and the latest findings in the investigation conducted by the Cizre Chief Public Prosecutor's Office concerning remand prisoners I.N., H.O. and A.H., who were interviewed by the CPT delegation in Cizre Closed Prison.

- information on the stage reached and the latest findings in the investigation conducted by the Şişli Chief Public Prosecutor's Office concerning the allegations by I.A., H.G., M.A., I.P., Y.D and C.N.P., who were detained in the Istanbul Narcotics Department and were interviewed by the CPT delegation.

- information on the stage reached and the latest findings in the investigation opened by the Şişli Chief Public Prosecutor's Office into the allegations concerning the crank-operated telephone found in the Istanbul Narcotics Department.

Statements were taken from I.N., N.K., H.O. and A.H., who had been interviewed by the European Committee for the Prevention of Torture in Cizre Closed Prison; they stated that they had not been subjected to any form of torture and had not been examined by the Committee's doctor; they underwent further medical examinations at Diyarbakır Forensic Institute and Mardin State Hospital and no signs of assault or violence were found on their bodies. It has not been possible to complete the investigation opened by the Cizre Chief Public Prosecutor's Office into the allegations that they were ill-treated because of the contradictions in the complaints lodged by these prisoners.

Preliminary investigation No 1994/38840 opened by the Şişli Chief Public Prosecutor's Office in respect of the police officers on duty at the Narcotics Department, with regard to plaintiffs H.G., I.A. and victims Y.D., I.P. and C.N.P., who had alleged that they were ill-treated while held in the Istanbul Narcotics Department on charges of possessing narcotics, established that they did not claim to have been ill-treated in the statements they made to the police, the public prosecutor and the magistrates' courts to which they were sent for interrogation during the investigation of the drugs offences, and that the medical certificates drawn up at the end of the custody period showed that they bore no signs of assault or violence; it was accordingly decided to terminate the proceedings (Appendix 20). The plaintiffs did not appeal against this decision after it was served on them.

The investigation is being pursued on a broad basis. The Committee will be informed of developments.

- the text of the decision to terminate proceedings issued as a result of the investigation conducted by the Ankara Chief Public Prosecutor's Office concerning remand prisoners A.B., B.K., G.U., H.C., A.I.E., E.Ö. and I.K., who were interviewed by the CPT delegation in Ankara Closed Prison, and as a result of their medical examination by the Forensic Institute.

- information on the stage reached and the latest findings in the investigation conducted by the Istanbul Chief Public Prosecutor's Officer into the allegations by remand prisoners S.B., Z.C., A.A., R.S., M.C. and N.K., who were interviewed by the CPT delegation in Istanbul Bayrampaşa Prison.

- information on K.B.

- information on the allegations that A.A., who was taken into custody in Mardin, was subjected to ill-treatment.

In the investigations opened into the allegations of ill-treatment during custody made by the remand prisoners interviewed by the CPT delegation in Ankara Closed Prison, it was decided to terminate the proceedings in respect of plaintiffs G.U., I.K., E.Ö. and H.C. The preliminary investigation documents are appended (Appendix 22). The investigations opened to determine whether plaintiffs A.B., B.K. and A.I.E. were subjected to ill-treatment are in progress. The Committee will be informed under separate cover of the results of these investigations.

Preliminary investigation No 1994/64467, opened to determine whether S.B., Z.C., A.A., R.S., M.C. and N.K., who were interviewed by the CPT in the quarantine ward in Bayrampaşa Prison, were subjected to ill-treatment while in custody, has not yet been completed. The Committee will be informed under separate cover of the results of the investigation.

The necessary enquiry has been conducted by the Ankara Chief Public Prosecutor's Office concerning K.B., of whom the CPT delegation stated that it had received allegations to the effect that he had disappeared while in police custody. The investigation established that it was materially impossible for the remand prisoners who claimed to have seen K.B. in custody to have done so and that the allegation that he disappeared while in custody was unfounded; the Ankara Chief Public Prosecutor's Office document detailing these findings is appended (Appendix 23).

A.A. was taken into custody on 7 October 1994 on charges of aiding and abetting the PKK armed gang by hiding weapons and hand grenades belonging to it. Medical certificate No 745 of 17 October 1994 issued at the end of the custody period established that he bore no signs of assault or violence. Following the statement he made on the same day to the Mardin Chief Public Prosecutor's Office to the effect that his left shoulderblade was broken, he was sent for a further medical examination;

the medical certificate drawn up on 17 October 1994 stated that the PA AKCgraphy taken during medical examination No 1994/12995 showed that he had no fractures. No investigation into the offence of ill-treatment was therefore opened.

*

* *

As is apparent from the above explanations, the Turkish Government is making serious efforts to secure the exercise of human rights in accordance with international standards and therefore to prevent ill-treatment, and attaches great importance to cooperation with your Committee.

I should like to emphasise that the Turkish Government wishes solutions to existing problems to be sought in cooperation with your Committee in the future too and hopes that the present positive approach on both sides will continue.

With the Committee's recommendations in mind, the necessary steps are being taken to remedy existing shortcomings. Substantial progress has been made in the matter.

Owing to the scale and ruthlessness of PKK terrorism and the anxiety, reactions and great sensitivity it arouses among the Turkish population, the police departments responsible for combating terrorism are facing extraordinary difficulties.

Terrorism undoubtedly does not justify ill-treatment. The Turkish Government is taking the necessary steps to ensure that no ill-treatment takes place in anti-terrorism departments either and that the methods adopted in Europe are used even in circumstances where information has to be extracted to prevent terrorist incidents. However, it must be acknowledged that if citizens' lives were endangered by such a brutal terrorist campaign on such a scale in any European country, the police in that country would also be facing serious difficulties and the government concerned would have difficulty in taking the measures it wished in the manner it wished.

Implementing your Committee's recommendations to the extent desired is proving to be in part, despite the government's sincere efforts in this area, to be a matter of long-term training of the police and security forces and will clearly take some time. As explained above, the government has introduced a serious training programme in human rights for members of the police force and security forces. The programme will be further expanded in due course.

The government has great pleasure in informing you that it is doing its utmost to improve the situation in full cooperation with your Committee and in keeping with the Committee's principles.

The government is convinced that the Committee shares this view and that relations will likewise remain at the desired level hereafter.

APPENDICES

Appendix 1

Instructions by the Prime Minister of Turkey issued on 13 February 1995

Appendix 2

Letter by the Ministry of the Interior of 27 January 1995

Appendix 3

Circular by the Ministry of the Interior of 16 February 1995

Note:

Appendices 4 to 23 (in Turkish language) can be obtained upon request from the CPT's Secretariat (<http://www.cpt.coe.int>).

APPENDIX 1

VERY URGENT

REPUBLIC OF TURKEY
PRIME MINISTER'S OFFICE
Directorate of Personnel and Regulations

Ref.: B.02.0.PPG.0.12-383-1946

13 February 1995

Subject:

TO: MINISTRY OF FOREIGN AFFAIRS

Your ref.: letter no. AKGY-162 of 1 February 1995 from the Ministry of Foreign Affairs

As you know, on 26 February 1988, Turkey ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and thereby accepted the supervision of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) established under the Convention, which came into force on 1 February 1989.

Since its inception, the CPT has had recourse to the heaviest penalty provided for by the Convention, namely the "public statement", on only one occasion, on 22 December 1992, when it used it against Turkey, having formed the opinion, as a result of several visits to Turkey and talks with our leaders, that the measures promised had not been taken. The public statement, which stressed that, in Turkey, torture and ill-treatment of persons accused of both terrorist offences and other offences was widely practised by the security forces, especially during police custody, has been extensively used against us in international fora and world public opinion.

It has become apparent that in the course of its latest visit to Turkey, from 16 to 28 October 1994, the CPT formed the opinion that torture and ill-treatment of persons held by the security forces, whether persons accused of terrorist offences or of other offences, continues to be widely practised; and that as a result, a second "public statement" against Turkey is being considered.

In a letter to the Ministry of Foreign Affairs dated 9 December 1994, the Chairman of the CPT requested that the Turkish Government's views and answers concerning the CPT's observations and the measures taken should be transmitted to him by 17 February 1995 so as to enable a decision to be reached on the subject.

In order to reduce the likelihood of the CPT taking a negative decision on the subject with regard to our country, it is important, in the reply to be sent to the CPT by 17 February 1995, to show, in such a way as to make our political will quite plain, that steps have been taken to prevent torture and ill-treatment.

Instructions shall therefore be sent by your Ministry to the offices of provincial governors and to the units concerned, in the light of the observations and recommendations made by the CPT as a result of its visit to Turkey from 16 to 28 October 1994, for measures to be taken to ensure that during police interrogations, irrespective of the offence charged, accused persons are not subjected to ill-treatment and internationally adopted methods of obtaining information are used; the following points shall be addressed in these instructions.

- a. When persons are taken into police custody, all the statutory periods and measures shall be carefully complied with.
- b. Accused persons, irrespective of the offence charged, shall not be subjected to ill-treatment. The methods used to obtain information from such persons shall be those practised in Europe and the United States.
- c. Medical supervision shall be effected in accordance with the Ministry of Health circular of 22 December 1993.
- d. Accused persons shall be allowed to communicate with their lawyers in accordance with the relevant statutory provisions.
- e. Police centres shall be monitored and any equipment which could be used for purposes of ill-treatment shall be seized.
- f. The names of persons taken into police custody shall invariably be recorded.
- g. Cells holding persons taken into custody shall be of adequate size and shall comply with health requirements.
- h. The statutory procedure shall be applied immediately in respect of police officers or other officials who unlawfully subject accused persons to ill-treatment.
- i. In order to ensure full compliance with the above points, governors of provinces and chiefs of police shall continually monitor the police departments under their authority and shall inform the Ministry of the Interior of their findings.

Copies of the instructions to be issued by your Ministry on the above-mentioned points shall be forwarded to the Ministry of Foreign Affairs before 17 February 1995 so that they may be referred to in the reply to be given to the CPT, in order to emphasise the Turkish State's political will in the matter and thereby reduce the likelihood of the CPT making a "public statement" against us.

Please take note of the above and take appropriate action.

(signed)

Dr Tansu ÇILLER
Prime Minister

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APPENDIX 2

MINISTRY OF THE INTERIOR

Office of the Head of the Research, Planning and Co-ordination Unit

Ref.: B050APK0070009.1.1/52

ANKARA

Subject: Proceedings against civil servants

27/1/1995

TO: MINISTRY OF FOREIGN AFFAIRS

Your ref.: Your letter no. AKGY-4356-12759 of 26 December 1994

As you know, Article 129 of the Turkish Constitution includes the provision that "Prosecution of civil servants and other public servants for alleged offences shall be subject, except in cases prescribed by law, to the permission of the administrative authority designated by law". Under Turkish law this permission is granted, following an investigation conducted in accordance with the provisions of the Civil Servants (Proceedings) Act, by the Commission on Proceedings against Civil Servants set up under the Act, or is not granted if the allegation is not substantiated; this system, which has been in operation for a very long time, has repeatedly been laid before the Constitutional Court on the grounds that, for example, it restricts the principle of the unity of the proceedings and the principle of the rightful judge; however, all these applications have been dismissed. It is thus established by the judgments of the Constitutional Court that there is no fundamental contradiction between this practice and the Turkish legal system. It remains that the procedure provided for by law involves too many stages, which, as also indicated in your letter, take time; a bill prepared by the Prime Minister's Office for the purpose of remedying this situation, and entitled "Bill governing the procedure for the criminal investigation of certain offences committed by civil servants and other public servants", was accordingly submitted to the Speaker of the Turkish Grand National Assembly on 8 September 1994. The bill, which is intended to replace the Act now in force, is currently on the agenda of the Assembly's Domestic Affairs Committee; if it becomes law, the decision as to whether a criminal investigation concerning a civil servant is to be opened by the courts will, following a specified investigative process, no longer be taken by the commissions referred to above, but, as indicated in your letter, by the competent administrative authority, i.e. by a single person (Section 5); this is expected to speed up the procedure.

However, it is doubtless dear from the letters addressed by my Ministry to the offices of provincial governors at appropriate intervals over the years, copies of which were on each occasion forwarded to the ministries concerned, how sensitive my Ministry is on the subject of allegations of torture and ill-treatment. In future, likewise, provincial governors' offices will periodically be alerted to the need to ensure speedy completion of the investigations to be conducted into any allegations of this kind received from public prosecutors' offices, from complainants and through other legal channels.

Submitted for your information.

(signed)

Nahit MENTEŞE
Minister

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Directorate of Security
Gendarmerie Central Command

APPENDIX 3

**REPUBLIC OF TURKEY
MINISTRY OF THE INTERIOR**

Office of the Head of the Research, Planning and Co-ordination Unit

Ref.: B050APK0070002.2.9.1/78

16 February 1995

Subject: Circular

TO: MINISTRY OF FOREIGN AFFAIRS

Our refs.:

- a. our letter ncuAPJC/ÇUK-222-2.1.1/40 of 10.10.1990
- b. our letter no. APK/ÇUK-222-2.1.1/88 of 23.09.1991
- c. our letter no. EGM 300-24063/191092 of 6.08.1991
- d. our letter no. B.05.1.EGM.0.3.4.01.06/483-28833-92/5015 of 22.09.1992
- e. our letter no. B050APK0070001-222-5.1.1-17/262 of 24.08.1992
- f. our letter no. B050APK0070002.2.1.1/339 of 13.11.1992
- g. our letter no. B050APK0070002.2.1.1/344 of 20.11.1992
- h. our letter no. B.05.1.EGM.0.14.01.09/236 of 4.12.1992
- i. our letter no. B.05.1.EGM.0.65.02.01.455/93-021 of 25.01.1993
- j. our letter no. B050APK0070002-9.1-3/26 of 29.01.1993
- k. our letter no. B050APK0070002-1.1.1/245 of 6.07.1994
- l. our letter no. B050APK0070002-1.1.1/217 of 27.06.1994
- m. our letter no. B050APK0070002.9.1.1/391 of 4.10.1994
- n. our letter no. B050APK0070002.2.9.1/497 of 17.11.1994.

As you know, the Turkish State has become a party to almost all the international conventions for the protection of human rights, particularly since the mid-1980s; it has taken, and continues to take, numerous legislative and administrative measures at national level to implement these conventions. From the particular standpoint of our Ministry, the political determination shown by the state in this matter is paralleled by our Ministry's efforts to perform its own duties in this area effectively. The main human rights measures taken and put into practice by our Ministry to date are the introduction of human rights classes in police and gendarmerie schools, the provision of practical human rights training abroad for police and gendarmerie officers in co-operation with the Council of Europe and the introduction of the Custody Regulations and the Regulations for the Conduct of Interrogations setting out the statutory procedure to be applied to accused persons in custody; you will remember that in your capacity as provincial governor you were informed in detail at the appropriate times, by the above-mentioned letters from our Ministry, of the requirements for the implementation of these measures at provincial and district level and of the other steps to be taken in the matter at those levels, and you were requested to monitor the process.

However, while welcome progress has since then been observed in this area at provincial and district level, it is apparent, as will also be seen from the criticisms made by the European Committee for the Prevention of Torture (CPT) at the end of its visit to Turkey from 16 to 28 October 1994 and appended to the letter addressed to you by our Ministry and referred to above under n., that in some provinces the attention paid to remand facilities and to the personnel operating them has fallen short of the meticulous care required. The Committee's official report on the subject will be forwarded to you when it reaches our Ministry.

As indicated in our letter referred to above under j., while the Committee issued a "public statement" concerning Turkey on 22 December 1992 as a result of similar findings made during its previous visits to our country, the outcome of the findings made during its latest visit and appended to our letter referred to under n. is as yet unknown. However, even if those findings stemmed from isolated acts by certain officials, the Committee's public statements are known to be widely used against Turkey in international fora and world public opinion. It is therefore of increasing importance that close attention should be paid to any isolated acts amounting to ill-treatment by certain officials, however small in number, and that steps should be taken to punish those responsible. The crux of the matter nonetheless remains that, rather than one or the other organisation dwelling on the issue, the fact of torture in itself is first and foremost a disgrace to humanity and has for a long time been firmly prohibited by Turkish law. Great care must be taken to ensure meticulous compliance with these statutory provisions.

In the light of these considerations and, as indicated above, in view of the fact that human rights violations are a criminal offence and a disgrace to humanity, and in view of the adverse effects they have had on public opinion both at home and in the civilised world and the further damage they may cause in this respect, it is considered appropriate to remind you once again of the need for full compliance with the instructions given in the circulars referred to above and briefly outlined below and for such compliance to be monitored and secured by police and gendarmerie supervising officers of all ranks and by provincial and district governors.

1. With regard to custody of accused persons, the Regulations for the Conduct of Interrogations appended to the letter referred to above under c, the Custody Regulations appended to the letter referred to under d. and the rules laid down in the circulars referred to under h. and i. shall be fully complied with and the measures provided for, including the relevant provisions of the Code of Criminal Procedure, shall be carefully carried out.
2. The medical supervision of accused persons taken into custody shall be effected in compliance with the Ministry of Health circular of 22 December 1993.
3. Accused persons shall be allowed to communicate with their lawyers in compliance with the above Regulations and with the relevant provisions of the Code of Criminal Procedure.
4. Remand facilities and auxiliary premises shall be frequently inspected by senior officers of the security forces and by provincial and district governors, who shall verify - or order verification of - whether [custody] practices comply with the law; if any evidence of ill-treatment of accused persons, or equipment which could be used for purposes of ill-treatment, is found, the matter shall be taken in hand immediately, an investigation shall be initiated in respect of the officials concerned and the Ministry (as the case may be, the Directorate of Security or the Gendarmerie Central Command) shall be informed of the results.

5. Steps shall be taken to ensure that the names of accused persons taken into custody are definitely, and without exception, recorded in the custody register.

6. As you know, orders were given in our circulars referred to above under e. and j. for the necessary care to be taken in bringing remand cells up to international standards (eg area of 7m², ventilation, lighting) and, where these cannot be refurbished on a local basis, for estimates of the costs to be made and subsidies to be requested from the central authorities (Directorate of Security or Gendarmerie Central Command). On receipt of this order, some provinces requested subsidies and the Ministry has been informed that improvements were carried out. For this purpose, remand cells shall be inspected once more in all provinces; where possible, they shall be refurbished on a local basis and, where this is impossible, subsidies shall be requested and the deficiencies remedied. (A copy of the request for funds shall be sent to the Office of the Head of the Research, Planning and Co-ordination Unit at the Ministry of the Interior).

7. As indicated in the circular referred to under e., the statutory procedure shall be applied immediately in respect of officials found to have committed the offence of torture and the investigations concerned shall be speedily completed.

8. In accordance with the above-mentioned circulars and the above considerations, senior officers shall address their subordinates, as part of periodical in-service training programmes, on the subject of human rights and the duties of police and gendarmerie officers in this area.

In arranging and, where necessary, in carrying out these training programmes, the aid of the seven police officers and five gendarmerie officers sent abroad for training on the subject shall be enlisted within their own forces.

Please take note of the above and take appropriate action.

(signed)

Nahit MENTEŞE
Minister

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Ministry of Justice
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