

Interim report of the Turkish Government in response 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 5 to 17 October 1997

The Turkish Government has authorised the publication of the CPT's report on the visit to Turkey from 5 to 17 October 1997 (see CPT/Inf (99) 2) and of its interim report in response. The response of the Turkish Government is set out in this document.

THE INTERIM REPORT OF THE TURKISH GOVERNMENT IN PURSUANCE OF THE REPORT OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

ANKARA, 03 February 1999

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The interim report of the Turkish Government concerning the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which was adopted at the Χομιπτεεεσ meeting held from 29 June to 03 July 1998, after its visit to Turkey from 05 October to 17 October 1997, is presented in the following pages.

INTRODUCTION:

Turkey has signed and ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment just after its entry into force, on 26 February 1988. This fact alone proves her readiness to collaborate with CPT.

CPT realized 10 periodic or "ad hoc" visits to Turkey since 1990. In addition to these visits, Turkish authorities invited the Committee to Turkey, in August 1996.

Turkish authorities took all the necessary precautions for the success of these missions. The members of the CPT delegations could freely meet with all the persons and authorities they wished to meet and had discussions with their interlocutors and could visit all the premises they wanted to visit without any restrictions.

The CPT delegation, in its latest visit of 05-17 October 1997, visited Adana, Istanbul, Izmir, Mersin, Samsun and [Istanbul](#) police Headquarters, Izmir-Buca Closed Prison, Izmir Reformatory for Juveniles, Mersin E-Type Prison and [Istanbul](#) Closed Prison, [Istanbul](#) (Istanbul) Mental and Psychiatric Hospital, Samsun Regional Psychiatric Hospital, Psychiatric

Observation Unit of the Institute of Forensic Medicine (Istanbul), and prison wards in the State Hospitals at Izmir, Mersin and Samsun.

The report of this visit was received as annexed to the letter of the XIITσ President, dated 23 July 1998, and was forwarded to Ministries and Departments concerned by the Ministry of Foreign Affairs, for examination.

Turkish authorities are pleased that the CPT have noted the achievements in the field of human rights and the strong will of the Turkish Government to continue her determined efforts to improve fundamental human rights and liberties. It is beyond doubt that important and comprehensive achievements were accomplished in human rights in Turkey during the course of recent years. It is also true that additional improvements are needed to be introduced and effectively implemented.

The information in regard with the CPT report is introduced here, together with the views and assessments of authorities concerned. This interim reaction includes an account of the measures taken in line with some of the XIITσ recommendations and comments and also provides data concerning the requests for information.

The reflections of the Turkish authorities are submitted in compartments in the body of this interim report. By reproducing these separate divisions, it is aimed to facilitate an easy through reading and to come up with a good command of interrelations between various Ministries and Departments and concerted action vis-à-vis the interpretation and implementation of CPT recommendations.

MINISTRY OF INTERIOR

(Board of Research, Planning and Coordination, General Directorate of Security and General Command of Gendermarie)

DETENTION CENTERS AND PROCEDURES:

The "Regulation on the apprehension, police custody and interrogation procedures" which was issued recently comprises in detail the related issues covered in the Prime Μινιστερσ Circular of 3 December 1997 on consolidation of human rights.

The issues concerning the notification of relatives of detainees and transfer of detainees to judicial authorities are arranged in detail in the above mentioned regulation which entered into force as from 1st October 1998. (See Annex 1)

In accordance with this new arrangement, when the person is apprehended, it is compulsory to inform his/her close relatives unless it impairs the outcome of the investigation. The same is valid for offenses falling under the jurisdiction of the State Security Courts, when the detention period is prolonged by the decision of a judge.

The regulation is distributed to all the security units. Administrative and legal action is foreseen for officials who do not abide by the measures foreseen in the regulation will be subjected to judicial and administrative investigation. (See Annex 2)

The apprehended or detained persons are at first informed of their rights and are reminded that they can see a lawyer. (See Annex 3) If the person is not in a position to appoint a lawyer, he is also informed that the Bar can appoint one. The requests for a lawyer is immediately relayed to the Bar.

Furthermore, in accordance with the regulation, the "form on the rights of the suspects and the accused", which aims to inform the apprehended of his rights is filled out at the beginning of apprehension or custody and a signed copy is handed out to the apprehended person. This procedure enables the apprehended to see, in written form, his rights under custody and is a step to ensure that law enforcement agencies do not seek to dissuade the detained from exercising his right of access to a lawyer.

The form on the rights of the suspects and the accused is distributed to all the related units, as an annex to the above mentioned regulation. In accordance with the ρεγυλατιονσ stipulations, the use of this form is compulsory. (See Annex 4)

The new regulation demands that if the apprehended person is to be taken under custody or if he has been apprehended by use of force, his health at the time of the apprehension will be examined and determined by a forensic medical doctor. In addition to this, in cases when the apprehended person is transferred to another establishment for any reason, or when the detention period is extended, or he is released or he is sent to judicial authorities his condition of health will be determined by a medical report. (See Annex 5) Again a medical doctor examines the apprehended in cases of illness during custody and a medical certificate is issued.

Concerning the offenses falling under the jurisdiction of State Security Courts, if police custody is extended, the detainee has to be examined on a regular basis by a forensic physician at least once in every 72 hours. Unfortunately, the 48 hours limit proposed by the Committee is difficult to implement at the moment, for the acute shortage of doctors.

As regards the comments of the CPT, concerning the forensic examinations to be carried out of the hearing distance of the law enforcement agencies, the above mentioned regulation dated 1 October 1998 ascertains that medical examinations are conducted in full privacy, with the presence of only the detainee and the physician, unless the outcome of the interrogation will be impaired or when this poses a threat to the personal security of either the doctor or the detainee or both.

The efforts to standardize all the detention centers, which began in 1997, continue with full vigour. (See Annex 2) However, some difficulties arise occasionally in connection with the old building structures of the Police Headquarters and/or the insufficiency of the present premises or inadequacy of the land to construct additional detention rooms. Yet, when building new facilities, the standards set by the CPT are adhered to.

The necessary preparations are underway for video-recording the interrogation procedure of the suspects and the accused who are under custody in province centers, because of organized crimes and terror crimes and also other cases where the Public Prosecutors and heads of the security forces deem it necessary. The personnel who will be employed at the interrogation units are currently being trained in "interrogation courses" and are furnished with information on human rights issues.

XIII^o report states clearly that the period of detention for crimes which fall in the jurisdiction of State Security Courts, is being strictly implemented. The allegation in the report which states that the suspect is taken into custody together with his/her family members, to prolong the period under custody, is not in conformity with the facts. This is proved by the fact that detention period for collective crimes is equal to the individual crimes, and is 48 hours. This period can only be prolonged to 4 days with the written order of the public prosecutor. The request of the public prosecutor can be extended only with the decision of a judge.

On the other hand, it is impossible in accordance with the legislation, to prolong the detention period by way of releasing and recapturing the suspect. In the "regulation on apprehension, police custody and interrogation" it is stated that "a person apprehended and released may not be apprehended and taken under custody again for the same crime, unless there is new evidence and an order of the Prosecutor of the Republic related to the crime subject to apprehension.

The Security Units are supervised and controlled by administrative inspectors, inspectors of security forces, senior officials and public prosecutors on a regular basis. The inspection reports, after being received by the General Directorate of Security, are directly sent to the Heads of Security Units of each province so that necessary steps shall be taken for the improvement of the standards. Most of the reports reveal that the conditions prevailing in the detention centers and units do not comply with the general standards. In spite of negative circumstances, all the necessary steps are taken to modernize and standardize the detention units.

Concerning the material found by the CPT delegation at the basement floor of the Istanbul Police Headquarters, which were allegedly used for ill-treatment, a report was prepared by two senior administrative inspectors, who were charged on the case. Their report states that there was not enough evidence to start a criminal proceeding against the officials of the Istanbul Police Headquarters.

During the period 01.01.1995-31.10.1998, judicial proceedings were opened against 543 security officers, whereas criminal proceedings were opened against 396, for offenses falling under the scope of article 243 of the Penal Code, concerning "torture". In accordance with article 534 of the Code on "ill-treatment", judicial and administrative proceedings were opened against 2696 and 4508 officers respectively. The statistical data on the judicial and administrative proceedings brought against the security officers in accordance with articles 243 and 245 of the Penal Code are presented as an annex to this paper, together with the information on the outcome of the proceedings. (See Annex 6)

PROGRESS AND CHANGES IN INTERROGATION METHODS:

Anti-terror department has opened training courses on "modern interrogation techniques" and aims to train the personnel currently working in interrogation units. At the courses, together with professional topics, human rights issues are also covered as a separate subject in the curriculum. During 1999, 8 separate terms of "modern interrogation courses" will be arranged primarily for the officers who are employed at the Anti-terror department.

COMPUTERIZATION PROJECT:

A new computerized system for ballistic inspection of the bullet and the shell is being set up. This new system is expected to help investigate the cases of unknown perpetrator killings.

Again a project is underway to train the officers to investigate and solve the cases, who will be commissioned on the unknown perpetrator killings. On the other hand, a Ministerial Circular on the procedure to be followed as regards the preliminary investigations related to unknown perpetrator incidents and killings have been issued on 16 December 1998. (See Annex 7)

The work on the modernization of the detention monitoring units in the provinces and districts are about to be concluded. The work aims to inter-connect all the related units and the central province.

Police Headquarters are being computerized to effectively implement the code (no. 1774) on the identity declaration and the related regulation.

The Department of Law and Order has realized the project of using the automatic fingerprint investigation system and this modern technique is being used to keep computerized records of fingerprints.

POLICE CENTERS IN VARIOUS CITIES, DISTRICTS:

With regard to the construction of new premises for the Φορειγνερσ Department at Istanbul Police Headquarters, the efforts to find a suitable location are still underway. An appropriate place will be selected in line with the XIITσ standards.

In accordance with the regulation on foreigners, the persons held at the detention facilities can, at any time of the day, be visited by their relatives, lawyers and the representatives of the related organizations. The foreigners who apprehended or detained are at first given the form (prepared in English, Persian, Romanian and Russian) which states their rights and the procedure to be followed. If need arises, they are provided with a translator, who explains the forms to the detained.

The refugees and temporary asylum seekers are not held at the detention center. Only foreigners who are offenders are held at the center.

An appropriate area where new premises can be constructed, is still being searched for. The new premises are planned to be spacious enough to offer adequate living space to the foreigners who are kept at the unit to be extradited and those who are apprehended on various charges and wait for the proceedings to end. In the meantime, a facility which can be employed as a detention center for a temporary period of time is being searched.

Persons detained at the Φορειγνερσ Department have been given mattresses and blankets and those who are in need are given free food and medicament. Unfortunately, the Department does not have enough room for daily outdoor exercise.

The persons who are brought to the Φορειγνερσ Department are at first sent to a medical institution by the security unit which has conducted the proceedings against this person. If the detained has any medical problem, he is immediately transferred to a medical institution by the security officers at the Φορειγνερσ Department and has free medical care. The detained is visited by the medical personnel of the Δεπαρτμεντσ Medical Unit.

On the other hand, a TV set was supplied to the Department and two pay-phones were installed for the use of the detained. An additional bathroom was also constructed.

The applications of the foreigners who request temporary asylum, are immediately forwarded to the Ministry of Interior. If the application request is not accepted, the person is given a notice that he should leave Turkey within 15 days.

The ventilation and artificial lighting systems of the Narcotics Department which did not function properly and which were not sufficient, were renewed. The systems are now adequately operating. In the detention units of the Anti-Terror Department, the lighting systems were established outside of the detention rooms, to prevent a possible case of self-injury. The detention rooms are being illuminated from the corridors.

During its visit to the Security Unit of the Kızılköy District, the delegation of the CPT detected some deficiencies. We believe these were mainly the result of an ongoing construction process. Currently, the construction has been concluded and the detention rooms have been designed in accordance with the standards of the CPT. The work to standardize the detention rooms of the Security Unit of the Beyoğlu District is yet to be concluded.

As regards the detention unit of the Gayrettepe branch of the Directorate of Public Order, it does not seem possible at this point to enlarge the detention unit, since the premises are very old and it is impossible to make additions. However, the lighting and ventilation systems were renewed and they function properly now.

The overall financial expenses, to modernize and standardize the detention and interrogation units, which are estimated as 93.478.550.000 TL. have been requested from the General Directorate of Security on 02.03.1998.

Similarly, the physical conditions of the detention units in Izmir Anti-Terror Department were improved in line with XIII standards. Mattresses and blankets were distributed to the detainees. Additionally, the vinyl wall covers of the interrogation rooms were replaced as suggested by CPT.

The detention unit of the Law and Order Department at Mersin Police Headquarters, was dismantled and is being rebuilt in accordance with the standards set by the CPT. The new unit is planned to be in full compliance with the norms stated in the circular of the Prime Minister, dated 03.12.1997. Likewise the physical conditions of the detention unit of the Mersin Anti-Terror Department has been improved.

Information about all the patients who arrive at Bakırköy Mental and Psychiatric Health Hospital are recorded in separate files and copies of these files, after being merged with the *παλιεντο* existing records, are sent both to the security unit he arrived from and to the related Provincial Health Center.

COOPERATION WITH THE COUNCIL OF EUROPE IN POLICE TRAINING PROGRAM:

Ms. Anita Hazenberg paid a visit to Turkey with a delegation from the Human Rights Directorate of the Council of Europe, during July 1997, for the first time, within the framework of a working program to be conducted in collaboration with the member states and which will last till 2000. A "Working Group" was set up to prepare a time schedule.

The delegation of Council of Europe paid a second visit to Turkey between 31 August-3 September 1997 and held talks with the related authorities. During this visit, an introduction was given concerning the interactive videodisc training program and the prospects of its implementation were reviewed.

Later, in Strasbourg on 24 and 25 September 1997, a "draft policy plan" was prepared on the basic and executive education of the security forces on human rights issues, which contained the definition and modalities for implementation. The talks also covered the financial aspects of the program and other details. The project was later forwarded by the Council of Europe to the Ministry of Interior Affairs and the assessments on the applicability of the program were communicated to Ms. Hazenberg during her visit to Turkey in late March 1998.

The work on the analysis of the professional standards, which constitutes the main task of analysis work, is close to completion. At the meeting held later in June, it was decided to conclude the work on the analysis projects and to prepare the curriculum of basic education. To this end, an expert is employed to inspect the system and to conclude the analysis part of the project. The expert worked in close cooperation with the related units and the officials who were assigned in connection with the project and is expected to prepare a CD-ROM on the issue.

(General Directorate of International Law and Foreign Relations, General Directorate of Prisons and Detention Houses and Institute of Forensic Medicine)

PRISONS AND REFORMATORIES:

1. Observations:

Various programs are introduced in the prisons and reformatories. These programs include, reading-writing courses, primary, secondary schooling and higher education through correspondence, workshop activities, professional skill courses, religion, as well as social, cultural and sports activities. However, during the course of the last years, the prison wards became overcrowded. Presently this raises security concerns and hinders the effective implementation of rehabilitation programs.

The draft law on the Establishment and Administration of the Workshops of the Prisons and Reformatories, No: 4301, which foresees recreation areas for the inmates and the apprehended, improvement and modernization of the conditions in the prisons and workshops and creation of financial resources for these undertakings, became effective on 6 August 1997.

In accordance with this law, 25% of all the judicial and notary fees, together with the profits of the workshops are transferred at the end of each month to the budget of the Workshops Establishment and this provides a substantial financial income for the Ministry of Justice. Additionally the 25% will be increased to 50% when the arrangements are concluded.

The rehabilitation schemes, which include educational and professional studies as well as social, cultural and sports activities, cannot be fully and effectively implemented unless the physical conditions prevailing in the prisons are improved, the wards are abolished in favour of rooms and the overcrowding is decreased to an acceptable level.

Most of the reforms in the agenda, can only be accomplished after the security concerns are overcome and the physical conditions in the prisons are improved. This is why the Ministry of Justice is planning to convert to "room-system" instead of "ward-system".

In spite of all the negative factors, much has been done in 1997 for the prisoners to have opportunities for recreation and education. 1/3 of the all the prisoners worked in ateliers and workshops. 33.229 prisoners and inmates were trained in various programs. However, 9.300 inmates, who are imprisoned for terror crimes, refuse to work in the workshops and to participate in activities. Although this is a legal responsibility, these inmates are not forced to do so.

- In accordance with the legislation, the underaged are kept in the wards for the juveniles at the closest prison during their trial. After the verdict, they are sent to a reformatory. However, the minors who do not abide by the rules of the reformatory or who cause problems are transferred to prisons. In compliance with the circular dated 3 November 1997, the wards of 48 E and special type prisons, where the minors are kept have been modernized and designed in accordance with children psychology. Modernization works in other prisons continue.

For the vocational training of the personnel working in the reformatories, a course was organized in cooperation with UNICEF and the Foundation of Re-Freedom to Children in November 1998. These training programs will continue.

The General Directorate of Prisons and Detention Centers has evacuated the Prison in the Elmadag district of Ankara and transferred it into a Prison for Minors. The personnel employed in the reformatory was specially trained to handle minor inmates. The construction of the additional premises which will serve as the social and educational center is not yet completed.

- A new project was developed which aims to provide more living space to the prisoners and those under custody. This project foresees F type prisons with 1-3 manned rooms and modern treatment techniques. The capacity of the prisons are 373 and it has areas specially designed for social, cultural and sports activities. This project was designed for the convicts of terror and organized crimes and will first be initiated in 10 different locations.

- Two "room-system" prisons are being constructed in Diyarbakır and Denizli, with a capacity of 400 inmates each. Both of the prisons which have areas for social, cultural sports activities as well as workshops.

- Some components of the E type and special type prisons are being converted into room system. The rooms will be occupied by 4, 5, 6 or 8 inmates. A great deal has been accomplished: Out of the 69 E type and special type prisons, construction has been completed in 39 and 34 are still being modernized. In the long term, room-system will be implemented in all sections of the prisons. In the meantime, necessary measures are taken so that the inmates will be able to pass a part of the day, out of their rooms, engaged in various activities.

In accordance with the circular dated 3 November 1997, which came into effect immediately after XIITσ latest visit, the disciplinary cells, μινωπος wards, infirmaries, visitor centers, prison wards of the hospitals and detention units are being examined. The Ministry of Justice is effectively following the implementation of the above mentioned circular. A team of 4 judges closely observe the execution of the circular and the applications in human rights issues. (See Annex 8)

- The assessment of the CPT in paragraph 79, on the measures taken against the juvenile offenders is not accurate. Presently, in line with code no. 2253 and article 55 of the criminal code, the sentences of juvenile offenders can be shortened more, in comparison with the offenders who are of age. Furthermore, the imprisonment of juveniles can be postponed for longer periods of time and other measures stated in articles 10-17 of the criminal code can be implemented. There are much less juvenile offenders in the prisons compared to offenders who are of age. The reason for that is the implementation of different measures other than restriction of freedom for the juveniles.

It is desirable to employ various penalties other than restriction of freedom not only for the juveniles but also for all other prisoners. This is a way to reduce overcrowding in the prisons. Within this framework, in the draft criminal law which was presented to the Parliament, the penalties of imprisonment were replaced and changed into other penalties.

- The "dangerous" criminals about whom information is requested in paragraph 81 of the report are presumably terror and organized Mafia criminals. Although the CPT is of the opinion that exceptional measures concerning these prisoners bring with it a greater risk of inhuman treatment presently it is the personnel of those prisons who is under the risk of inhuman treatment and not the inmates. The staff is verbally abused, threatened and physically attacked continuously. In fact, in 1998, 2 prison administrators were killed as an outcome of attacks perpetrated outside the prisons but planned inside. A considerable number of the staff were attacked inside the prison facilities. The newly designed prison premises, foresee safeguards against such assaults.

2. Ill-treatment:

- There are a number of articles in the legislation to prevent ill-treatment to prisoners and the persons under custody as well as various circulars of the Ministry of Justice. (See Annex 9 and 10).

- On the other hand, courses on human rights were also included in the 1998 curriculum. The importance of human rights is stressed especially in the symposiums organized for the prison administrators. The administrators of various prisons have expressly stated that act of ill-treatment would be severely punished and have confirmed these instructions a number of times.

- The CPT in paragraph 87 of the report, recommends that when the intervention of the gendarmerie to the disturbances in a prisons proves unavoidable, the intervention should take place in the presence of a fully independent authority and that this authority should observe and subsequently report the carrying out of the intervention. This recommendation does not conform with the national legislation. Subsequently, it is not applicable in accordance with the article 8/d of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. In fact on occasions when the intervention to a prison disturbance is inevitable, the Prosecutor of the Republic has the authority to investigate the offenses which are the outcome of deliberate acts committed during the intervention and to bring the offenders to justice.

In any case, during the course of recent years, most of the prison disturbances have been settled through dialogue rather than intervention. At some instances it has even been necessary to grant concessions which are in contradiction with the law. For example, in some prisons where the terror criminals are held, the doors of the wards are open at all times, though this is contrary to the legislation. Intervention is inevitable to reinforce the legislation but this option has not been implemented.

The efforts to define the responsibility of the gendarmerie as "judicial rather than a public order duty" still continue. The talks with the Gendarmerie Command and Ministry of Interior are yet to be completed.

- The main policy implemented during the prison disturbances is to secure a peaceful conclusion. As is stated above, even "illegitimate" means are employed to attain this result. This is done mainly because, if the option of intervention is preferred, undesired occurrences may arise because of ward system. When the new prisons, designed in room-system are completed, discipline can fully be secured.

- The statistical information on the complaints about prison staff is very difficult to attain. In fact the number of complaints is not very important since the inmates can often file unjust complaints. The investigation and conclusion of the complaints which are deemed worthy of inquiry, is of more importance. In this respect, it would be more accurate to give the total number of the prison staff about whom the complaints were regarded worthy of investigation. In 1997, 10 public court proceedings were opened as regards 96 prison staff from 10 different prisons. 4 of these proceedings resulted in convictions, whereas 1 resulted in acquittal. 6 of them still continue.

- An investigation was opened against the Administrator of Bakırköy Reformatory and 41 of his staff, upon the denouncement of a military officer, on duty at the gendarmerie unit. They were charged with bribery, ill-treatment and abuse of authority. At the end of the investigation, the file on the charges against the administrator and 15 members of his staff was forwarded to the 2. Penal Court of Bakırköy.

- The legislative arrangement concerning the investigation of crimes committed during the transfer of the prisoners and those who are under custody is not yet concluded.

3. Izmir Buca Prison:

Although the CPT recommends reducing the occupancy rates in the wards accommodating "common law" prisoners using all the available prisoner accommodation in the establishment, this is not practically applicable since convicts of terrorist offenses are held at certain blocks of the prison and it is not possible in accordance with the legislation to accommodate common law prisoners together with these convicts at the same section.

Furthermore the prison regime applied to those groups are not the same. In line with the legislation, the common law prisoners are grouped according to certain criteria such as age, sex, profession, state of their mental and physical health, the crime they committed and whether they are dangerous or not. The groups are placed in the wards after this classification. As a result of this, some wards are more populated than others.

On the other hand, at the sections where the convicts of terrorist offenses are accommodated, every inmate prefers to stay together with the other members of his group. This preference also causes imbalances concerning the numbers of prisoners accommodated at different wards. In spite of these impediments, the Ministry of Justice recommended to the prison administration to take measures for a more balanced distribution in the wards.

- The CPT recommends that the εσταβλισημεντο 7.7 m² cells should never be used to hold more than two prisoners. In practice, these cells are used only for one person each. Yet, one should remember that Buca Prison is an establishment for a metropolis and has a substantial circulation of prisoners. This creates the necessity of using the cells for more than one person. Nonetheless, it was recommended to the administration of the prison to take measures to accommodate only one prisoner in each cell.

- The requirement to keep the prison facilities clean, has been stated in various rules and regulations. This has been stressed in a number of circulars as well.

- The article 10 of the circular dated 3 November 1997 regulates the setting up of prisoner teams who would be responsible from cleaning work.

A directive has been issued to the prison administration for securing supply of clean bedding, lockers and personal hygiene products.

- Again a directive has been issued to the Prison Administration to improve the conditions of detention as a whole, as well as physical conditions for newly-arrived convicts. In accordance with the circular dated 3 November 1997, the inmates

accommodated in this section of the prison together with the convicts held at the disciplinary cells are offered 1.5 hours of outdoor exercise daily.

- After the distribution of the above-mentioned circular, the cells situated in the basement of the prison have been deconstructed.

The efforts to develop the activity programs at Buca Prison are under the surveillance the Ministry of Justice. A directive was issued to create new areas of activity and revive the *πρισονσ* gymnasium. At this point, one should remember that fully populated wards pose a great obstacle for the implementation of purposeful activities. The prisoners can harm or even kill each other. They can also damage the workshops and tools. One of the outstanding reasons of the lack of activity in the prisons, observed by the CPT, is the problem of security. Notwithstanding, in Buca Prison, the prisoners are offered vocational training (i.e. tailoring, iron works, maintenance, construction works and photography), various workshop activities and primary, secondary schooling and higher education through correspondence.

- In Izmir a new F type prison will be constructed for convicts of terrorist offenses. The new prison has been designed to accommodate 373 prisoners. When the construction is completed, the occupancy rates in Buca Prison will fall considerably and the security concerns will not hinder the social, cultural and recreation activities of the inmates.

Detailed information on the steps taken to improve the conditions prevailing in Buca Prison in the light of the recommendations and comments of the CPT, together with the measures foreseen in the circular dated 3 November 1997 will be forwarded to the Committee in the follow-up report.

4. Mersin E Type Prison:

- In line with the XIII σ recommendation to reduce the occupancy rates of the dormitories, the prison administration have exploited all the physical means and constructed 3 small wards which can accommodate 3, 6 and 8 prisoners each. The high occupancy rate is also a problem in Mersin Prison.

- A directive was issued to the prison administration to take measures to improve the sanitary facilities and repair the central bathroom. The administration was also asked to ensure that all dormitories have adequate ventilation.

- Again, the prison administration was warned to provide the kitchen with necessary equipment and a regular supply of hot water and to ensure that food served to prisoners is prepared in accordance with the appropriate sanitary and dietary requirements.

- The prison administration was instructed to supply clean bedding and personal hygiene products.

- Efforts continue to create separate facilities for women and children. With the aid provided by various associations, institutions as well as the Provincial Youth and Sports Directorate, the *χηλδρενσ* wards are being adequately equipped.

- According to the Protocol signed between the Ministry of Justice and the Institution of Social Assistance and Protection of Children, the children of female prisoners who are 0 to 7 years of age, are looked after in the *ινστιτυτιονσ* kindergarten. This development has been appreciated by the prisoners and continues with success.

- The prisoners who have newly arrived at the prison and those who are at disciplinary cells are offered 1.5 hours of outdoor exercise daily, in accordance with the circular dated 3 November 1997.

- The inmates are offered vocational training (i.e. tailoring, photography, maintenance and construction works, ship modeling, copper works, handicrafts) as well as training courses and individual handicrafts. Furthermore the convicts are offered reading and writing courses, cultural, social and sports activities. However, the over-occupancy rate is again an impediment for the effective implementation of those activities. Notwithstanding, it was recommended to the Prison administration to take steps to increase and diversify the range of activities offered to prisoners.

In accordance with the Protocol signed between the Ministry of Justice and the State Ministry in charge of Sports, the instruments needed for the physical training of the prisoners have been purchased and distributed to the prisons.

- A project was initiated to educate the children with the cooperation of the State Ministry in charge of Sports and the Ministry of Justice. Ankara and **Bak \blacklozenge rk \blacklozenge y** Reformatories for juveniles have been chosen as pilot institutions. The

commission including university professors and specialists working in these reformatories began their work to determine the best possible means of education that can be offered to those children.

- A directive was issued to the prison administration to take measures against heating problems in winter and the persistent presence of rats and cockroaches. Information on the implementation of the directive will be forwarded to the CPT in the follow-up report.

5. ◆nyeClosed Prison:

A directive was issued to the prison administration to complete the renovation of the κρισονσ central kitchen, to develop organized activities for inmates and to take measures for enhancing prisoner-staff relations.

6. Izmir Reformatory for Juveniles:

- Reading material is supplied to juveniles placed at disciplinary cells.

- Equipping the disciplinary cells with tables, chairs and a call system has commenced.

- In line with the circular dated 3 November 1997, disciplinary cells will be enlarged. The work continues.

- A directive was issued to the Prison administration to keep detailed records of persons held in the unit in a register book.

- Steps have been taken to increase the sports activities for all juveniles, including the girls.

- Instructions will be forwarded to the Prison administration by the Ministry of Justice to divide the dormitories to smaller units, to reduce the occupancy rates in a balanced way and if possible to establish indoor sports facility.

- A project has been initiated by the prosecutor of the prison to provide general education, other than vocational training, to the inmates. Detailed information on the implementation of the project will be provided in the follow-up report.

- A directive was issued to the reformatory administration to re-open the swimming pool.

7. Health Services:

Health care services are guaranteed to all convicts and remand prisoners. The patients are at first treated in the infirmaries and if necessary are transferred to the closest state hospital or to a university hospital in big cities. The expenses of all the operations and medical treatments are financed from the budget of the Public Prosecutor. Free medicine is also provided to prisoners who cannot pay for it themselves. However, free medicine is not given to convicts who have money in the deposit account of the prison and this can sometimes cause complaints. In any case, the constitution together with the related laws and regulations, guarantees the health expenses of prisoners.

Security concerns hinder regular visits by a psychiatrist to Mersin, ◆nyePrisons and Izmir Reformatory. Occasionally doctors are unwilling to enter into wards for fear of violence. There are even resignations since doctors cannot perform their duty freely.

The convicts who stay at state hospitals for longer periods of time are offered recreation activities, such as reading, listening to radio or watching TV. Materially it is not possible for the prison administration to provide a radio and a TV set to convicts. In fact, regular patients of the hospitals mostly do not have such devices in their rooms. But of course the prison and the hospital administrations would not have any objections if the convicts or their relatives provide those devices.

A supervision scheme will be initiated on the prison doctors, through medical authorities.

A legislative arrangement was made for filling the vacant doctor posts at the prisons, with the Ministry of Health. Furthermore, a draft law which foresees the allocation of an additional 6100 positions for doctors and health care staff has been approved by the Government and is in the agenda of the Parliament.

Urgent action:

- Another doctor has been assigned to Buca prison, in addition to the one currently employed there. (It was recommended that the psychological care offered to the prisoners and especially to juveniles should be reinforced.)
- A second doctor will be assigned to Mersin Prison.
- The vacant health care post has been filled in Izmir Reformatory. (In prisons and reformatories, nurses are not employed. There are health care staff who work under the guidance of doctors.)
- The prison administrations were warned not to keep the inmates who need psychological care in the disciplinary units.
- The Circular dated 3 November 1997 and the Execution Regulation arranges the rules pertaining to the medical examination of all prisoners.
- Again, both the Circular dated 3 November 1997 and the Execution Regulation arranges the keeping of separate personal files for each convict, including the diagnosis and the medical treatment applied. These files are kept in confidentiality.
- One more circular will be prepared on the conduct of medical examinations in confidentiality. The circular will also arrange the filing of requests of seeing a doctor to the Πρiσovσ health unit in full confidentiality.
- The psychologist who has recently been assigned to Izmir Reformatory assumed his duties.
- The prison staff is being trained both theoretically and practically by the prison doctors on how to conduct first aid. Some members of the prison staff is employed at the πρiσovσ health unit and consequently have a notion for medical assistance.

8. Other Issues Falling Under XIITσ Mandate:

A directive was issued to prison administrations (circular dated 3 November 1997) to renovate and expand the visitation sections of the prisons. Accordingly necessary steps are being taken. However, since there are no restrictions on the number of persons, who can visit a prisoner at a time, it is almost inevitable to eliminate this problem completely. It is common that all the family members of a convict visit a convict altogether and this causes overcrowding.

Disciplinary cells at nyePrison have been renovated. Renovation work at the disciplinary cells continues in Mersin Prison.

All the newly arrived convicts and remand prisoners are being given a form that explains their rights and are instructed on this issue by the prison staff. In addition, a directive was issued to the prison administrations to instruct the convicts and remand prisoners on their right to object to disciplinary punishments.

Also a directive was issued to the establishments concerned, which regulates the keeping of a register book on the inmates who are held at the disciplinary units. The book would include information on the entry and exit hours of the inmate, the reason for disciplinary punishment, the ward he was transferred after disciplinary punishment and the number of the cell.

There is no legislative arrangement to conduct open visitations for convicts and remand prisoners. The inmates who are accommodated in closed prisons can only have closed visits. But unlike some European countries, there are no restrictions on the number of visitors. The wives/husbands and the children can pay open visits to their relatives in prison once in every month. However convicts of terrorist crimes can have open visits only with their children who are younger than 10 years of age in accordance with article 16 of the Anti-Terror Law. It is necessary to improve the state of security to be able to permit more frequent open visitations.

Parallel to the plans on the physical modification of the prison system, the authorities concerned are currently working on a new draft law on prison administration which will arrange the discipline rules as well as the training and education programs offered to inmates and prison personnel.

The prisons are under investigation by inspectors of Ministry of Justice, control officers of the General Directorate of Prisons and by a team of four judges. The Public Prosecutor and the Human rights Commission of the Parliament also controls whether the practices are in compliance with the legislation and whether the physical conditions are appropriate. During these controls the investigation authorities can have access to all sections of the prison and can meet all the convicts.

All the convicts can file complaints directly to the administrator of the prison, prosecutor, prosecutor of the Republic, Minister of Justice, Prime Minister, President, the President of the Human Rights Commission of the Parliament and even to the European Court of Human Rights. Right to complaint is a constitutional right and is guaranteed by other laws as well.

It is impossible to subscribe to the complaints included in paragraph 165 of XIII T σ report. The complaint boxes are situated at places where all the inmates can have easy access. Furthermore, the boxes are opened not by the prison administration but by the public prosecutor and the complaints are directly sent to the Ministry of Justice. The identities of the inmates who have filed a complaint are kept confidential unless they are interrogated in connection with the complaint.

The Human Rights Commission of the Parliament has investigated a number of prisons during 1998 but has not yet prepared a report of the issue.

9. Activities of the General Directorate for Prisons and Detention Houses

(15 June 1998-12 November 1998):

- "K \diamond tahya" porcelain exhibition of the prisoners, which attracted public attention, was exhibited for the second time in Ankara on 13 January 1998. The exhibition which was to remain open until 22 January 1998 was closed earlier as a result of the complete sale of all exhibition materials.

An oil-paint picture and ship panel exhibition for the works of Kalecik open prison convicts, was organized between the period of 20-28 October 1998 at Ankara Justice Hall.

- Regulation on the Dresses of Prisons and Detention Houses Staff has been published in the Official Gazette numbered 23262, dated 18 February 1998 and has entered into force.

- To prevent escapes via tunnels from \diamond sk \diamond da \bar{r} -Type prison, the construction of a security lane, in the form of a diaphragm concrete wall of 375m. long, 80 cm wide and 12 m. deep, along the three edges of the prison has been completed.

- Elmadag K2-Type Prison has been converted into a reformatory, with a view to keep juvenile convicts and remand prisoners in Ankara Closed Prison from negative conditions.

- First section of the Eskisehir Special Prison, which was re-constructed by the Workplace of the Eskisehir Open Prison in the form of room-system, has entered into service. The re-construction of the second section of the prison will be completed by the end of 1999.

- A 366.750 sq. m. land in Sincan has been allocated to the Ministry of Justice for the construction of a F-Type prison in Ankara. The land has been taken over by the Office of the General Prosecutor in Sincan.

- 87 new, secure small vehicles equipped with air-conditioning systems, 10 grand transfer vehicles, 5 ambulances and 6 services buses, a total of 108 vehicles, have been bought to use during the transfer of the control of the convicts and remand prisoners.

- In order to build a F-Type (new type) prison in \diamond zmir, a 570.000 sq.m land has been allocated to the Ministry of Justice.

- Regulation on the Nutrition of the Convicts, Remand Prisoners and Prison Staff which is drafted with a view to reorganizing nutrition costs on basis of calorie and *grammage*, to provide maintenance to all prison staff together with convicts and prisoners and to adopt a contemporary nutrition regime in the prison cuisines, has been published in the Official Gazette numbered 23410, dated 22 July 1998 and has entered into force.

- To meet security needs of the prisons, 16 X-Ray (for package/luggage search) equipments, 34 metal-sensitive door-traps, 110 metal-sensitive hand detectors have been bought.

- Bitlis E-Type prison, which was handed over to the Special Provincial Administration, subsequent to the completion of the construction in 1988, on the grounds that it would be converted to a factory and then used as tobacco warehouse, is being repaired by Ad \diamond yamar Open Prison Construction Work Branch, subsequent to the re-allocation of the said prison to the Ministry of Justice in February 1998.

- Within the context of a project envisaging opening of 3 new wards and separating the contacts among the wards in order to secure discipline and security at Ankara Central Closed Prison, and the ensuing cost estimation study, re-construction of the prison has been started by Afyon Open Prison Work Branch.
- TASTAS Industrial Complexes Inc., having been commissioned to prepare a turn key project for construction of a high security, F-Type prison with rooms for one and three persons respectively, to provide cost estimation and tender prequalification file and to perform auditing (inspection) services, is to deliver the tender prequalification file for the construction of an F-Type Prison in November 1998. Bidding for the turn key projects of prisons in İzmir, İstanbul, Ankara, Sincan, Düzce, Bolu and Tekirdag will be finalized by 1998, and the construction will be completed in 1999.
- With a view to identifying the problems of the Prisons in İstanbul (namely, Bayrampasa Closed Prison, Bayrampasa Special Prison, Mraniye-Type Prison, Pasakapısı Closed Prison, Bakırköy Ömerönü Prison and Reformatory) and the recommendations for overcoming these problems, a meeting was held between 2-3 July 1998 with the participation of the General Prosecutors, Prison Directors, authorities from İstanbul General Directorate of Security and Provincial Gendarmerie Commandership as well as authorities from the Ministry of Justice, and at the end of the meeting a number of decisions have been taken, some of which have been immediately put into force.
- Another transfer unit has been set up with a view to ensuring fastening up of the transfer of convicts and remand prisoners in İstanbul Bayrampasa Prison and an allowance of 107 billion TL has been sent for construction of the additional premises of the prison.
- To provide temporary accommodation of the convicts and remand prisoners who are taken to trials at the Courts in İstanbul, the construction of a guest- house within Metris Closed Prison Complex has been started with a cost estimation of 34 billion TL.
- Problems pertaining to lack of regular supply of water in Afyon, Nevşehir, Yozgat, Ayvalık, Gebze, Bursa, Salihli Prisons have been settled by drilling wells.
- An examination is to be opened so as to meet partially the staff requirements of the prisons for 80 administrative officials and 20 social workers.
- To meet urgent staff requirements of the prisons for 922 employees, approval has been given for holding examinations. 205 wardens and guards, 18 health officials, 2 drivers, 30 secretaries, 2 technicians and 3 central heating technicians have been assigned so far. Further assignments are underway.
- Workshop activities are maintained in 116 closed prisons, 21 open prisons, 17 closed-open prisons, 1 Ömerönü prison and 4 reformatories, a total of 158 prisons. The net profit of these workplaces was 897.798.609.- TL. by the end of August 1998.
- Salaries of the permanent workers who are the most functional personnel in teaching handicrafts to the convicts and remand prisoners working in the workshop have been increased, in parallel to those of the regular officials,
 - by 30%, for the first half of the year
 - by 20%, for the period between 1 July 1998 - 1 October 1998,
 - by 10%, for the period between 1 October 1998 - 31 December 1998
- New machinery and equipment have been purchased for the workshops of the prisons between 1 January 1998 - 31 October 1998.
- In accordance with article 21 of the In-Service Training Regulation of the Ministry of Justice, "Human Rights and Human Relations Courses" have been introduced under "Annual Education Program for 1998", for the staff of the prisons, with a view to preventing torture and ill-treatment.

- Books have been distributed to the libraries of various prisons, for utilizing in the rehabilitation of the convicts and prisoners.

- The Hospital in İstanbul Bayrampasa Closed Prison which serves to convicts and remand prisoners in İstanbul and in the vicinity of İstanbul has been equipped with modern devices and was opened on 27 July 1998.

- Of the convicts and remand prisoners in the prisons,

- 2902 persons have attended literacy courses and 1762 persons have been awarded diplomas.
- 1298 persons have attended primary school graduation courses and 1052 have been awarded diplomas.
- 258 persons have entered high-school mid-term examinations; 230 persons have entered final examinations.
- 185, 55 and 18 persons have entered university mid-term, final and make-up examinations respectively.
- 330 persons who have been successful in the university entrance examinations, have been registered to several universities.
- 2705 of the 10393 persons who have attended vocational courses opened in the prisons, have been awarded certificates.
- 17550 persons have taken been awarded letters of recommendation for their services in the workshops.

- With a view to obtaining permanent results from the applications implemented within the context of re-organization of the treatment programs which applied in the prisons, introduction of in-service training programs for wardens, particularly for those who have direct contact with children, is deemed necessary. In this context, to provide in-service training courses to the wardens and others at Bakırköy Reformatory, which is one of the pilot institutions, cooperation between the Ministry of Justice on the one hand, and UNICEF and Turkish Freedom for Children Foundation on the other, has been established.

- The aforementioned in-service training seminars have been implemented between 6-9 November 1998, 20-23 November 1998 and 27-30 November 1998 respectively.

- Of the children in Ankara, İzmir, Elazığ and Bakırköy Reformatories, 258 children are attending various education activities; in this context, the chart below is of significance:

<u>COURSES:</u>	<u>NUMBER OF CHILDREN:</u>
Literacy	32
Primary Education	26
External Courses for Primary Education	7
High Schools	42
Vocational High Schools	20
Apprenticeship	112
Vocational	13
Preparatory Courses (for the University Entrance Examinations)	4
University	2

10. Proposed legislation and proposals to amend the existing legislation for prevention of torture and ill-treatment:

A draft law prepared by the Human Rights Coordinating High Committee, entitled "Draft Law on Amending Certain Articles of the Turkish Penal Code" foresees amending article 243 of the TPC on "torture perpetrated by an officer on an accused person in order to make him confess his offense" and article 245 of the TPC on "ill-treatment and any injuries inflicted by public officers", as well as article 354 of the TPC on "submission of a false document to be relied upon by government officials, by a physician, pharmacist or health officer". This draft is currently on the agenda of the Parliament.

The amendments included in this draft law, foresee higher penalties for public officers who commit the abovementioned offenses, or medical staff who draft fake reports on torture.

A "Draft Turkish Penal Code" prepared by the Ministry of Justice with the participation of experts, with a view to making the necessary amendments and improvements in order to render the TPC compatible with the contemporary needs, has been submitted to the Parliament on 5 February 1998 and is currently on the agenda of the competent commission of the Parliament.

- Article 474 of the Draft Code, which is an equivalent of article 243 of the current TPC, entitled "Transgression of the Authorization to Use Force" stipulates that:

"In case, those who have the authority to use force or police officers, while performing their duty or executing the order of a superior, perpetrate ill-treatment or inflict any injury by transgressing the limits of the law and regulation, they shall be punished by imprisonment for not less than three months, nor more than 3 years.

In case the offense committed entails a higher punishment, the punishment peculiar to that offense shall be increased by one third".

- Article 139 of the Draft Turkish Penal Code, entitled "Torture", which foresees to fill the current gap in the laws and to designate the act of torture, which is an aggravating circumstance for some other offenses, as an offense itself, stipulates that:

"The person who tortures shall be punished by imprisonment for not less than three years, nor more than six years".

- Article 140 of the Draft Turkish Penal Code, entitled "I. Qualified Torture" stipulates that:

"The perpetrator of the offense mentioned above (article 139) shall be punished by imprisonment for not less than 4 years, nor more than 8 years, where the offense is committed

1. Against a juvenile under 15 years old,
2. Against someone apparently weak or helpless due to age, illness, disability, physical or psychological weakness or pregnancy,
3. By the spouse of the victim,
4. By the means of or threat of a gun

The perpetrator shall be punished by imprisonment for not less than six years, nor more than 12 years, where the offense is committed,

- B. 1. Against an ancestor or parents,
2. Against a public officer or civil servant or persons temporarily or permanently assigned to public services or a lawyer who are recognized by the perpetrator or whose nature of duty can be explicitly detected, during performance of their duty or because of their duty even if their titles are removed,

3. Against a witness, a victim, a person attending a trial or a plaintiff, in order to prevent these persons from reporting the events, filing a complaint or denunciation or being a witness,
4. By more than one persons who are the primary or secondary perpetrators of the offense,
5. Upon a plan,
6. By officers or public officers in performance of their duty or as a result of their duty,
7. Together with a sexual offense,

C. The perpetrator shall be punished by imprisonment for not less than six years, nor more than 12 years, where the offense is committed, against a legitimate or illegitimate child or juvenile by his/her ancestors or parents.

- Article 141 of the Draft Turkish Penal Code, entitled "II. Qualified Torture" stipulates that:

In case, the offense committed results in permanent disability or loss of an organ, the perpetrator shall be punished by imprisonment for not less than 12 years, nor more than 18 years.

In case, the offense committed results in death of the victim, the punishment shall be life imprisonment".

• Yet as another step to sanction the use of torture and ill treatment or abuse of power, the draft law replacing the "Temporary Law on the Prosecution of Civil Servants" of 1913, entitled "Draft Law on the Prosecution of Civil Servants and other Public Officers", prepared by the Human Rights Coordinating High Committee with a view to carrying on the investigation, which would be initiated for the alleged offenses committed by civil servants and other public officials in performance of their duty, without impairing public administration, in a simple, efficient and prompt manner and preventing the impunity, is currently on the agenda of the competent commission of the Parliament.

MINISTRY OF HEALTH

INTRODUCTION:

A delegation was established in the Ministry to visit the psychiatric institutions criticised in the report of the European Committee for the prevention of torture and Inhuman or Degrading Treatment or Punishment. The delegation visited Samsun and Bakırköy Hospitals and draw a report on their findings:

EXAMINATION REPORT ON THE SAMSUN REGIONAL PSYCHIATRIC HOSPITAL:

A delegation comprising Ali Osman Sakar from General Directorate of Personnel, Dr. Kemal Akbay from General Directorate of Basic Health Services and Dr. Ertan Kavasoglu from General Directorate of Treatment Services visited, upon the authorization of the Minister of Health, the Regional Psychiatric Hospital in Samsun and held on-the-spot meetings and examinations.

The delegation went through the points raised in the CPT report one by one and reached the conclusions below:

As an answer to the question why the modified ECT application was not preferred to the regular ECT application, which is subject to general criticism, it was stated that the ECT treatment was somewhat dependent on the $\pi\eta\psi\sigma\iota\chi\iota\alpha\nu\sigma$ preference and that no anesthesia or muscle relaxants were used except for atropinization. It was also pointed out that ECT under anesthesia would start after a sufficient number of anesthetists are appointed to the hospital.

The administration accepted that it was partially true that the ECT application in closed wards was carried out in front of other patients. It was stated that at times ECT was applied to some 10-15 patients within the same day and that after ECT the patients had to be bedded before they gain consciousness and therefore a room with at least 8 beds had to be allocated for the administration of ECT. It was added that ECT was not carried out before the eyes of the other patients but, due to limited number of rooms, behind a screen in the room where other ECT patients were kept. It was also declared that in the newly constructed 120-bed building a separate ECT unit will be established. It was observed that the ECT applications were recorded in a special register.

The ECT is administered after the patients and their relatives are adequately informed and with their consent. Those who do not consent to ECT retain the right to deny this treatment. Furthermore, the hospital administration pronounced that booklets on "The Rights of Patients and the Rules of the Hospital" will, in a short time, be published, distributed and displayed in places where patients can easily see them and read.

It has been established that the number of patients in closed wards does not exceed the number of beds, but facilities such as toilets and baths where physical requirements are met are inadequate. This fact was confirmed by the hospital administration and our delegation. However, it was asserted that the wards will be rearranged following the transfer of some patients to the new 120-bed building and that the ward system will be replaced with the room system in certain sections, which would settle these problems. The number of private wardrobes belonging to patients were increased in comparison with last year, but the wardrobes were still insufficient. The hospital administration replied that the problem will be resolved as soon as possible. It was also declared that a new 22-people prison for patients referred for treatment by a prison doctor and a new 40-people service will be inaugurated within 20 days and a month respectively, resulting in a new 62-people service for such patients.

As for the clothing of the patients, it was observed that it did not contradict the national culture and that the majority of the patients wore daily clothes while some wore pajamas or casual clothes and they were all clean.

The administration declared that the places for the physical activities of the patients in closed and semi-closed wards will be rearranged.

It was observed that a special room in the new building was allocated for the development of psycho-social rehabilitative therapeutic activities for open and semi-closed sections and that a qualified nurse was nominated.

It was found out that one of the two mentally disabled young men, kept in the semi-closed ward for men with chronic diseases, passed away and the other was in good condition. The rooms in general preserved the standards pointed out in the report. There were some pictures on the walls.

It was stated that the hospital personnel, including the new employees, were given on the job training for the physical and non-physical control of agitated and aggressive patients.

It was seen that one prisoner was kept in the present two wards for the prisoners in an isolated building in the hospital garden and that the beds were clean and empty. It was told that the prisoners could take a shower at least once a week and the health personnel had access to these wards night and day without any restriction and the prisoners could sometimes enjoy, although with some restrictions, physical activities in open air.

It was pronounced that a project for a new ward for the prisoners was prepared to settle the problems experienced and to provide a better service and that the project was submitted to the Ministry of Health for approval.

When compared on-the-spot with the numbers mentioned in the CPT report, the number of doctors was found to be 17 instead of 16, the number of clinical psychologists was found to be 4 instead of 3, the number of nurses was found to be 88 instead of 98 and the number of orderlies was found to be 48 instead of 45. It was noticed that the standard posts for staff were vacant and the necessary appointments to fill the vacant posts for nurses and other personnel will be submitted to the General Directorate of Personnel for approval.

It is concluded that the nurses, who were alleged not to be psychiatry nurses in the report, attended courses on theoretical and practical Mental Health and Psychiatry two hours a week each during their training. It is considered that this problem will be settled in the coming years since the training for nursing is promoted to βαχηλεοσ degree level.

EXAMINATION REPORT ON THE BAKIRKÖY MENTAL AND PSYCHOLOGICAL HEALTH HOSPITAL:

A delegation comprising Ali Osman Sakar from General Directorate of Personnel, Specialist Dr. HomeyraPinar Head of Department in General Directorate of Basic Health Services visited, upon the authorization of the Minister of Health, Bakırköy Mental and Psychological Health Hospital and held on-the-spot meetings and examinations.

The points mentioned in the CPT report were checked throughout the observations and examinations. The delegation reached the conclusions below:

It was observed that Ward 13 (prison ward), one of the wards allocated for prisoners referred to the hospital for treatment, which was subject to intense criticism in the CPT report, was completely closed down and it was now preserved in its original form as an open air museum to display the change and progress in the hospital.

Ward 13 was transferred to Ward 22 (named as Dr. Zati Dokuz Ward). This has two stories and is 4 times larger than the former ward and has patient rooms for 3,4 or 5 people. It was observed that bath and toilet requirements can be easily met in the new ward, since the toilet and bathing problems arising from overpopulation as indicated in the CPT report were settled following the transfer of Ward 13.

Ward 33 (named as Dr. Mazhar Osman Usman Ward) is used as an observation service for male patients who are not under custody. The patients are kept under observation in this ward for 3 weeks to 3 months.

Ward 40 is used as an observation service for female patients who are not under custody.

Ward 34 (named as Dr. Adil Ok Ward) is where the patients, who had committed crimes and have no criminal capacities according to Articles 46 and 47 of the Turkish Criminal Code, are kept and treated. The patients in this ward are those whose mental deficiencies and medical reports are final and who will be staying in the hospital for an indefinite period of time.

The Hospital Administrator elaborated on the ECT issue which was generally criticized and expressed that they will begin modified ECT after vacant staff positions are filled and a single ECT unit is instituted in the entire hospital. He also mentioned that all ECT are registered.

As regards the criticisms in the CPT report that the conditions in the arrest unit should be improved to be more appropriate for therapeutic functions, the 60 bed ward of this unit was visited and it was found out that the conditions were worse than the wards assigned for prisoners referred to the hospital for treatments. The physician in charge of the health personnel in this ward stated that this situation rose partially from the shortage of personnel and that, for example, the social services specialist could come to this ward only once a week. He also declared that they put intensive efforts to serve the relatives of the patients and that the patients kept in this ward are content with the situation because of the presence of regular meals and personnel taking care of them. The physician on duty was told that the personnel will be provided to improve existing conditions in this ward and create a therapeutic environment. Moreover, it was recommended to him to intensify initiatives to install a small library in the ward. The personnel stated that they faced no obstructions or restrictions while treating the patients in the arrest unit.

The necessary steps for training specialist nurses in the field of psychiatric treatment were taken up by the General Directorate of Treatment Services with the Supreme Board of Education.

As a result of the examinations of the delegation in both hospitals, the shortage of nurses and other health personnel was detected. The necessary initiatives were disposed to fill the vacant standard posts for nurses especially and other personnel.

(Signed)

23.12.1998

Specialist Dr. HomeyraPinar,

General Directorate of Basic Health

(Signed)

23.12.1998

Dr. Kemal Akbay,

Head of Section

(Signed)

(Signed)

23.12.1998

23.12.1998

Ali Osman Sahar

Dr. Ertan Kavasoglu

Head of Department

Head of Section

General Directorate of Personnel

General Directorate of Treatment Services

CONCLUSION

CONCLUSION:

This interim report contains information provided by the Turkish authorities on the observations and suggestions of the CPT report (98)4 adopted on 3 July 1998. It elaborates on an account of measures adopted by the competent departments, in pursuance of the CPT recommendations, between October 1997-December 1998.

Remarks and reflections which have found place in the CPT report but not focused on here will be dealt with in the final report where conclusive data on the ongoing process of remedying the deficiencies will also be relayed as complementary information.

It is necessary to refer here one more time to the inevitable correlation and the rather delicate balance between human rights and freedoms and the Στατες indisputable responsibility to protect its citizens. Turkey is one of the few countries which has committed itself to enlarge rights and freedoms, while struggling against one of the most vicious terrorist campaigns aiming at its territorial integrity and national unity.

Nevertheless, the Turkish authorities are dedicated to extend to the period ahead, the close cooperation with the CPT maintained since its foundation, despite the restraints confronted. However, it will be appreciated that some measures recommended in accordance with the CPT specifications are difficult to implement because of the financial burdens they impose. Yet it is beyond doubt that the Turkish authorities will spare no effort to overcome all the difficulties and exceed the restraints with firmness and good will to introduce the priorities encouragingly suggested in the CPT report.

Annexes:

Available in PDF format
