



CPT/Inf (2007) 9

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

from 18 to 20 September 1996

The Turkish Government has authorised the publication of this report and of its responses. The Government's responses are set out in document CPT/Inf (2007) 10.

Strasbourg, 11 January 2007

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Copy of the letter transmitting the CPT's report

Strasbourg, 13 December 1996

Dear Director,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the Government of Turkey drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Turkey from 18 to 20 September 1996. The report was adopted by the CPT at its 31st meeting, held from 2 to 6 December 1996.

The CPT requests the Turkish authorities to provide a report within six months, informing the Committee of the action taken to implement the recommendations set out in the present report and providing the information requested therein.

The CPT would ask, in the event of the report forwarded being in Turkish, that it be accompanied by an English or French translation.

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

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

Yours faithfully,

Claude NICOLAY
President of the European Committee for
the Prevention of Torture and Inhuman or
Degrading Treatment or Punishment

Director of the Department of Human Rights
Ministry for Foreign Affairs
TR – ANKARA

I. Introduction

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Turkey from 18 to 20 September 1996.

The visit was one which appeared to the CPT "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention). The purpose of the visit was to obtain up-to-date information about the treatment of persons taken into police custody.

2. The delegation consisted of the following Committee members:

- Mr Claude NICOLAY, President of the CPT, (Head of delegation)
- Mr Florin STĂNESCU.

The delegation was assisted by:

- Mrs Odile DIAMANT-BERGER, Forensic doctor, Head of the Emergency Service at the Hôtel-Dieu Hospital, Paris (expert)
- Mr Jean-Pierre RESTELLINI, Medical doctor, Specialist in Forensic Medicine and Internal Medicine, Geneva (expert)
- Mrs Zeynep BEKDIK (interpreter)
- Mr Ömer BOZKURT (interpreter)
- Mrs Serra YILMAZ (interpreter).

The delegation was accompanied by Mr Trevor STEVENS, Secretary of the CPT.

3. The delegation visited the Police Headquarters in Adana, Bursa and Istanbul as well as the Central Police stations in the Beyoğlu and Eminönü Districts of Istanbul.

The delegation also went to Adana E-type Prison, Metris Closed Prison (Istanbul) and Sakarya E-type Prison, in order to interview certain persons who had recently been in police custody in Adana and Istanbul.

4. The delegation was granted rapid access to all of the above-mentioned establishments. In this connection, the CPT is grateful to the Turkish authorities for having provided members of the delegation with official credentials.

However, there were clear indications that, upon the delegation's arrival at Istanbul Police Headquarters, a large number of detained persons were hastily removed from the Anti-Terror Department in order to prevent the delegation from meeting them. Further, at Adana Police Headquarters, the delegation was told initially that the multi-occupancy cells in the Law and Order Department which had been visited by the CPT in 1992 no longer existed. This was not the case, and the delegation lost a considerable amount of time as a result of this misleading information.

The CPT must reiterate that **manoeuvres of this kind are incompatible with the principle of cooperation set out in Article 3 of the Convention.**

II. Torture and other forms of severe ill-treatment

5. The CPT's delegation found clear evidence of the continuation of the practice of torture and other forms of severe ill-treatment by the Turkish police. This evidence concerned in particular the Anti-Terror and Narcotics Departments at Istanbul Police Headquarters; however, evidence of torture and ill-treatment in other police establishments in the Istanbul area as well as in Adana Police Headquarters was also gathered by the delegation.

6. Four persons were being detained by the **Anti-Terror Department at Istanbul Police Headquarters** when it was visited by the delegation on the afternoon of 18 September 1996.

One of those persons alleged that he had been ill-treated in that Department and, prior to his arrival there, at a police station in the Eminönü district of Istanbul; the ill-treatment alleged was falaka (i.e. beating of the soles of the feet), electric shocks whilst suspended by the arms, and hosing with cold water. Upon examination by medical members of the delegation, he was found to bear haematomae on the soles of both feet, and in particular on his left foot (a bluish longitudinal haematoma, 10 cm by 14 cm, covering the whole of the plantar arch), which were fully consistent with his allegation that, several days previously, he had been subjected to falaka. Further, he was found to bear a reddish and rounded lesion, 3 mm in diameter, in the fold of his right elbow, which was consistent with his allegation that an electrode had been jabbed into that part of his body (in addition to having been brushed against other parts of his body). He also complained of pain in the shoulder region.

Two of the other detained persons alleged that they had been ill-treated at the Anti-Terror Department (squeezing of the testicles and blows to the body in one case, suspension by the arms in the other); they appeared frightened and declined a medical examination. The fourth person stated that he had not been ill-treated at the Department; he believed that this was because he had confessed to the offences which he was suspected of having committed. However, he alleged that he had been beaten in a police vehicle following his arrest; on the left cheek he bore a small haematoma, surrounded by a tumefaction measuring 2 cm by 3 cm, consistent with the infliction of one or more blows several days previously.

7. Consultation of the relevant custody register revealed that 27 detained persons had been transferred from the Anti-Terror Department to the State Security Court in Istanbul during the morning of 18 September 1996, at about the time of the delegation's arrival at the Istanbul Police Headquarters; police officers acknowledged that such a large transfer of detainees was most unusual, and this was confirmed by a perusal of the custody register. Several of these persons were subsequently interviewed by the delegation during the morning of 20 September 1996 at Sakarya E-type Prison, the establishment to which they had been transferred the previous evening.

8. All of the persons concerned alleged that they had been tortured whilst in the custody of the Anti-Terror Department at Istanbul Police Headquarters. The forms of ill-treatment alleged included suspension by the arms, electric shocks, hosing with cold water, squeezing of the testicles, sexual abuse, prolonged standing and severe psychological pressure and humiliation. Four of these persons were fully examined by medical doctors in the delegation (cf. cases 1 to 4 below). A fifth person (case 5), who had left the custody of the Anti-Terror Department at Istanbul Police Headquarters earlier the same week and arrived at Sakarya Prison on 18 September 1996, as well as two other persons (cases 6 and 7), who had arrived at Sakarya Prison during the previous week after being detained at the same Anti-Terror Department, were also medically examined.

Each of these seven persons was found to display marks or conditions which were fully consistent with his/her allegations of ill-treatment. As regards more particularly their allegations of suspension by the arms, motor function and/or sensation in the upper limbs of all seven persons was found to be impaired - for most of them severely - and several of them bore ecchymoses or tumefactions in the axillary region which were also clearly indicative of a recent suspension by the arms. Two of the persons concerned (cf. cases 1 and 7 below) had lost the use of both arms; these sequelae could prove irreversible. Synopses of the seven cases are given below.

Case 1. An adult man alleged that he had been suspended by the arms for prolonged periods, in both the palestinian and cruciform modes. He also alleged that his testicles had been squeezed.

An examination revealed: incapacity as regards all movements of the upper limbs (the man had to be helped with all basic actions); severe impairment of deep and superficial sensibility; loss of bone-tendon reflexes; unilateral vasomotor symptoms, with right hand cold and purplish in colour.

Case 2. An adult man alleged that he had inter alia been suspended by the arms in the cruciform mode.

An examination revealed brownish ecchymoses on either side of the deltopectoral sulcus: on the left, two vertical ecchymoses 3 mm wide and respectively 4 cm and 2 cm long; on the right, an identical ecchymosis 4 cm long on the posterior edge of the armpit. Further, a haematoma in the process of resorption was observed in the suprascapular area of the right shoulder-blade.

Moreover, neurological signs were observed in both hands: on the left hand, predominant deficiency in fingers III, IV and V, the third finger remaining completely stiff; on the right hand, paraesthesia (tingling and numbness) in the fourth and fifth fingers.

Case 3. An adult man alleged that he had been suspended by the arms, received electric shocks, been kicked and had his testicles squeezed.

An examination revealed: two vertical ecchymotic lines measuring 0.5 cm x 4 cm in the left armpit and left deltoid area, in a greenish ecchymotic area of 4 cm x 6 cm; overall sensory deficiency and muscular weakness in the left hand; left testicle doubled in volume, with very painful epididymis.

Case 4. A young woman alleged that she had been subjected inter alia to palestinian hanging, electric shocks (the electrodes placed on the vagina and feet/on the breasts and feet), and blows to the arms and front of the thorax.

An examination revealed: three brownish echymoses on the anterior face of the left armpit and the neighbouring area of the arm, each measuring 2 cm x 2.5 cm; motor deficiency of the left shoulder in abduction, elevation and retropulsion; distinct sensory deficiency in the right shoulder (C5-C6 circumflex area); on palpation, pain in the right lower anterior area of the ribs (contusion of the chondrosternal cartilages); articular damage to both shoulders blocking retropulsion, of the type associated with sprains by antero-posterior subluxation.

Case 5. A young woman alleged that she had received blows, particularly on the nose, and been subjected to strangulation, suspension by the arms and electric shocks to the hands and feet.

An examination revealed: a small and apparently recent convex deformity of the nasal crest, with exquisite pain (probable fracture of the nasal bones); sharp latero-tracheal pain with residual dyspnea and voice change; cervical contracture of the right trapezius muscle and sternocleidomastoid muscle, causing motor discomfort of the right arm due to functional stiffness of the shoulder and arm; complete loss of lateral rotations and of forward flexion of the cervical column, resulting in a rigid attitude due to the insuperable contracture of the neck and right shoulder.

Case 6. A young woman alleged that she was initially suspended by the arms and given blows, and subsequently subjected to psychological trauma. She alleged that she had received threats of rape and had been sexually abused (made to lie down naked, a man lying on her back who "aroused himself on top of her"). She also alleged that she had been subjected to cold showers all over her body as well as inside the vagina and rectum, and to electric shocks to the finger and vagina and to the finger and breasts.

An examination revealed, first of all, a major psychological impact: the woman wept, had difficulties expressing herself and displayed obvious distress. In view of the very disturbed psychological context as well as the material environment, a gynaecological examination was ruled out. Sensorimotor neurological damage to the right cubital area (internal edge of the forearm, the hand and the fourth and fifth fingers) was observed.

Case 7. An adult woman alleged that she had been suspended by the arms (cruciform mode) on repeated occasions and subjected to electric shocks to the vagina and hands and to the breasts and temple.

An examination revealed complete disablement of the left upper limb and partial but completely incapacitating disablement of the right upper limb: shoulders blocked in antepulsion; left elbow blocked in a semi-bent position; indurated tumefaction, 10 cm long by 6 cm wide, on the antero-external face of the left elbow in the area of the upper end of the long supinator; loss of overall muscular strength of the left hand, with complete loss of palm sensibility (all grasping and squeezing movements were impossible); severely reduced mobility of the right shoulder, and loss of strength in the right arm and hand; overall hypoesthesia of the right hand.

9. Each of the seven persons referred to in paragraph 8 was asked whether he/she had complained about the treatment received at the hands of the police, when brought before the public prosecutor and judge at the State Security Court. They all replied in the affirmative, but added that neither the public prosecutor nor the judge had displayed any interest in pursuing their complaints.

10. Some 50 persons were being detained in the **Narcotics Department at Istanbul Police Headquarters** at the time of the delegation's visit, during the morning of 18 September 1996. Several of the detainees alleged that they had been ill-treated by the police. The most common forms of ill-treatment alleged were hosing with cold water, blows to the palms of the hands, feet and various other parts of the body, and electric shocks; further, certain detainees alleged that they had been suspended by the arms.

Many of the detainees were clearly afraid even to speak to the delegation, and some of those who made allegations of ill-treatment were very reluctant to be medically examined. However, medical members of the delegation observed signs on the hands of four detainees (bruised palms, diminished grip) which were consistent with their allegations that they had been struck on that part of their body. One of those detainees also displayed signs consistent with his allegations that he had, in addition, been suspended by the arms (pain and restricted mobility in the region of the right shoulder) and subjected to electric shocks (two small lesions on the fifth finger of the right hand - one punctiform, one 5 mm long and very thin - suggestive of recent electrical burns).

11. Reference should also be made to material evidence of resort to ill-treatment found in Building B of Istanbul Police Headquarters, which accommodates inter alia the Arms Trafficking, Finance and Narcotics Departments.

A sack containing various objects was found under a staircase in the basement of the building. The objects in question were:

- 2 thick wooden bars, respectively 1.25 m and 1.40 m in length, the first equipped with a cord and the second with a strap. The cord and strap had each been securely attached to the middle of the bar via two holes which had been bored in the wood, the cord/strap taking the form of a loop;
- a dynamo fitted with two leads measuring 1.70 m, each of which ended with 8 to 10 cm of bare wire; the dynamo was tested and found to be in working order;
- a short curved pipe made of rigid white plastic.

Senior police officers present acknowledged that such objects could be used to inflict ill-treatment. It was initially advanced that the placing of the sack under the staircase could have been an act of sabotage designed to discredit the police force. Some time later, the Deputy Head of Security responsible for the Arms Trafficking, Finance and Narcotics Departments presented the following explanation: the objects in the sack had apparently been found the previous evening in the garden of a drug trafficker's secondary residence, in the course of an operation by the Narcotics Department. The operation had ended at a very late hour and the police officer who had found the objects had been reluctant to make the effort to take them up to the Narcotics Department, which is located on the 5th and 6th floors of Building B. Consequently, he had left them under the staircase, intending to recover them when he came back on duty.

The Head of the delegation indicated to the Deputy Head of Security - in the presence of the public prosecutor who had by that time arrived in order to inspect the objects - that he found the explanation proffered to be unconvincing. Subsequent events confirmed that no credence should be attached to that explanation. On returning to the basement in order to attend the public prosecutor's inspection of the objects, the delegation found that the wooden bars had been modified: the cord attached to the first bar had been cut, and the strap attached to the second had been replaced by a frayed piece of cloth which hung limply from one point on the bar. When the delegation asked why the bars had been modified, the Deputy Head of Security responded: "I refuse to reply to your question - you do not have good intentions".

The discovery of the above-mentioned objects rendered all the more credible the allegations received by the delegation earlier that same day from certain persons in the custody of the Narcotics Department (cf. paragraph 10).

12. The delegation also visited the Theft/Pickpocketing and Car Theft/Burglary Sections of the **Law and Order Department at Istanbul Police Headquarters**, a Department which is still located at Gayretepe.

In the Theft/Pickpocketing Section, the delegation spoke inter alios with a person who had been taken into custody the previous evening. He seemed to be in a state of shock and apparently had been in the process of being interrogated for the first time when the delegation arrived at the Section; he alleged that during that interrogation he had been struck on the legs with a truncheon. Upon examination by a medical member of the delegation he was found to bear lesions (two haematomas, dark red in colour and measuring 3 cm x 4 cm and 5 cm x 5 cm, at mid-leg level on the outer face of the right leg) which were consistent with his allegation.

The delegation also attempted to speak with three persons being detained in the Car Theft/Burglary Section. Two of them gave the impression of being very frightened and declined to speak with the delegation. The third - apparently a regular visitor to the Section - stated that he had not yet been ill-treated but expected to be in due course. He alleged that the last time he had been in the Section's custody - earlier in 1996 - he had been suspended by the arms, given electric shocks and hosed with cold water.

13. Reference should also be made to other cases of persons displaying marks or conditions consistent with allegations of ill-treatment by the police in Istanbul, which were found by the delegation at Metris Closed Prison on 19 September 1996. The delegation went to Metris Prison in order to interview persons who had been transferred from the Anti-Terror Department at Istanbul Police Headquarters during the morning of 18 September 1996; it had been informed that certain of those persons had been remanded in custody by the State Security Court in Istanbul and transferred to Metris Prison later the same day. Some time after its arrival at Metris Prison, the delegation was informed that the persons in question had just been transferred to Sakarya E-Type Prison (cf. also paragraph 7). The delegation nevertheless took the opportunity to interview prisoners in the new arrivals unit and infirmary at Metris Prison.

Several persons being held in the new arrivals unit alleged that they had been ill-treated whilst in police custody, and two of them were found by medical members of the delegation to bear marks consistent with certain of their allegations. The first prisoner alleged that, two days previously, he had been beaten with a truncheon on the stomach, hands and feet whilst detained in a police station in the **Bağcılar District**; a haematoma measuring 2 cm x 3 cm, in the process of being reabsorbed, was observed on the sole of his right foot. The second prisoner alleged that, whilst detained in a police station in the **Güngören District** three days previously, he had received electric shocks to a finger and his testicles and had been beaten on his buttocks. Six transverse marks across both buttocks were observed; these bluish haematomae measured 3 cm x 15 cm on the left side, and 3 cm x 12 cm on the right side.

Further, two prisoners examined in the Metris Prison infirmary alleged that, whilst detained at **Istanbul Police Headquarters** during the first half of September 1996, they had been suspended by the arms and subjected to electric shocks. Upon examination by medical members of the delegation, they were found to display conditions consistent with their allegations of suspension by the arms - first prisoner: distal bilateral hypoaesthesia in the two upper limbs, with loss of reflexes; second prisoner: rotation and elevation movements of the shoulders reduced in amplitude, especially on the right; reflexes so small in amplitude that difficult to locate; reduced sensibility in fingers IV and V of the right hand.

14. The handful of detainees met by the delegation in the course of its visit to **Adana Police Headquarters** did not make any allegations of ill-treatment. Unfortunately, due to the difficulties encountered during that visit (cf. paragraph 4), by the time the delegation reached the two multi-occupancy cells in the Law and Order Department, it was too late (after 1.00 am) to envisage interviewing the 24 persons held within them.

The delegation also went to Adana E-type Prison, where it interviewed several prisoners who had recently been held at Adana Police Headquarters. Certain of these prisoners claimed that, whilst at the Headquarters, they had been ill-treated or had heard the cries of others being ill-treated. One of the prisoners alleged that he had been arrested without violence at his home, but had subsequently been beaten with truncheons (including a particularly violent blow to the left ear) and suspended by the arms (palestinian mode) whilst detained at the Headquarters; he also claimed that he had been obliged to stand for prolonged periods. Upon examination by one of the delegation's doctors, this prisoner was found to display a large retro-auricular tumefaction on the left side, hypersensitive to the touch, 8 cm x 4 cm in size, pushing the auricle forward and to the side; the external auditory meatus had completely collapsed as a result of the protruding tumescent mass. This lesion is fully consistent with the prisoner's allegation of having received a violent blow to the left ear. Further, an examination of the upper limbs revealed: pronounced pain on palpation of both shoulders, the passive and active movements of which were restricted on the left (antepulsion 40°, retropulsion 5°, abduction 40°); bone-tendon reflexes of the upper limbs reduced but symmetrical; no distinct sensory deficiency, but the prisoner complained of paraesthesia in both hands. These observations are characteristic of the capsular and nervous injuries caused by palestinian hanging.

15. The delegation also visited the city-centre premises of the **Bursa Police Headquarters**, which houses inter alia the Anti-Terror and Law and Order Departments. No persons were being held by the Anti-Terror Department at the time of the visit; as for the eight persons in the custody of the Law and Order Department, they made no complaints about the manner in which they had been treated.

III. Material conditions of detention

16. The delegation observed that material conditions of detention in the police establishments visited were often unsatisfactory and, more specifically, not in conformity with rule 6 of the Custody and Interrogation Instructions of 7 September 1995.

The CPT has noted with interest the information provided in the Turkish authorities' letter of 22 November 1996 concerning improvements to material conditions of detention. The Committee is fully aware that bringing existing detention facilities up to the required standard will require a considerable amount of time and money. Nevertheless, the CPT is very concerned that poor conditions of detention should also have been found in premises which have only recently been brought into service, namely the new Istanbul Police Headquarters.

17. The CPT has already expressed concern about the conditions of detention at the new premises of **Istanbul Police Headquarters** in its letter of 18 June 1996, drawn up after the visit of its Bureau to Turkey in May 1996. In their reply of 22 November 1996, the Turkish authorities explained that the situation observed by the Bureau had been largely the result of the considerable number of arrests made in connection with the demonstration of 1 May 1996.

Certainly, the situation found by the CPT's delegation in September 1996 was slightly better as regards living space for detained persons; however, it remained far from satisfactory. For example, in the Narcotics Department, cells of 6 to 7 m² were accommodating 3 to 4 detainees, and cells of 18 m², 6 to 7. These cramped conditions were all the more serious in view of the length of the periods of custody; many of the detainees met by the delegation had already been in custody for more than a week.

As had been the case in May 1996, the cells had little or no access to natural light, poor artificial lighting and mediocre ventilation. Further, rest/sleeping arrangements were totally inadequate; no mattresses were provided, and there were invariably more prisoners than sleeping platforms. Consequently, most detainees slept on the floor, with only a blanket to cover them. Moreover, there was still no possibility for persons held for an extended period to take outdoor exercise.

18. The CPT was pleased to learn that material conditions of detention in the Anti-Terror Department at **Adana Police Headquarters** had been improved significantly. The very small (1.68 m²) and totally dark cells seen in 1992 had been replaced by good-sized cellular accommodation, which was equipped with adequate artificial lighting. The ventilation still left something to be desired. However, assuming the cells are not overcrowded, the only major criticisms that can be made of the current material conditions of detention in the Anti-Terror Department concern sleeping arrangements (as in all other police establishments visited in September 1996, persons held in custody overnight were not provided with a mattress) and the absence of outdoor exercise for those held for extended periods.

However, conditions of detention in the Law and Order Department remained as observed by the CPT in 1992. Detained persons were still being held overnight in grossly overcrowded and inadequately ventilated multi-occupancy cells.

19. In the course of the September 1996 visit, a CPT delegation visited **Bursa Police Headquarters** for the first time.

At the time of the visit, conditions of detention in the Law and Order Department's multi-occupancy cells were on the whole acceptable; they were not overcrowded, had adequate lighting and ventilation and were reasonably clean. However, once again, mattresses were not provided to those held overnight. The Department's detention unit also contained five very small (2.4 m²) and totally dark cells. There were no signs of recent occupation and the delegation was informed that these cells had been withdrawn from service. The CPT trusts that this will remain the case; in their present state they are unfit to be used for detention purposes, no matter how short the period of custody.

Material conditions in the Anti-Terror Department's detention unit were not acceptable, a state of affairs acknowledged by senior police officers present: in particular, the cells were small (most of them measuring less than 4 m²) and devoid of any access to light (whether natural or artificial) or means of ventilation. They should be withdrawn from service.

20. Finally, reference should be made to the question of the **provision of food** to detained persons. It transpired from discussions with police officers that no specific budgetary provision exists for the feeding of persons in police custody. The provision of food had to be financed by a detainee himself; if he was without resources, he was obliged to rely on the generosity of other detainees or, failing that, of police officers. If the numerous allegations received by the delegation (in particular at Istanbul Police Headquarters) are to be believed, the consequence of the present system is that detained persons can go without food for days. **Such a situation is unacceptable.**

Rule 6 of the previously-mentioned Custody and Interrogation Instructions stipulates that persons in custody must be supplied with food. This implies that appropriate budgetary provision should be made to cover the food requirements of detained persons who have no resources to pay for food.

IV. Future action

21. The principal findings of the delegation which carried out the most recent visit to Turkey were set out in a letter dated 30 September 1996. In that letter the President of the CPT stressed the gravity of those findings and, in the context of the on-going procedure under Article 10 (2) of the Convention, invited the Turkish authorities to respond before the Committee's 31st meeting. By letter of 22 November 1996, the Turkish authorities responded to both the issues raised in the Committee's letter of 18 June 1996 (follow-up to the Bureau's visit to Turkey in May 1996) and the findings during the September 1996 visit.

22. The reply to the letter of 18 June 1996 contained a number of interesting elements; the Bill providing for a reduction in periods of police custody is a particularly promising development. However, the CPT was very disappointed by the defensive reply provided in respect of the findings during the September 1996 visit.

The Turkish authorities are fully aware that it would have been in breach of the confidential nature of the CPT's interviews with persons deprived of their liberty (cf. Article 8 (3) of the Convention) for the Committee to have provided the names of the persons referred to in its letter of 30 September 1996. It should also be said that in the light of the information provided in that letter, had the Turkish authorities so wished, they could have identified many of those persons with very little effort.

Further, to focus attention on this or that person interviewed by the delegation is to miss the point. The cases mentioned in the letter of 30 September 1996 are simply illustrations of a much broader problem, namely that the methods used in the police establishments referred to in that letter - and in particular the Anti-Terror and Narcotics Departments at Istanbul Police Headquarters - are intolerable. The CPT has in the past drawn the attention of the Turkish authorities to evidence of ill-treatment in these two Police Departments (cf. in particular, the report on the CPT's visit in October 1994); despite this, the findings during the September 1996 visit show that the situation in those Departments has not improved. An appropriate response to the letter of 30 September 1996 would have been to immediately launch a full-scale, independent inquiry into the activities of the Anti-Terror and Narcotics Departments at Istanbul Police Headquarters and, on the basis of that inquiry, to take remedial action.

23. At its 31st meeting, the CPT decided that the Article 10 (2) procedure set in motion two years ago should be allowed to run its course. The public statement issued on 6 December 1996 is set out in an Appendix to this report, of which it forms an integral part.

Some key aspects of the action required to combat torture and ill-treatment are identified in paragraphs 5 to 7 of the public statement. **The CPT recommends that the Turkish authorities take the appropriate measures to ensure that the issues concerned are satisfactorily addressed.**

As regards more specifically the inspections of law enforcement agencies recently announced by the Minister of the Interior (cf. paragraph 5 of the public statement), **the CPT wishes to reiterate that it would like to receive in due course information on concrete action taken as a result of those inspections.**

The CPT was pleased to note that in the course of the above-mentioned inspections, attention will be given inter alia to the question of material conditions of detention. It should be stressed once again that the effect on a detainee of being held in an excessively small, dark and unventilated cell may often in itself amount to torture or inhuman or degrading treatment. In this connection, **the CPT recommends:**

- **that the material conditions of detention in the new premises of Istanbul Police Headquarters and at Adana and Bursa Police Headquarters be reviewed, in the light of the remarks set out in paragraphs 16 to 19 above;**
- **that the question of the provision of food to persons in police custody be reviewed, in the light of the remarks set out in paragraph 20.**

24. A number of remarks concerning the Bill providing for a reduction in periods of police custody are set out in paragraphs 8 and 9 of the public statement.

As regards the question of access to a lawyer, the CPT wishes to add that this right must include the right for the person in police custody to talk to the lawyer in private.

Further, in the interests of the prevention of ill-treatment, it is essential for the new Law to make clear that a detained person in respect of whom an extension of police custody is requested must be systematically brought before the judge who examines that request.

The CPT requests that the above-mentioned remarks as well as those set out in paragraphs 8 and 9 of the public statement be taken into account when the Bill is examined by the Grand National Assembly.

25. With regard to persons suspected of offences which do not fall under the jurisdiction of the State Security Courts, **the CPT recommends that the operation of the provisions concerning access to a lawyer laid down in Law No. 3842 be reviewed.** Too few ordinary criminal suspects are benefitting from access to a lawyer while detained by the law enforcement agencies, and those that do tend to see the lawyer at a relatively late stage of their period in police custody.

Further, the CPT has emphasised repeatedly that it is essential for an ordinary criminal suspect 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. This is still not happening. **The CPT recommends that steps be taken to remedy this situation.**

26. The CPT is impressed by the information sheet setting out the rights of persons in police custody which has been drawn up by the Turkish authorities (cf. Appendix 5 to the above-mentioned letter of 22 November 1996). It meets exactly the recommendations on this subject made by the Committee in the report on its October 1994 visit. The CPT trusts that it is systematically being given to detained persons at the outset of their custody.

However, the CPT has noted that the form is not issued to persons suspected of offences falling under the jurisdiction of State Security Courts. Of course, at least for the time being, certain of the rights set out in the form do not apply to such suspects; but others do, in particular the rights based on Article 135A of the Code of Criminal Procedure. Consequently, **the CPT recommends that a similar information sheet be drawn up for persons suspected of offences falling under the jurisdiction of the State Security Courts.**

27. **The CPT also recommends that the Turkish authorities persist with and intensify their efforts in the fields of human rights education and professional training;** a start has been made, but there is considerable scope for developing the programmes involved. Such efforts are required throughout the criminal justice system. Further, the need to promote awareness of human rights amongst the general public should not be overlooked.

Further, the CPT was very interested to learn that the Government formed in July 1996 includes a Minister of State for Human Rights. **The CPT would like to be informed of the precise role and activities of the Minister as well as of the means at his disposal.**

28. Finally, the CPT has taken careful note of the remarks made by the Turkish authorities in their letter of 22 November 1996 concerning the intervention of outside security forces to deal with prison disturbances. The Committee is pleased that the Turkish authorities consider that this problem merits urgent consideration, as a result of incidents during the last twelve months.

The CPT wishes to emphasise that, if modern intervention techniques are employed by law enforcement officials committed to using the minimum degree of force necessary, it should be possible to avoid deaths and injuries - among both prisoners and the security forces - on the scale seen in recent times.

It is stated in the letter of 22 November 1996 that the Ministry of Justice, the Ministry of the Interior and the Gendarmerie Central Command are holding discussions and looking into new methods to deal with prison riots and to reduce damage to a minimum in circumstances requiring the use of force. **The CPT wishes to receive further information on this subject.**

APPENDIX

**EUROPEAN COMMITTEE FOR THE PREVENTION
OF TORTURE AND INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT**

Public statement on Turkey

(issued on 6 December 1996)

**This public statement is made under Article 10, paragraph 2,
of the European Convention for the Prevention of Torture
and Inhuman or Degrading Treatment or Punishment**

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1. In its public statement on Turkey of 15 December 1992, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) summarised the facts found during its visits to Turkey between 1990 to 1992. It concluded that the practice of torture and other forms of severe ill-treatment of persons in police custody - both ordinary criminal suspects and persons held under anti-terrorism provisions - remained widespread. Different types of action required to address that problem were identified in paragraphs 26 to 36 of the statement. Over the intervening four years, the CPT has striven to secure the full implementation of those measures.

2. Some progress has been made. The Turkish authorities have issued a multitude of instructions and circulars; further, training programmes and human rights education strategies have been devised. However, the translation of words into deeds is proving to be a highly protracted process. The CPT's findings in the course of a visit to Turkey in October 1994 demonstrated that torture and other forms of severe ill-treatment were still important characteristics of police custody in that country. This led to an intensification of the dialogue between the Turkish authorities and the CPT. Nevertheless, the Committee has continued to receive credible reports of torture and ill-treatment by Turkish law enforcement officials throughout 1995 and 1996. Further, in the course of visits to Turkey in 1996, CPT delegations have once again found clear evidence of the practice of torture and other forms of severe ill-treatment by the Turkish police.

3. The CPT's most recent visit took place in September of this year. Police establishments in Adana, Bursa and Istanbul were visited, and the delegation also went to three prisons in order to interview certain persons who had very recently been in police custody in Adana and Istanbul.

A considerable number of persons examined by the delegation's three forensic doctors displayed marks or conditions consistent with their allegations of recent ill-treatment by the police, and in particular of beating of the soles of the feet, blows to the palms of the hands and suspension by the arms. The cases of seven persons (four women and three men) medically examined at Sakarya Prison, where they had very recently arrived after a period of custody in the Anti-Terror Department at Istanbul Police Headquarters, must rank among the most flagrant examples of torture encountered by CPT delegations in Turkey. To focus only on their allegations of prolonged suspension by the arms, motor function and/or sensation in the upper limbs of all seven persons was found to be impaired - for most of them severely - and several of them bore ecchymoses or tumefactions in the axillary region which were also clearly indicative of a recent suspension by the arms. Two of the persons examined had lost the use of both arms; these sequelae could prove irreversible.

Further, as had been the case in October 1994 and during earlier CPT visits, the delegation

once again found material evidence of resort to ill-treatment, in particular, an instrument adapted in a way which would facilitate the infliction of electric shocks and equipment which could be used to suspend a person by the arms. The objects concerned were discovered in Building B of Istanbul Police Headquarters; they rendered all the more credible allegations of ill-treatment made to the delegation by persons in the custody of the Narcotics Department (which is located in Building B), allegations which were also supported by observations of medical members of the delegation.

The CPT forwarded a detailed account of its delegation's findings to the Turkish authorities; however, the reply received from those authorities on 22 November 1996 signally failed to acknowledge the gravity of the situation.

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4. Much of the legal and regulatory framework necessary to combat torture and ill-treatment is in place in Turkey. However, notwithstanding injunctions issued at the highest political level, in practice those measures are being ignored.

5. By Circular of 13 February 1995, the Prime Minister directed the Minister of the Interior to issue instructions designed to ensure that persons taken into custody are not ill-treated, irrespective of their alleged offence; the Prime Minister identified a number of specific points to be included in those instructions. On 16 February 1995, corresponding instructions to all law enforcement agencies and Governors' Offices were issued by the Minister of the Interior. The CPT commented at the time that if given full effect in practice, those instructions would represent a turning point in respect for human rights in Turkey. Regrettably, it is clear from the information gathered by the Committee in the course of subsequent visits to Turkey that those instructions are not yet being fully complied with; in fact, little more than lip service is being paid to them.

It is incumbent upon the State to ensure that its injunctions are obeyed. The need is not for more circulars, but rather for effective control and supervision of the activities of law enforcement agencies. In this connection, the CPT has noted with interest that, on 29 November 1996, the Minister of the Interior announced that Ministry officials shall henceforth carry out unannounced inspections of law enforcement agencies in order to investigate whether the treatment of detained persons is in accordance with pre-existing orders. The Committee looks forward to receiving information on concrete action taken as a result of those inspections.

6. Particular reference should be made to the work of doctors appointed by the State to carry out forensic tasks, a matter to which the CPT has given considerable attention in the course of its dialogue with the Turkish authorities. The present system of detained persons being routinely examined by a forensic doctor at the end of their period of police custody is, in principle, a significant safeguard against ill-treatment. However, certain conditions must be met: the forensic doctor must enjoy formal and de facto independence, have been provided with specialised training and been allocated a mandate which is sufficiently broad in scope. If these conditions are not met - as is frequently the case - the present system can have the perverse effect of rendering it all the more difficult to combat torture and ill-treatment.

A series of Circulars have been issued by the Ministry of Health on this subject; in particular, a Ministry of Health Circular of 22 December 1993 - subsequently endorsed in the Minister of the Interior's instructions of 16 February 1995 - sets out the required content of forensic certificates drawn up following the examination of persons detained by the law enforcement agencies. Despite this, the great majority of forensic certificates seen by the CPT over the last three years have not met the requirements of that Circular.

Measures need to be taken to ensure that there is full compliance with all of the above-mentioned Circulars and, more generally, that doctors called upon to perform forensic tasks can carry out their work free from any interference. Further, the necessary resources should be made available in order to allow the training programme for doctors called upon to perform forensic tasks - recently devised by the Ministry of Health - to be implemented throughout Turkey without delay.

7. The CPT also feels obliged to stress once again that public prosecutors must react expeditiously and effectively when confronted by complaints of torture and ill-treatment. On countless occasions over the last seven years - most recently during the visit in September 1996 - the Committee has received allegations that detained persons did complain about treatment received at the hands of the police when brought before the public prosecutor, but that the latter displayed no interest in the matter. The CPT has itself detected, amongst some of the public prosecutors whom it has met, a tendency to seek to defend the police rather than to view objectively the matter under consideration.

Similarly, when cases are brought to court, it is of crucial importance that suitable penalties are imposed in the event of ill-treatment being proven. In this connection, the CPT believes that the Turkish authorities would be well advised closely to analyse judgements in recent years involving convictions under Articles 243 (obtaining confessions by torture or inhuman treatment) and 245 (ill-treatment inflicted by law enforcement officials) of the Criminal Code, in order to ascertain whether the courts' decisions in the cases concerned correspond to the seriousness of the offences involved.

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8. Since 1990, the CPT has been calling upon the Turkish authorities to reduce the maximum periods for which persons suspected of offences falling under the jurisdiction of State Security Courts can be held in police custody. Such suspects can still be held incommunicado for long periods by the police (up to 15 days, rising to 30 days in regions where a state of emergency has been declared), a situation which clearly facilitates the infliction of torture and ill-treatment. A possible reduction of the above-mentioned custody periods has been debated in Turkey from time to time, the idea surfacing once again in the course of this year. The CPT has been informed that, on 27 November 1996, the Government submitted a Bill on this subject to the Grand National Assembly.

According to the information provided to the CPT by the Turkish authorities, that Bill provides for the maximum period of police custody for collective offences (i.e. those involving three or more persons) falling within the jurisdiction of State Security Courts to be reduced from fifteen to four days, with a possible extension to seven days by decision of a judge; as regards regions where a state of emergency is in force, the maximum period would be reduced from thirty to seven days, with a possible extension to ten days. Such provisions, if enacted, would obviously represent a significant step in the right direction.

9. However, the CPT has always stressed that the reduction of maximum periods of police custody should be accompanied by a strengthening of the safeguards against ill-treatment for persons suspected of offences falling under the jurisdiction of State Security Courts. At present, such persons are routinely denied all contact with the outside world whilst in police custody - a propitious state of affairs for the infliction of ill-treatment, regardless of how long the period of police custody may be.

The CPT has been informed that the Bill provides for a right of access to a lawyer after four days. In other words, access to a lawyer shall continue to be denied for four days; this is not acceptable. The possibility for persons taken into police custody to have access to a lawyer as from the outset of their deprivation of liberty is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect upon those minded to ill treat detained persons; moreover, a lawyer is well placed to take appropriate action if ill-treatment actually occurs. The CPT recognises that in order to protect the interests of justice, it may exceptionally be necessary to delay access by detained persons to a particular lawyer of their choice for a certain period. However, this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to another independent lawyer who can be trusted not to jeopardise the legitimate interests of the police investigation should be arranged. It should be added that the CPT has received no information on whether or how the Bill addresses other fundamental safeguards against ill-treatment.

The CPT wishes to reiterate that all persons detained by the police - irrespective of the offence of which they are suspected - should be granted, as from the outset of their custody, the right of access to an independent lawyer (although not necessarily their own lawyer) and to a doctor other than one selected by the police. Further, they should in principle have the right immediately to notify their next of kin of their situation; any possibility exceptionally to delay the exercise of that right should be clearly defined and strictly limited in time. The Committee trusts that full consideration will be given to these remarks when the above-mentioned Bill is examined by the Grand National Assembly.

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10. The information at the CPT's disposal demonstrates that resort to torture and other forms of severe ill-treatment remains a common occurrence in police establishments in Turkey. To attempt to characterise this problem as one of isolated acts of the kind which can occur in any country - as some are wont to do - is to fly in the face of the facts.

11. It is frequently argued that the existence of torture and ill-treatment in Turkey is closely linked to the scale of terrorist activities in that country.

On more than one occasion, the CPT has made clear that it abhors terrorism, and has recognised the serious difficulties faced by the Turkish authorities in this regard. Multi-faceted terrorist violence exists throughout Turkey and, in the South-East region of the country, has caused major security and humanitarian problems. Turkey is entitled to the understanding and support of others in its struggle against this destructive phenomenon.

However, the Committee has also emphasised that the response to terrorism must never be allowed to degenerate into acts of torture or other forms of ill-treatment by law enforcement officials. Such acts are both outrageous violations of human rights and fundamentally-flawed methods of obtaining reliable evidence for combatting crime; to refrain from resorting to such acts is one of the hallmarks of a democratic State.

Further, the information gathered by the CPT in the course of its visits to Turkey shows clearly that torture and ill-treatment are also inflicted by law enforcement officials upon ordinary criminal suspects. Consequently, it would be quite wrong to assume that the problem of torture and ill-treatment is simply an unfortunate consequence of the scale of terrorism in Turkey. The problem may well have been exacerbated by terrorism, but its roots go far deeper.

12. Article 17, paragraph 3, of the Constitution of the Republic of Turkey proclaims that: "No one shall be subjected to torture or ill-treatment; no one shall be subjected to a penalty or to treatment incompatible with human dignity". The CPT's only aim in making this public statement is to motivate the Turkish authorities to take decisive action to convert those fundamental principles into reality. In pursuit of that objective and in furtherance of its mandate, the Committee is fully committed to continuing its dialogue with the Turkish authorities.