



CPT/Inf (2001) 31

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

**from 10 to 16 December 2000 and 10 to 15 January 2001  
and from 18 to 21 April and 21 to 24 May 2001**

**and Response of the Turkish Government**

The Turkish Government has agreed to the publication of this report and of its response.

Strasbourg, 13 December 2001



## TABLE OF CONTENTS

**Page**

Report to the Turkish Government on the visits to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 16 December 2000 and 10 to 15 January 2001 and from 18 to 21 April and 21 to 24 May 2001 .....	5
Response of the Turkish Government .....	41



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

**from 10 to 16 December 2000 and 10 to 15 January 2001  
and from 18 to 21 April and 21 to 24 May 2001**



**CONTENTS**

<b>Copy of the letter transmitting the CPT's report .....</b>	<b>9</b>
<b>I. INTRODUCTION.....</b>	<b>11</b>
<b>II. SUMMARY OF THE DECEMBER 2000/JANUARY 2001 AND APRIL/MAY 2001 VISITS.....</b>	<b>13</b>
<b>A. The December 2000/January 2001 visit .....</b>	<b>13</b>
<b>B. The April/May 2001 visit.....</b>	<b>15</b>
<b>III. ASSESSMENT IN THE LIGHT OF THE CPT'S FINDINGS AND THE TURKISH AUTHORITIES' RESPONSES .....</b>	<b>17</b>
<b>A. The December 2000 prison interventions .....</b>	<b>17</b>
1. Methods employed by the Gendarmerie to overcome resistance .....	17
2. Ill-treatment in the aftermath of the interventions.....	19
3. Independent, on-the-spot, observers during prison interventions.....	19
<b>B. Situation in the F-type prisons.....</b>	<b>20</b>
1. Ill-treatment .....	20
a) on admission.....	20
b) during the headcount procedure .....	21
2. Activities.....	21
3. Material conditions of detention.....	22
4. Role of the gendarmerie .....	23
5. Solitary confinement.....	23
<b>C. Other issues.....</b>	<b>24</b>
1. Management of hunger strikers .....	24
2. Shackling patients to their beds .....	24
3. Monitoring procedures .....	25
<b>D. Concluding remarks .....</b>	<b>27</b>

**APPENDIX 1:**

**Preliminary observations dated 29 January 2001,  
made by the CPT delegation which carried out  
the December 2000/January 2001 visit .....29**

**APPENDIX 2:**

**Press release issued on 24 April 2001,  
following the April 2001 visit .....35**

**APPENDIX 3:**

**Preliminary observations dated 8 June 2001, made by the delegation  
which carried out the May 2001 visit .....37**



**Copy of the letter transmitting the CPT's report**

Strasbourg, 17 July 2001

Dear Deputy Director General,

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) following its visits to Turkey from 10 to 16 December 2000 and 10 to 15 January 2001 and from 18 to 21 April and 21 to 24 May 2001. The report was adopted by the CPT at its 45th meeting, held from 3 to 6 July 2001.

The CPT's recommendations, comments and requests for information are set out in **bold type** in the text (cf. paragraphs 13, 15, 16, 17, 19, 21, 22, 25, 27, 28, 31, 33, 34, 35, 38). The Committee requests the Turkish authorities to provide within three months a response to those recommendations, comments and requests for information.

The CPT would also welcome any observations which the Turkish authorities might wish to make on other parts of the visit report, and in particular on the concluding remarks set out in paragraphs 39 to 41.

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 sincerely,

Silvia CASALE  
President of the European Committee for  
the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

Mr H. Kemal GÜR  
Deputy Director General for the Council of Europe  
and Human Rights  
Ministry of Foreign Affairs  
ANKARA

cc. Mr Alev KILIÇ, Ambassador Extraordinary and Plenipotentiary,  
Permanent Representative of Turkey to the Council of Europe



## I. INTRODUCTION

1. Since 20 October 2000, the Turkish prison system has been the scene of a coordinated hunger strike campaign involving hundreds of prisoners covered by the 1991 Law to Fight Terrorism. This campaign of protest is centred on the F-type prison project, which forms part of the Turkish authorities' plans to introduce smaller living units for prisoners. This move away from the ward (large dormitory) system traditionally found in Turkish prisons is perceived by the prisoners concerned as being highly prejudicial to their interests and more specifically to their safety. The prisoners argue that a system of isolation will be operated in the F-type prisons, that with such small accommodation units (for one or three prisoners) their "life-security" will be endangered, and that the new arrangements will prevent them from maintaining their cultural and ideological solidarity. In addition to opposition to the F-type prisons, various other demands are put forward in the context of the hunger strike campaign and, in particular, abolition of the Law to Fight Terrorism and of the State Security Courts.

The Turkish authorities argue that far from endangering prisoners, the new accommodation arrangements will free them from the influence currently exercised by terrorist or other organisations in the large dormitories. They state that a system of isolation will not be operated in the F-type prisons and that, on the contrary, it is foreseen that prisoners will participate in communal activity programmes outside their living units.

2. Following various failed attempts to resolve the conflict, security forces intervened simultaneously on 19 December 2000 in twenty prisons where hunger strikes were taking place. In the course of that operation, which ended on 22 December 2000, 32 persons died and a large number of persons were injured<sup>1</sup>. More than 1000 prisoners were transferred to other establishments and, in particular, to three F-type establishments (in Edirne, Kocaeli and Sincan) brought into service ahead of schedule. Notwithstanding the interventions, many of the prisoners concerned remained on hunger strike.

3. Towards the end of April 2001, agreement was reached at Government level on various draft laws designed to improve conditions of detention of prisoners and to introduce new safeguards as regards their treatment. The laws entered into force in the course of May and June 2001. They include an amendment of Article 16 of the Law to Fight Terrorism; this amendment formally removes the system of small-group isolation foreseen under the former text and makes provision for prisoners to participate together in activity programmes.

Despite these legal reforms, the hunger strike campaign continues (both inside and outside the prison system); on 6 July 2001, the death toll stood at 27 - 20 prisoners and 7 other persons.

---

<sup>1</sup> According to information supplied by the Turkish authorities, some persons subsequently died from their injuries.

4. On 6 December 2000, the Turkish Government invited the CPT to carry out a visit to Turkey, in order to contribute to the efforts underway aimed at finding a solution capable of bringing the hunger strikes to an end. That visit began on 10 December 2000 and was interrupted on 16 December 2000; the visit was subsequently continued from 10 to 15 January 2001. The CPT's delegation was composed as follows:

Silvia CASALE, President of the CPT	(both parts of the visit)
Marc NEVE, member of the CPT	(January 2001)
Davor STRINOVIC', member of the CPT	(January 2001)
Jean-Pierre RESTELLINI, expert	(January 2001)
Jean SABATINI, expert	(December 2000)
Trevor STEVENS, Executive Secretary of the CPT	(both parts of the visit).

The CPT subsequently returned to Turkey from 18 to 21 April 2001, in order to pursue issues related to the hunger strike campaign; this visit was continued from 21 to 24 May 2001. The Committee's delegation consisted of the President and the Executive Secretary of the CPT.

5. Before setting out the facts found during the above-mentioned visits, it should be recalled that as long ago as March 1997 (in the report on the CPT's visit to Turkey in August 1996) the Committee acknowledged the drawbacks of the large dormitory system and indicated that it had no objections in principle to the Turkish authorities' plans to make changes to that system. However, the CPT stressed that moves towards smaller living units for prisoners must be accompanied by measures to ensure that prisoners spend a reasonable part of the day engaged in purposeful activities outside their living units. More recently, in the report on the July 2000 visit<sup>2</sup>, the CPT addressed certain issues which are fundamental to the success of the smaller living units project; first and foremost, it emphasised that the introduction of smaller living units for prisoners must under no circumstances be allowed to lead to a generalised system of small-group isolation.

---

<sup>2</sup> This visit report was published on 8 November 2001, together with the response of the Turkish Government (cf. CPT/Inf (2001) 25 and 26).

## **II. SUMMARY OF THE DECEMBER 2000/JANUARY 2001 AND APRIL/MAY 2001 VISITS**

### **A. The December 2000/January 2001 visit**

6. The December 2000 part of the visit can best be described as an exercise in mediation (as distinct from negotiation) carried out in a spirit of cooperation, at the request of the Turkish authorities. The delegation considered that its role was to offer the objective views of an impartial but informed international body.

The delegation held detailed discussions with the Turkish authorities directly responsible for issues concerning the hunger strikes, including the Minister of Justice, Mr Hikmet Sami TÜRK. It also had consultations with persons involved in attempts to reach a mediated solution; they included, in particular, members of the Human Rights Inquiry Commission of the Turkish Grand National Assembly and a group of well-known artists and intellectuals. Further, the delegation held talks at Istanbul Prison and Detention House (Bayrampaşa) with representatives of the principal group of prisoners taking part in the hunger strikes, and it spoke with prisoners who were on hunger strike.

7. On 13 December 2000, a mediatory team, led by a member of the Human Rights Inquiry Commission of the Turkish Grand National Assembly (Mr Mehmet BEKAROĞLU) and including representatives of various non-governmental organisations, began intensive talks with representatives of the principal group of prisoners taking part in the hunger strikes. However, the talks were suspended during the night of 14 to 15 December 2000, without a solution having been found.

The CPT's delegation decided to keep a low profile during this period, so as not to interfere in any way with the above-mentioned talks. The delegation nevertheless felt that it should remain in Turkey, in case there might be some contribution it could make after the talks reached their conclusion. However, the delegation's task was rendered impossible by the publication on 14 December 2000, in a major national newspaper (the *Hürriyet*), of pointedly selected parts of the then confidential report on the CPT's August 1996 visit to Turkey<sup>3</sup>. The effect was that the material published presented the CPT as being in full support of the Government's position. Under these circumstances, the delegation's position as an independent interlocutor became untenable. When, after some hesitation, the delegation returned to Bayrampaşa Prison on 15 December 2000 - following the failure of the previously-mentioned talks - the prisoner representatives made it clear that they no longer had trust in the delegation and were not prepared to continue discussions with it until such time as that trust was restored.

The CPT deeply resents the fact that such a highly selective leak of confidential material concerning the Committee's activities should have occurred at that moment. Whoever was responsible for it behaved in an unscrupulous manner towards the CPT. The CPT takes note of the Turkish authorities denial of responsibility for the leak.

---

<sup>3</sup> At the CPT's insistence, the entire visit report was subsequently published on 1 March 2001 (cf. CPT/Inf (2001) 1).

8. During the January 2001 part of the visit, the CPT's delegation sought information on the prison interventions of 19 to 22 December 2000 and on subsequent inquiries and investigations. The delegation also examined the situation in the establishments - and in particular, the F-type prisons - to which prisoners had been transferred after the interventions, as well as the approach being followed vis-à-vis prisoners who remained on hunger strike. Further, it continued to explore possible means of bringing the hunger strikes to an end.

The delegation had detailed discussions with officials of the Ministries of Justice, the Interior and Health responsible for issues concerning the hunger strikes and the prison interventions, and it held talks with the Minister of Justice, Mr Hikmet Sami TÜRK. The delegation also consulted with members of the Human Rights Inquiry Commission of the Turkish Grand National Assembly, including the Commission's President, Mr Hüseyin AKGÜL, as well as with other persons who had been involved in attempts to reach a mediated solution to the hunger strikes. Further, the delegation met again representatives of the principal group of prisoners taking part in the hunger strikes, and it interviewed a considerable number of prisoners who had been transferred in the wake of the prison interventions.

The delegation visited the following establishments:

- Edirne F-type Prison
- Kocaeli (Kandıra) F-type Prison
- Sincan F-type Prison.

It also interviewed prisoners in:

- Bakırköy Prison for Women and Juveniles (Istanbul)
- Ankara - Numune Hospital
- Cerrahpaşa Hospital (Istanbul)
- Sağmalcılar Hospital (Istanbul).

9. Following this visit, the delegation presented by letter of 29 January 2001 detailed preliminary observations to the Turkish authorities (cf. the text set out in Appendix 1)<sup>4</sup>. On two issues - the request for a thorough and independent inquiry into the intervention against dormitory C1 at Bayrampaşa Prison and the need to develop activity programmes in the F-type prisons brought into service - the delegation requested a response within three months. On 2 May 2001 the Turkish authorities forwarded a response which covered all aspects of the delegation's preliminary observations. That response will be examined in Section III of this report.

---

<sup>4</sup> These preliminary observations were published on 16 March 2001, at the request of the Turkish authorities (cf. Council of Europe Press Release - Ref. 185a01).

**B. The April/May 2001 visit**

10. On 21 March 2001 one of the prisoners who remained on hunger strike died, and the death toll rose rapidly during the first half of April 2001. This gave rise to mounting concern about the hunger strike crisis and the CPT consequently decided to return to Turkey. The CPT was particularly keen to clarify the position as regards the provision of out of cell/living unit activities in the F-type prisons. By letter of 28 March 2001 the Turkish authorities had informed the CPT that such activities were now being offered; however, according to reports received from other sources, this was not the case .

11. The April part of the visit was devoted almost exclusively to consultations with Government authorities and non-governmental organisations. It quickly became evident that programmes of communal activities outside of prisoners' living units had not yet been introduced, the Minister of Justice arguing that this was not possible until such time as Article 16 of the Law to Fight Terrorism had been amended. On this latter point, the Minister informed the delegation that the amendment of Article 16 remained under discussion within the Government, and he was hopeful that agreement would be reached shortly. The delegation expressed surprise that after months of internal discussions, this matter had not yet been resolved; it impressed upon the Minister the urgency of reaching a solution in the very near future.

Later the same week an agreement was finally reached at Government level on various prison reform proposals, including the amendment of Article 16. The draft laws in question were immediately made available to the delegation. Following further discussions with the Turkish authorities, the delegation issued a press release on 24 April 2001, setting out its initial reactions to the prison reform proposals. Pending the adoption of the law amending Article 16, the delegation also urged the Turkish authorities to explore all possible means of immediately attenuating the small-group isolation system which flowed from the existing text of that provision. The text of the press release is set out in Appendix 2.

12. The law amending Article 16 of the 1991 Law to Fight Terrorism was finally adopted on 1 May 2001 and entered into force several days later. During the May part of the visit the delegation in particular monitored the progress towards the implementation of communal activity programmes in F-type prisons, following the amendment of Article 16. For this purpose it visited the F-type prisons in Edirne and Tekirdağ. The delegation forwarded its findings to the Turkish authorities by letter of 8 June 2001 (see text set out in Appendix 3). By letter dated 22 June 2001 the Turkish authorities responded to the delegation's observations.





### III. ASSESSMENT IN THE LIGHT OF THE CPT'S FINDINGS AND THE TURKISH AUTHORITIES' RESPONSES

#### A. The December 2000 prison interventions

##### 1. Methods employed by the Gendarmerie to overcome resistance

13. In the preliminary observations dated 29 January 2001, the CPT's delegation, whilst recognising the problems confronting the security forces responsible for the prison interventions, expressed concern that the methods employed did not appear in all cases to have been proportional to the difficulties faced. Subsequently, at the delegation's request, the Turkish authorities have provided a considerable amount of information concerning the above-mentioned interventions - video recordings, autopsy reports, incident reports, descriptions of the incapacitating devices and other munitions used by the security forces.

The above-mentioned information has been helpful. However, in order for the CPT to have a better understanding of the methods employed by the Gendarmerie, the Committee would like to receive more video footage of the actual taking of control of areas occupied by prisoners as distinct from scenes showing the prelude to and closing stages of the interventions (cf. also the CPT President's letter of 13 June 2001). As regards incapacitating devices, the information supplied by the Turkish authorities indicates that tear gas grenades and sprays (employing either CS or pepper gas) were used. However, a considerable number of prisoners interviewed separately by the delegation alleged that another form of gas which had a neurological effect (engendering temporary loss of control over bodily movements) was also employed. **The CPT would like to receive the comments of the Turkish authorities on these allegations.**

14. In its preliminary observations of 29 January 2001 the CPT's delegation stated that it had grave doubts regarding the manner in which the intervention took place vis-à-vis the female dormitory C1 at Bayrampaşa Prison, where six of the 27 inmates died and many others suffered burns and/or other injuries. It requested that a thorough and independent inquiry be carried out into the methods employed by the security forces during that particular intervention and into the precise causes of the deaths and injuries among the occupants of the dormitory. The CPT notes that the Eyüp Chief Public Prosecutor's Office is currently conducting an investigation into this matter.

15. The description of the operation against dormitory C1 given in the Turkish authorities' response and in paragraph 9 of the appended incident report differs markedly from the accounts given to the delegation by women who were held in the dormitory at the time and by other prisoners who witnessed the intervention. As regards the autopsy reports concerning the six women who died in dormitory C1, they demonstrate clearly that the deaths were fire-related; however, they do not remove all possible doubts as regards the precise circumstances under which the fire which caused the deaths was initiated and spread.

In order to uncover the truth, it will be necessary to take evidence from all persons with first-hand experience of the intervention against dormitory C1 i.e. the members of the security forces involved (and in particular those operating on the roof of the dormitory or from positions immediately adjacent to the dormitory); persons held in dormitory C1 at the time who survived the intervention; all other persons (prison staff, public prosecutors, prisoners in adjoining dormitories, etc.) who directly witnessed parts of the intervention. A meticulous examination of all video recordings of the intervention against dormitory C1 will also be necessary (from the delegation's discussions with prisoners it would appear that much of the intervention was filmed by the security forces). It would also be highly desirable to commission an independent scientific evaluation of the possible contribution of the devices used by the security forces to causing the fire which ravaged dormitory C1 or to the fire's spread, regard being had to the composition of those devices as well as to the combination and quantity in which they were used. The results of such an evaluation might not only shed light on the precise causes of the deaths and injuries during the intervention against dormitory C1 but also provide invaluable guidance for the future.

**The CPT looks forward to receiving in due course the results of the investigation being undertaken by the Eyüp Chief Public Prosecutor's Office.**

16. More generally, the CPT considers that the high number of deaths and injuries incurred calls for a major review of the methods employed when interventions are carried out in closed and densely populated settings such as a prison. One particularly disquieting feature is the number of persons (8 prisoners and 2 gendarmes) whose deaths were caused by gunshot wounds. It is also of concern that according to the autopsy report, one prisoner died "... as a result of skull and base bone fracture, distraction of brain and cerebellum, brain haemorrhage, ... which was probably caused by tear gas bomb ([marked] 40 MMX46RP707-CS-7.OLOTDPA 03/94) which entered into the head ..."; according to the information gathered by the delegation, several other prisoners suffered physical injuries from being struck by tear gas grenades (or parts of them). These facts inevitably raise the question whether the munitions employed were the most appropriate under the circumstances and/or were used in the most appropriate way.

The CPT accepts that in many of the prisons concerned, the security forces were confronted with barricades and violent resistance. Nevertheless, the intervention "Operation Return to Life" cannot be described as having had a satisfactory outcome.

**The CPT would like to be informed of the lessons which have been learned from the experience of the December 2000 prison interventions as regards the methods to be employed during such operations.**

## **2. Ill-treatment in the aftermath of the interventions**

17. As indicated in paragraph 4 of the preliminary observations dated 29 January 2001, many prisoners interviewed by the delegation alleged that they had been beaten in the prisons where interventions took place, after they had been brought under control. Numerous allegations were also received of ill-treatment in the course of transfers and during the admission process at the F-type prisons.

That a considerable number of prisoners bore injuries on their admission to the F-type prisons is confirmed by the medical records of those establishments. At Kocaeli F-type prison, practically all of the prisoners were recorded as having displayed traumatic lesions (bruises, abrasions, etc.) on admission. At Sincan F-type prison, the same was true for approximately 50% of the prisoners. A detailed examination of the medical files at the latter establishment revealed that the majority of the injuries were of a kind commonly associated with beating. Further, in each of the establishments visited, the delegation interviewed prisoners who still bore injuries consistent with allegations of ill-treatment made by them (in particular, injuries to the back, head and hands).

**The CPT trusts that it will receive in due course further information on the progress of investigations by prosecutors into the many formal complaints lodged by prisoners of ill-treatment during the prison interventions and/or during their transfer and admission to other establishments.**

## **3. Independent, on-the-spot, observers during prison interventions**

18. The CPT has repeatedly recommended that prison interventions take place in the presence of an authority which is fully independent of both the security forces concerned and the prison, and charged with observing and subsequently reporting upon the carrying out of the intervention. The presence of such an authority would have a dissuasive effect on anyone minded to ill-treat prisoners and greatly facilitate the investigation of any allegations of ill-treatment and the correct attribution of blame. Incidents such as the prison interventions in December 2000, which have given rise to widely diverging accounts as to the precise causes of the deaths and injuries incurred, highlight the utility of the presence of an independent observer.

19. In the course of the recent visits, the CPT's delegation has suggested that the new prison monitoring boards would be well placed to assume this role of "independent" observer during prison interventions (cf. paragraph 8 of the preliminary observations dated 29 January 2001). In the light of the Turkish authorities' response on this question, the CPT wishes to clarify that it is not proposed that the duty of public prosecutors to monitor events during prison interventions should cease. However, involvement of the prison monitoring boards will significantly reinforce external supervision of such interventions.

Consequently, the CPT recommends that express provision for this specific role of the new prison monitoring boards as on-the-spot observers of prison interventions be made in the official rules setting out the working principles and methods of those boards (cf. Article 7, last sub-paragraph, of Law No. 4681).

Similarly, it would be highly desirable for the new enforcement magistrates to adopt the practice of being physically present in a prison falling under their jurisdiction whenever it is the subject of an intervention.

## B. Situation in the F-type prisons

### 1. Ill-treatment

#### a) on admission

20. As already indicated, the allegations of ill-treatment received by the CPT's delegation from prisoners related inter alia to the time of their admission to the F-type prisons in Edirne, Kocaeli and Sincan. Practically all of the allegations related to the first two stages of the admission procedure, namely the initial body search by the gendarmerie and the subsequent taking of finger prints and a photograph in the "criminology room", again by the gendarmerie. Few allegations were heard of ill-treatment during subsequent stages of the admission procedure, when the prisoners had been formally handed over to the custody of the prison.

The ill-treatment was said to have consisted of punches, kicks and blows with truncheons. Further, a considerable number of prisoners complained that their hair and beards/moustaches had been forcibly shaved off. Several prisoners alleged that their clothes had been removed and that they had been subjected to what they considered to be humiliating search techniques, in particular touching/stroking of the anus. Two prisoners interviewed at Kocaeli alleged that they had been raped with a truncheon.

21. There can be no doubt that the mass arrival of so many prisoners must have placed great strain on all involved in the admission process; further, information gathered from various sources indicates that some of the prisoners were still displaying a defiant attitude, which can only have served to heighten the tension. **However, nothing can excuse prisoners being beaten.**

As regards the forcible shaving of hair, beards and moustaches, the CPT has taken note of the response of the Turkish authorities. **However, the information gathered by the delegation clearly suggests that in many cases the shaving had a punitive character.**

Concerning the allegations of rape with a truncheon, the CPT notes that this issue was addressed in the report of the three judicial inspectors appointed by the Ministry of Justice to inquire into allegations of ill-treatment in the F-type prisons. Apparently, four prisoners at Kocaeli F-type Prison made such allegations. **The CPT would like to receive the reports of the three-member experts' committee of forensic doctors who subsequently examined the prisoners.**

The delegation discussed at some length with gendarmerie and prison officers the body search procedures on admission. It was indicated that a prisoner would be requested to remove his clothes if there was a suspicion that he was hiding something and that the clothes would be removed forcibly if he refused to comply with that request. However, it was asserted that if the examination of a bodily orifice other than the mouth were deemed necessary, this would always be performed by a doctor. **In this connection, the CPT would like to receive the instructions regulating body searches by both gendarmerie officers and prison staff.**

b) during the headcount procedure

22. The CPT was pleased to note that, according to the Turkish authorities, the problems initially encountered as regards the headcount procedure have now been overcome. Nevertheless, **the CPT would like to receive confirmation that the rule that prisoners be present on the ground floor for the headcount is not being applied vis-à-vis prisoners whose physical condition makes it difficult for them to go downstairs and that its application is not accompanied by humiliating measures such as requiring that prisoners stand to attention.**

23. As regards the allegations heard in the past to the effect that prisoners had been ill-treated in the process of being forcibly removed to the ground floor for the headcount, this matter was considered at some length by the three judicial inspectors appointed by the Ministry of Justice. The CPT has taken careful note of the different arguments put forward in the inspector's report, but doubts whether they are really sufficient to justify the inspectors' complete certitude that no ill-treatment occurred.

In contrast, the CPT fully shares the inspectors' view that staff of all grades should be given in-service training in order to instil awareness of the need to behave humanely towards prisoners.

## 2. Activities

24. The regulations issued on 7 May 2000 governing prisoners' access to the different areas for communal activities in F-type prisons are clearly based on the presumption that all prisoners will have access to those areas. Further, the delegation which carried out the May 2001 visit found that this was the spirit in which they were being applied. As was mentioned in the preliminary observations dated 8 June 2001, at the time of the May 2001 visit very few of the prisoners covered by the Law to Fight Terrorism (who constitute the great majority of the inmates in the F-type prisons) had applied for activities; however, almost all prisoners covered by Law N° 4422 (organised crime) had made such an application. Of the total number of some 50 prisoners who had applied for activities in the two F-type prisons visited (at Edirne and Tekirdağ), only one prisoner (apparently a leading figure in organised crime) had had his application refused. Further, the delegation gained a favourable impression of the procedures which had been established for the delivery of activities.

Nevertheless, as the delegation made clear in its letter of 8 June 2001, the range of communal activities on offer at the time of the May visit was not satisfactory; the only facility being used was the gymnasium. The delegation urged the Turkish authorities to accelerate the entry into service of the other areas designated for communal activities.

25. The Turkish authorities' response of 22 June 2001 would suggest that rapid progress is being made. The libraries, open-air sports fields and certain workshops in all of the F-type prisons were scheduled to be ready for use by 30 June 2001; further, certain areas were to be allocated for crafts activities. **The CPT wishes to be informed whether this deadline was met.**

The adoption of Directive N° 37397 of 15 June 2001, which authorises prisoners covered by the Law to Fight Terrorism or Law N° 4422 to receive an open visit every month, is another very positive development. The same is true of the progress reported in the Turkish authorities' response as regards the implementation of the new regulations concerning access to the telephone for prisoners.

The CPT is confident that as the different activities referred to above come on stream, and as the improved possibilities for contact with the outside world become a reality, more and more prisoners covered by the Law to Fight Terrorism will be persuaded to go out of their cells and living units and take advantage of what is on offer.

The CPT will be returning to Turkey this year. **The Committee hopes that its delegation will find that significant progress has been made as regards the communal activity programmes in F-type prisons, in terms of both the range of activities on offer and the number of prisoners engaging together in such activities.**

### 3. Material conditions of detention

26. The CPT has already made clear in the report on the July 2000 visit that the prisoner accommodation units in F-type prisons offer good material conditions of detention, provided the occupancy levels foreseen are respected (cf. CPT (2000) 45, paragraph 18)<sup>5</sup>.

The fact that prisoners have access throughout much of the day to small yards adjacent to their units is one of the many positive features of the accommodation. However, regular access to the gymnasium and outdoor sports pitch must also be guaranteed, as the yards by virtue of their size offer prisoners only a limited opportunity to exert themselves physically.

27. The only notable material deficiency in the prisoner accommodation is the absence of a call system. As a result of the configuration of the detention blocks, it can at present take a considerable amount of time to attract the attention of staff (by banging on the door). **The CPT recommends that the prisoner accommodation in F-type prisons be equipped with a call system.**

---

<sup>5</sup> An F-type prison has 103 bi-level units, each for three prisoners, and 59 single cells. Every bi-level unit has its own yard and groups (usually threes) of adjacent single cells share the same yard.

#### 4. Role of the gendarmerie

28. The CPT was pleased to note that prisoners' access to the secure outdoor sports area will not be dependent on the authorisation and/or involvement of the gendarmerie.

The CPT has also noted the Turkish authorities' response concerning the involvement of the gendarmerie in searches at Edirne and Tekirdağ F-type prisons. **It trusts that the presence of the gendarmerie during searches is now the exception rather than the rule.** The Committee does not doubt for a moment that prisoners may on occasion insult or threaten staff who are carrying out a search. However, in the context of the smaller living units in F-type establishments, prison staff should be able to cope with such behaviour.

29. The CPT has noted the Turkish authorities' objections to the proposal that they publicly declare their intention to phase out in due course the current role of the gendarmerie in relation to prisons and prisoner transfers.

Nevertheless, the Committee hopes that the idea of making such an announcement at some stage will be kept in mind, among other possible confidence-building measures.

#### 5. Solitary confinement

30. In the preliminary observations of 8 June 2001, the CPT's delegation expressed concern about a small number of prisoners who have been held in solitary confinement for more than six months, following their transfer to F-type prisons. In their response, the Turkish authorities contend that the prisoners should not be regarded as being in "solitary confinement", arguing in particular that these prisoners could if they so wished use the prison's communal facilities. The CPT does not share this analysis.

31. The prisoners in question are being held in single cells and have no contact with other prisoners in their accommodation units (unlike the vast majority of the prisoners in F-type prisons held in single cells, who share a yard with other prisoners). The prisoners may well not have applied to have access to the prison's communal activities; however, this does not alter the fact that they are being held under conditions of solitary confinement. Such a regime can result from a number of factors, including a prisoner's own decisions.

To be held on one's own for a prolonged period - whether this regime is imposed on a prisoner by another authority or results from his personal choice - can have very harmful consequences. Consequently, the **CPT recommends that for as long as the above-mentioned prisoners have no contact with other prisoners, special care be taken to ensure that they are provided with appropriate stimulation and, in particular, human contact.**

## C. Other issues

### 1. Management of hunger strikers

32. In the preliminary observations dated 29 January 2001 forwarded to the Turkish authorities after the December 2000/January 2001 visit, the CPT's delegation stated that it was on the whole impressed by the management of hunger strikers in the prisons and hospitals visited. The delegation nevertheless requested a copy of a circular which reportedly had been issued on this subject by the Ministry of Health.

By their response of 2 May 2001, the Turkish authorities forwarded two Ministry of Health directives, N°s 2000/145 of 19 December 2000 and 2001/26 of 29 March 2001. The delegation had earlier been informed that these directives indicated that the management of hunger strikers should be based on a doctor/patient relationship. In fact, they deliver the clear message that "The duty of health workers is to assist in the continuation of life. The right to life, the most basic of the rights and freedoms, may not be limited by any norm or criterion." Turning to specifics, it is stipulated that "From the instant organ deterioration is noted, total parenteral nutrition is to be administered".

At the time of the December 2000/January 2001 visit, no prisoner had yet reached a stage where it was necessary to take a decision on possible artificial feeding against his/her wishes. However, cases of artificial feeding have subsequently occurred. Ministry of Health officials informed the CPT's delegation during the April 2001 visit that they were not aware of any cases of forced feeding of prisoners who were conscious, but that prisoners had been artificially fed after losing consciousness.

33. As was acknowledged in the preliminary observations dated 29 January 2001, the issue of the artificial feeding of a hunger striker against his/her wishes is a delicate matter about which different views are held, both within Turkey and elsewhere. The CPT understands that the World Medical Association is currently reviewing its policy on this subject.

To date, the CPT has refrained from adopting a stance on this matter. However, it does believe firmly that the management of hunger strikers should be based on a doctor/patient relationship. Consequently, **the Committee has considerable reservations as regards attempts to impinge upon that relationship by imposing on doctors managing hunger strikers a particular method of treatment.**

### 2. Shackling patients to their beds

34. On several occasions in the past, the CPT has raised objections to the practice of prisoners transferred to civil hospitals for treatment being shackled (by handcuffs) to their beds. As the CPT stated as long ago as 1993 in its 3rd General Report, "prisoners sent to hospital to receive treatment should not be physically attached to their hospital beds or other items of furniture for custodial reasons. Other means of meeting security needs satisfactorily can and should be found; the creation of a custodial unit in such hospitals is one possible solution".



It is clear from the information gathered during the visits which are the subject of this report that the above-mentioned practice still prevails in certain hospitals in Turkey. **The CPT recommends that the Turkish authorities redouble their efforts to do away with this practice; the excellent custodial unit seen at Tekirdağ civil hospital can be seen as a model for the approach to be followed.**

35. The CPT's objections to the practice of shackling patients to their beds are all the greater when it interferes with the proper treatment of the persons concerned. This was the case at Cerrahpaşa Hospital in Istanbul as regards the three prisoners referred to in paragraph 3 of the preliminary observations dated 29 January 2001.

**The CPT recommends that immediate steps be taken to ensure that application of the above-mentioned practice is not hindering in any way the proper treatment of prisoners sent to hospital for treatment; if necessary, the instructions on this matter should be revised.**

### **3. Monitoring procedures**

36. The CPT attaches particular importance to external, independent, monitoring of the situation in prison establishments and, more specifically, to the existence of independent bodies with authority to receive (and, if necessary, taken action on) prisoners' complaints and visit the prison premises. Consequently, the Committee welcomes the recent enactment of the Enforcement Magistrates Law and the Law on boards to monitor prisons and detention centres.

The former Law provides for the establishment of enforcement magistrates, who will exercise judicial control over the procedures and activities carried out during the enforcement of sentences or during detention, and investigate and take decisions on prisoners' complaints concerning such matters. The latter Law establishes boards made up of representatives of the general public which will monitor the manner in which prisons are administered and operated.

37. The Law on prison monitoring boards has been criticised in certain circles, in particular as regards the choice of the authority to select the members of the boards (namely, the judicial committee of the general courts in whose judicial district there is a prison) and the failure to provide for the direct involvement of non-governmental organisations in the boards.

For its part, the CPT considers that the choice of the judicial committees as the selecting authority is in principle a suitable approach. Certainly, it is a better system than having the members of prison monitoring boards appointed by a governmental authority, which is the approach followed in certain countries.

As for the involvement of NGO's, the CPT feels that it would not be compatible with the nature and functions of the monitoring boards for any of their members to be a formal representative of an NGO (or of any other type of organisation for that matter); members of such boards should be appointed, and exercise their functions, in an individual capacity. That said, the fact that a person is an active member of an NGO should certainly not be taken as excluding him/her from election to a monitoring board. The CPT knows of such persons in Turkey who could make an excellent contribution to the work of the new prison monitoring boards.

38. According to the Law on prison monitoring boards, official rules should be laid down within six months as regards the working methods of the boards and other issues pertaining to the implementation of the Law. In this connection, the CPT wishes to emphasise the following points.

The election procedure should be as transparent as possible. The precise manner in which candidates for election have been identified and the criteria used when proceeding to elections should be made known publicly. Further, the fact that members of the public can apply directly for election to a monitoring board should be publicised in good time in an appropriate manner.

Members of the monitoring boards should receive appropriate training for the performance of their tasks, including for the specific role of on-the-spot observers of prison interventions already identified in paragraph 19 of this report.

Members of the monitoring boards must *inter alia* be empowered to interview prisoners in private.

Monitoring boards should be required to publish an annual report on their activities.

**The CPT recommends that the above-mentioned points be addressed in the official rules referred to in Article 7 of the Law.**

**D. Concluding remarks**

39. The Turkish authorities are making considerable efforts to reform the prison system and, in particular, to improve conditions of detention. The CPT will continue to support those efforts, at the same time as making constructive remarks of a critical nature when it considers that to be necessary. The Committee also appreciates the further intensification of the ongoing dialogue with the Turkish authorities at a high political level which has occurred in recent months.

40. Notwithstanding the developments described in this report, a significant number of prisoners are still taking part in the hunger strike campaign. According to figures provided by the Minister of Justice, as at 23 May 2001 the number of those prisoners totalled 663 (453 on hunger strike and 210 on death fast). Regrettably, the forecast made by the CPT's delegation in its preliminary observations of 29 January 2001 - that an instant solution to the present predicament is unlikely to be found - has proven accurate.

As was said at the time, bringing the hunger strikes to an end will require a process of adaptation, explanation, and confidence building. Many of the essential elements of that process have already been identified: a determined and visible effort to develop communal activities in F-type prisons; a rapid and satisfactory implementation of the other prison reform measures which have now been adopted; the diligent examination of all complaints of ill-treatment during the prison interventions of December 2000 and subsequent prisoner transfers and, where appropriate, the prosecution of State officials; a willingness to review the current role of the gendarmerie in relation to prisons and prisoner transfers. The Turkish authorities must spare no effort in pursuing these different issues.

Reference should also be made to another issue which could be of considerable importance from the standpoint of confidence building, namely that of developments in relation to the freedom of expression. The Turkish Government has announced in the EU National Programme that it plans in the short term to review existing legal provisions, including Articles 7 and 8 of the Law to Fight Terrorism, with a view to enhancing the constitutional and legal guarantees of the freedom of expression. Criticism of the existing provisions concerning this freedom forms an important part of the backdrop to the hunger strike campaign. Consequently, a clear sign that action to strengthen guarantees related to the freedom of expression is underway could well help to persuade those on hunger strike that their protest should now cease.

41. Finally, the CPT would like to recall an idea mooted with the Minister of Justice during a meeting with the Committee's delegation on 23 May 2001. The Turkish authorities have made it clear that they are not prepared to have renewed any form of negotiating process with prisoner representatives. However, the time may be ripe for assigning to a person who enjoys the confidence of both the Turkish authorities and prisoner representatives the task of acting as an intermediary. The opening of such an impartial channel of communication might provide the necessary stimulus for ending the current stalemate.



**APPENDIX 1**

Strasbourg, 29 January 2001

Dear Deputy Director General,

**Subject: Visit to Turkey by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) from 10 to 16 December 2000 and 10 to 15 January 2001.**

1. Immediately after the above-mentioned visit, on 16 January 2001, I spoke at some length by telephone with the Minister of Justice, Mr Hikmet Sami TÜRK. In the light of the facts found during the visit, I raised with the Minister various issues of concern to the CPT's delegation. I would now like to spell out those issues in writing and make a number of requests for further information.

The Turkish authorities' response to these preliminary observations by the CPT's delegation will be taken fully into account when the visit report is drafted.

2. The delegation is fully aware that the security forces responsible for carrying out the prison interventions which began in the early morning of 19 December 2000 had an arduous and sometimes perilous task. In many of the prisons concerned, those forces were confronted with barricades and violent resistance; the delegation sincerely regrets that three members of the gendarmerie lost their lives and three were wounded. Further, the delegation's interviews with prisoners confirmed that a number of the regrettable deaths and injuries amongst inmates during the interventions were the result of acts of self immolation rather than action by members of the security forces.

However, information gathered during the visit suggests that the methods employed by the security forces were not in all cases proportional to the difficulties faced. In particular, the delegation has grave doubts regarding the manner in which the intervention took place vis-à-vis the female dormitory C1 at Istanbul Prison and Detention House (Bayrampaşa). Six of the 27 women in that dormitory died and many of the others suffered burns and/or other injuries. The delegation interviewed several of the women who were held in dormitory C1 as well as other prisoners who witnessed parts of the intervention against that dormitory. According to the accounts received, the occupants of dormitory C1 did not offer violent resistance, but merely shut themselves in their dormitory; it is alleged that the women were nevertheless bombarded with gas grenades and other devices for several hours and shot at from time to time and that, at around 12.00 a.m., the top floor of the dormitory was set on fire as a result of the action being taken by the security forces. It is also alleged that the security forces were immediately told that prisoners were being burned on the top floor but failed to take prompt action to put out the fire, despite having the means (water hoses) to do so.

./.

**Mr H. Kemal GÜR**  
**Deputy Director General for Council of Europe**  
**and Human Rights**  
**Ministry of Foreign Affairs, TR - ANKARA**

In application of Article 8, paragraph 5, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, the delegation requests that a thorough and independent inquiry be carried out without delay into the methods employed by the security forces during the intervention against dormitory C1 at Istanbul Prison and Detention House and into the precise causes of the deaths and injuries among the occupants of that dormitory. **The CPT should be informed within three months of the action taken upon this request.**

It would also be desirable for similar inquiries to be carried out vis-à-vis all the prison interventions which took place as from 19 December 2000.

3. The Turkish authorities have already provided some information concerning the autopsies of persons who died during the prison interventions. The delegation trusts that the final autopsy reports for all the persons concerned will be forwarded to the CPT as soon as possible.

Further, the delegation requests that the CPT be provided with a full description of all the different types of incapacitating devices (gas grenades, etc.) used in the course of the prison interventions, as well as of the other munitions used by the security forces.

The delegation would also recall that during its meeting with officials in Ankara on 10 January 2001, it was agreed that copies of the video recordings of the prison interventions made by the Turkish authorities would be forwarded to the CPT. It trusts that this will be done at the earliest opportunity.

In addition, the delegation would like to receive confirmation that three severely burned female prisoners whom it interviewed at Cerrahpaşa Hospital in Istanbul (namely, ....(\*)) are now being provided with a programme of active movement and, in particular, walking exercises. The delegation trusts that such a programme of active movement is also being provided to all other prisoners in a similar condition.

4. The delegation interviewed separately and in private a considerable number of prisoners who had been transferred in the wake of the prison interventions. Many of the prisoners concerned alleged that they had been physically ill-treated in the course of the prison interventions and/or on their admission to the establishments to which they were transferred.

Numerous and consistent allegations were received that prisoners had been beaten by members of the gendarmerie after their removal from the dormitories in the prisons where interventions took place. Some allegations were also received that prison staff had on occasion participated in the beatings, for example at Bursa Special Type Prison. Numerous and consistent allegations were also heard about beatings and intrusive or humiliating search techniques on admission to the F-type prisons, again primarily by members of the gendarmerie but also on occasion by prison staff; in addition, it would appear that in certain establishments (e.g. Edirne and Kocaeli F-type prisons), prisoners had their hair, moustaches and beards forcibly shaved off on admission. Further, many complaints were heard about the manner in which prisoners were transferred and, in particular, that they were very tightly handcuffed throughout the journey.

./.

---

(\*) In accordance with Article 11, paragraph 3, of the Convention, the prisoners' names have been deleted.

In certain cases, the delegation gathered medical evidence consistent with allegations made of the beating of prisoners after they had been brought under control, from medical records in the F-type establishments (in particular, at Kocaeli and Sincan F-type prisons) and/or through examination of the prisoners concerned by medical members of the delegation. Further, despite the fact that several weeks had elapsed since the interventions, many prisoners were found to bear marks on their wrists fully consistent with the allegations made of excessively tight handcuffing.

5. Many prisoners have submitted formal petitions, complaining about the manner in which they were treated in the course of the prison interventions and/or their transfer and admission to other establishments. The delegation trusts that the relevant public prosecutors are investigating these complaints in a prompt and thorough manner. When appropriate, the prisoners concerned should be examined by a forensic doctor without delay; further, statements should be taken from the prisoners in good time. At the previously-mentioned meeting in Ankara on 10 January 2001, the Turkish authorities indicated that they would provide in the near future an update on the investigations being carried out by public prosecutors in relation to the prison interventions of December 2000 and the subsequent transfers of prisoners. The delegation trusts that the CPT will shortly receive such an update.

The delegation also hopes that the CPT will receive in due course the results of the inquiry carried out by the three inspectors appointed by the Minister of Justice to examine events related to the prison interventions and subsequent transfers of prisoners.

6. As regards conditions of detention in the F-type prisons in Edirne, Kocaeli and Sincan, the delegation understands the difficulties faced in bringing these establishments into service at very short notice, months ahead of schedule. The prison authorities and staff deserve to be commended for having responded well to the challenge. Save for some teething problems with the heating/hot water systems, material conditions in the three prisons are on the whole satisfactory. Further, the delegation was pleased to note that prisoners were being allowed access throughout the day to the yards adjoining their cells and living units. However, at the time of the visit, there was no programme of activities for prisoners.

The delegation appreciates that under the circumstances it is not easy to get activities up and running in the three establishments. Not all the necessary staff have been recruited and/or trained and many of the facilities for communal activities lack the necessary equipment; further, there is the complicating factor that the majority of the prisoners in each of the establishments remain on hunger strike. However, the de facto isolation system currently in operation is not acceptable and must be ended quickly. As the CPT stressed in the report on its July 2000 visit, the introduction of smaller living units for prisoners must under no circumstances be allowed to lead to a generalised system of small-group isolation (cf. paragraph 14 of doc. CPT (2000) 45).

A significant number of prisoners in the three F-type prisons are not on hunger strike; some activities outside cells and living units should be offered to those prisoners as of now. For example, the excellent gymnasium at Sincan F-type Prison is ready for use, and the gyms at the Edirne and Kocaeli establishments could be made ready for use with very little effort; the organisation of sports activities in these facilities would require few staff resources. Such a step would be visible proof of the authorities' intention to implement a programme of activities in F-type prisons.

Of course, steps must also be taken to ensure that all the areas for communal activities in the three prisons are used to their fullest potential at the earliest opportunity. The libraries and workshops must be equipped and staffed, and educational, vocational training and work activities introduced. At the same time, adoption of the draft Law amending Article 16 of the 1991 Anti-Terror Law, so as formally to make provision for prisoners covered by that Law to take part in activities together with others (and to receive open visits from their families), should be accorded a very high priority.

In application of Article 8, paragraph 5, of the Convention, the delegation calls upon the Turkish authorities to take the necessary steps to ensure that prisoners held in the Edirne, Kocaeli and Sincan F-type prisons benefit from a developed programme of activities outside their cells/living units. **The CPT should be informed within three months of the action taken in response to this observation.**

7. As regards staff-inmate relations in the three F-type prisons, the twice-daily headcount has clearly been - and to some extent remains - an important source of friction in the bi-level living units for three prisoners. Many allegations were received that prisoners had been ill-treated in the process of being forcibly removed to the ground floor level for the headcount.

The delegation understands the reasons for the rule that prisoners should be present on the ground floor for the headcount; the procedure can be completed much more rapidly in this way. However, this rule should not be rigidly applied vis-à-vis prisoners on hunger strike whose physical condition makes it difficult for them to go downstairs; nor should the application of the rule be accompanied by humiliating measures such as requiring that prisoners stand to attention.

The delegation is convinced that if staff display the necessary inter-personal communication skills and, in particular, explain the reasons underpinning the above-mentioned rule, the vast majority of prisoners will comply with it of their own free will. If, exceptionally, force has to be used to bring a prisoner downstairs for the headcount, then recognised control and restraint techniques should be employed; it goes without saying that physical assault is not one of those techniques.

8. The delegation trusts that two other draft Laws (on prison monitoring boards and supervisory judges), which like the draft law referred to in paragraph 6 were meant to enter into force in parallel with the entry into service of the F-type prisons, will be adopted shortly.

In this connection, the delegation was pleased to note the interest taken in the idea that the new prison monitoring boards could also assume the role of an "on the spot" independent observer on those occasions when the intervention of law enforcement agencies is necessary to deal with prison disturbances. As the CPT has repeatedly stressed, the presence of such an authority, charged with observing and subsequently reporting upon the carrying out of the intervention, would have a dissuasive effect on anyone minded to ill-treat prisoners as well as greatly facilitate the investigation of any allegations of ill-treatment and the correct attribution of blame. The current system under which public prosecutors observe such interventions "from a distance" is not adequate.



Needless to say, the CPT also hopes that as smaller living units for prisoners are gradually introduced throughout the Turkish prison system, the occasions on which it is necessary to call upon law enforcement agencies such as the gendarmerie to intervene in prison disturbances will become increasingly rare.

9. The delegation wishes to take this opportunity to reiterate that it would be desirable in the long term to phase out the current role of the gendarmerie in relation to prisons and prisoner transfers (cf. also paragraph 50 of the report on the CPT's July 2000 visit, doc. CPT (2000) 45). Further, in the short term, members of the gendarmerie should cease to be called upon to carry out searches in the F-type prisons now in service or in other establishments where small living units have been introduced. In view of the limited number of prisoners in each unit, the sensitive task of carrying out searches could safely be assigned to teams of trained prison staff.

10. The delegation was on the whole impressed by the management of hunger strikers in the prisons and hospitals visited. Further, it welcomes the decision of the Ministry of Justice to allow hunger strikers who so wish to be examined by another doctor; the delegation trusts that this decision is being fully complied with at local level. The delegation was also pleased to learn at its meeting with officials in Ankara on 10 January 2001, that a circular had recently been issued by the Ministry of Health reminding doctors that the management of hunger strikers should be based on a doctor/patient relationship; it would like to receive a copy of that circular.

As regards the delicate issue of the possible artificial feeding of a hunger striker against his/her wishes, the delegation has taken note of the different views within Turkey on this subject. The delegation wishes for the time being to reserve its position on this matter. In any event, it understands that to date, no prisoner on hunger strike has yet reached a stage where it was necessary to take a decision on possible artificial feeding against his/her wishes.

11. In the course of the second part of its visit, the delegation continued to explore possible means of bringing the hunger strikes to an end. In this connection it met on an individual basis, at Edirne F-type Prison, representatives of the principal group of prisoners taking part in the hunger strikes. The delegation made clear to each of them the CPT's view that provided prisoners are not subject to a system of isolation but instead are offered a satisfactory programme of activities in communal facilities outside their cells and living units, conditions of detention in F-type prisons will be in conformity with European standards. They were also informed that the CPT intended to monitor closely the situation in F-type prisons, in order to ensure that such programmes of activities are indeed introduced (and more generally that prisoners are treated properly). At the same time, it was pointed out to them that the continuation of the hunger strikes would not facilitate the development of activities.

In the light of their apparent willingness to view issues with an open mind, the delegation proposed that two of the prisoners in question be allowed to meet each other in private. The delegation is grateful to the Minister of Justice for having accepted that proposal. Although the meeting did not bring about immediate concrete results, the delegation believes that it was a step in the right direction. It trusts that the Minister will not hesitate to authorise further meetings between the above-mentioned prisoners, if there is an indication that this could move matters forward.

12. An instant solution to the present predicament is unlikely to be found. Bringing the hunger strikes to an end will require a process of adaptation, explanation and confidence building. Some of the key threads of that process have already been identified: a determined and visible effort to develop communal activities for prisoners in F-type prisons; the independent monitoring of the introduction of such activities (and the timely publication of the results of that monitoring); rapid adoption of the three draft laws referred to in paragraphs 6 and 8; the diligent examination of all complaints of ill-treatment during the prison interventions of December 2000 and subsequent prisoner transfers and, where appropriate, the prosecution of State officials. These different issues should be pursued simultaneously.

The delegation also believes that it is crucial for the Turkish authorities to repeatedly make clear that they remain committed to seeking a "social consensus" on the operation of the F-type prisons and of the prison system as a whole; it welcomes recent statements in the media to this effect by the Minister of Justice. Steps aimed at convincing prisoners that their "life security" will be guaranteed in the F-type prisons are also necessary; a clearly stated intention to give a prominent role to the new prison monitoring boards as well as a willingness to review the current role of the gendarmerie in relation to prisons and prisoner transfers might well prove helpful in this regard.

\*

\* \*

The CPT will continue to monitor closely the situation regarding the hunger strikes in Turkey, and looks forward to pursuing its on-going dialogue with the Turkish authorities on issues related to this subject. I can also assure you that the Committee remains ready to contribute to efforts aimed at finding a mediated solution.

Yours faithfully,

Silvia CASALE

cc. **Mr Alev KILIÇ,**  
**Ambassador Extraordinary and Plenipotentiary,**  
**Permanent Representative of Turkey to the Council of Europe**

**APPENDIX 2**

# Press Release

Council of Europe Press Service

Ref: 295a01

Contact: Sabine Zimmer

Tel: +33 3 88 41 25 97

Fax: +33 3 88 41 27 89

pressunit@coe.int

internet: www.coe.int/press



43 members

Albania  
Andorra  
Armenia  
Austria  
Azerbaijan  
Belgium  
Bulgaria  
Croatia  
Cyprus  
Czech Republic  
Denmark  
Estonia  
Finland  
France  
Georgia  
Germany  
Greece  
Hungary  
Iceland  
Ireland  
Italy  
Latvia  
Liechtenstein  
Lithuania  
Luxembourg  
Malta  
Moldova  
Netherlands  
Norway  
Poland  
Portugal  
Romania  
Russia  
San Marino  
Slovakia  
Slovenia  
Spain  
Sweden  
Switzerland  
"The former Yugoslav  
Republic of Macedonia"  
Turkey  
Ukraine  
United Kingdom

**Press Service**  
**67075 Strasbourg**  
**France**  
Tel: +33 3 88 41 25 60  
Fax: +33 3 88 41 27 89

## **Hunger strikes in Turkey: further visit by a delegation of the European Committee for the prevention of torture**

STRASBOURG, 24.04.2001 - In response to mounting concern about the hunger strike crisis related to the prison system, a delegation of the Council of Europe Committee for the prevention of torture (CPT) returned to Turkey last week (from 18 to 21 April 2001). It held consultations with both Government authorities and non-governmental organisations.

The delegation considers that the agreement reached late last week at Government level on several draft laws concerning prison matters is a positive development. Of particular interest are the draft laws on the amendment of Article 16 of the 1991 Law to Fight Terrorism, on the establishment of prison monitoring boards, and on the creation of sentence execution judges. These draft laws have the potential to bring about important reforms of the Turkish prison system. The delegation has emphasised that the rapid adoption and entry into force of the draft laws should be treated as a matter of the highest priority; it is pleased to note that they have already been formally submitted to the Turkish Grand National Assembly.

At the same time, the delegation recognises that doubts are still held in various quarters on a number of important issues linked to these reforms. Those doubts should be given due consideration during the process of implementing the reforms, including through consultation with civil society.

The draft law on the amendment of Article 16 of the 1991 Law to Fight Terrorism is of particular importance. The present wording of Article 16 implies a system of isolation, and a generalised system of small group isolation is currently operated in the four F-type prisons now in service. As the CPT made clear after its January 2001 visit, this is not acceptable and must be ended quickly. The CPT has acknowledged the drawbacks of the ward (large dormitory) system traditionally found in Turkish prisons. However, it has also emphasised that moves towards smaller living units for prisoners must be accompanied by measures to ensure that prisoners spend a reasonable part of the day engaged in a programme of communal activities outside their living units.

F-type prisons do possess areas specifically designed for communal activities, and the proposed new wording of Article 16 provides for prisoners to participate in activity programmes in those areas. The draft law foresees a number of factors to be taken into account in the planning and delivery of the activity programmes. This cannot be criticised from a penological standpoint. Nevertheless, the delegation has noted that these provisions have in some circles caused concern as to how and to whom the activity programmes will be offered in practice. As in any prison system, it may be necessary, for a certain period of time, to make exceptional arrangements for specific prisoners on account of their dangerousness. However, the great majority of prisoners in F-type prisons could certainly benefit from a developed programme of communal activities outside their living units without jeopardising security. Further, concepts such as education, improvement and training must not be exploited for ideological purposes. These issues will be monitored closely by the CPT during future visits, as the implementation of communal activity programmes in F-type prisons proceeds.

**A political organisation set up in 1949, the Council of Europe works to promote democracy and human rights continent-wide. It also develops common responses to social, cultural and legal challenges in its 43 member states.**

It is also important not to lose sight of other significant aspects of the proposed prison reforms, such as the measures to enhance prisoners' contacts with the outside world. By virtue of the draft law on the amendment of Article 16 of the Law to Fight Terrorism, the prohibition of open visits for prisoners covered by that Law or Law No. 4422 of 30 July 1999 will be lifted. Further, a draft by-law provides that all prisoners, regardless of their status and category, are to be allowed to make telephone calls on a regular basis. Reforms of this kind can only be welcomed.

The CPT delegation greatly regrets the loss of life which has occurred in the course of the current hunger strike protest and very much hopes that means will rapidly be found of ending the hunger strikes. In this regard, the delegation considers that immediate steps should be taken to explain in an objective and thorough way to all those involved in the hunger strikes the various elements contained in the prison reform proposals. As things stand, it is only right that everyone concerned should be fully and accurately informed.

Further, the CPT delegation has urged the Turkish authorities to explore all possible means of immediately attenuating the small group isolation system which flows from the present text of Article 16 of the Law to Fight Terrorism. The delegation is aware of the legal objections to applying the new arrangements for communal activities prior to the adoption of the draft law by Parliament. However, when lives are at stake, some degree of flexibility within the framework of existing legislation and legal principles is surely possible.

\* \* \*

The CPT was set up under the 1987 European Convention for the prevention of torture and inhuman or degrading treatment or punishment. Forty one of the 43 member States of the Council of Europe are bound by the Convention: Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and the United Kingdom.

The CPT is composed of persons from a variety of backgrounds: lawyers, medical doctors, police and prison experts, persons with parliamentary experience, etc. The Committee's task is to examine the treatment of persons deprived of their liberty. For this purpose, it is entitled to visit any place where such persons are held by a public authority and to interview those persons in private. The Committee may formulate recommendations to strengthen, if necessary, their protection against torture and inhuman or degrading treatment or punishment.

Further information about the CPT may be obtained from:

- **the CPT's Internet Site:** [www.cpt.coe.int](http://www.cpt.coe.int)
- **the Council of Europe Press Department:**  
Sabine ZIMMER, tel. +33/(0)3 88 41 25 97; fax +33/(0)3 88 41 27 90;  
e-mail [pressunit@coe.int](mailto:pressunit@coe.int) Cathie BURTON, tel. +33/(0)3 88 41 28 93; fax +33/(0)3 88 41 27 90;  
e-mail [pressunit@coe.int](mailto:pressunit@coe.int)
- **the CPT's Secretariat:** tel. +33/(0)3 88 41 39 39; fax +33/(0)3 88 41 27 72;  
e-mail [cptdoc@coe.int](mailto:cptdoc@coe.int)

**APPENDIX 3**

Strasbourg, 8 June 2001

Dear Deputy Director General,

I refer to the most recent visit to Turkey by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT), which took place from 21 to 24 May 2001. During that visit the Committee's delegation examined in particular the progress made towards the implementation of developed communal activity programmes in F-type prisons. For this purpose, the delegation visited the F-type prisons in Edirne and Tekirdağ.

In the course of the visit, on 23 May 2001, the delegation had the opportunity to have an exchange of views with the Minister of Justice, Mr Hikmet Sami TÜRK, on various issues concerning the ongoing hunger strike campaign related to the prison system. We agreed that at the end of the visit I would inform him by telephone of the delegation's findings. Unfortunately, it subsequently did not prove possible to make telephone contact with the Minister. I would now like to spell out the delegation's preliminary observations in writing.

The Law on the amendment of Article 16 of the 1991 Law to Fight Terrorism was adopted on 1 May 2001 and regulations on the use of the areas in F-type prisons specifically designed for communal activities were issued on 7 May 2001. Further, in your authorities' response of 2 May 2001 to the preliminary observations made after the December 2000/January 2001 visit, it was stressed that "Work is continuing at high speed to provide remand and sentenced prisoners in F-type prisons with access to communal activities". In the light of the above, the delegation was disappointed to discover that as of 22 May 2001, the only facility being used for communal activities in the two F-type prisons visited was the gymnasium. Further, there was huge scope for increasing the use made of that facility. Admittedly, the situation observed by the delegation was partly linked to the fact that very few prisoners covered by the Law to Fight Terrorism had applied for activities; however, those prisoners who had applied for activities were only going to the gym for short periods once or twice a week and were mixing in very small numbers.

./.

**Mr H. Kemal GÜR**  
**Deputy Director General for the**  
**Council of Europe and Human Rights**  
**Ministry of Foreign Affairs**  
**ANKARA**

Apparently, the outdoor sports pitch at Tekirdağ was to be used for the first time on 23 May 2001; the delegation trusts that this was indeed the case. The delegation was surprised to find that, contrary to what was stated in the above-mentioned response of 2 May 2001, the outdoor sports pitch at Edirne was not ready for use and that it was not expected to be ready for several months. Appropriate steps should be taken to accelerate the entry into service of this facility; in the meantime, the secure open-air area immediately adjacent to the pitch should be used for appropriate communal activities (e.g. table tennis). Further, the exploitation of these secure outside facilities in F-type prisons should be under the exclusive control of the prison authorities; prisoners' access to those areas should not be dependent on the authorisation and/or involvement of the forces responsible for perimeter security i.e. the gendarmerie.

The library was still not being used in either of the prisons; this is particularly regrettable. These facilities should be brought into service at once. Of course, the libraries should be provided with books at the earliest opportunity. However, the absence of books does not justify the failure to give prisoners access to the libraries as of now. Newspapers could be provided to prisoners to read there; prisoners could bring their own books and newspapers to read there. What is essential is to offer prisoners the possibility to leave their living units and be together with other prisoners in the libraries.

None of the workshops in the two prisons had yet been equipped for use. The delegation has seen the instructions concerning these facilities issued by the Ministry of Justice on 11 May 2001 and trusts that they will be rapidly and fully implemented. Entry into service of the workshops could well prove a watershed in the context of the current crisis; the delegation calls upon the Turkish authorities to take all necessary steps to ensure that at least one workshop per F-type prison is ready for use before the end of this month.

The delegation is convinced that the greater the number of activities on offer, the more prisoners will be encouraged to take part in them. As was stressed in the preliminary observations after the December 2000/January 2001 visit, a determined and visible effort to develop communal activities outside living units for prisoners in F-type prisons is an essential part of the process of confidence building required to bring the hunger strikes to an end. The hesitant approach observed at local level by the delegation is perhaps understandable, given that communal activities outside prisoner accommodation have not previously been a common feature of closed prisons in Turkey. However, the Ministry of Justice must continue to impress upon the authorities and staff of F-type prisons the importance of progress in this area; the clear message needs to be given that they should be more enterprising.

The amendment of Article 16 of the Law to Fight Terrorism also lifts the prohibition of open visits for prisoners covered by that Law or Law No. 4422 of 30 July 1999. Open visits take place on specific days designated by the Ministry of Justice, such as official and religious holidays. There has so far been no such day since the amendment of Article 16 was adopted. If an open visits' day could be organised in the near future, this might do much to build confidence in the prison reforms being introduced. Similarly, it would be highly desirable to see concrete progress towards implementation in practice of the new regulations concerning access to the telephone for prisoners.

In the preliminary observations made after the December 2000/ January 2001 visit, it was emphasised that members of the gendarmerie should cease to be called upon to carry out searches in the F-type prisons now in service or in other establishments where small living units have been introduced; in view of the limited number of prisoners in each unit, the sensitive task of carrying out searches could safely be assigned to prison staff. In their reply of 2 May 2001, the Turkish authorities stated that in normal circumstances it was not the practice to make use of the gendarmerie during searches in F-type prisons; I regret to have to say that this was not the reality in the Edirne and Tekirdağ establishments at the time of the delegation's visit. The authorities in those prisons acknowledged that it was standard practice to request the gendarmerie to be present during the regular searches of prisoners' living units, and some prisoners alleged that it was the gendarmerie who performed the actual search. Not surprisingly in the light of past experience, this state of affairs was a source of considerable anxiety and resentment on the part of prisoners. The delegation calls upon the Turkish authorities to ensure that the practice in this area is brought into line with the position set out in their response of 2 May 2001. This is yet another important element in the process of confidence building. Similarly, it could be helpful if the Turkish authorities were to publicly declare their intention to phase out in due course the current role of the gendarmerie in relation to prisons and prisoner transfers.

The delegation must also refer to the position of a small number of prisoners who have been held in solitary confinement for more than six months, following their transfer to F-type prisons after the prison interventions of December 2000. That it may be necessary for a certain period of time to make exceptional arrangements for specific prisoners, such as solitary confinement, is not contested; however, the application of a solitary confinement-type regime must be kept under constant review. Solitary confinement is a measure that can have very harmful consequences; it follows that such a regime should be applied no longer than is strictly necessary. Further, for so long as the prisoners concerned remain subject to a solitary confinement regime, special care must be taken to ensure that they are provided with appropriate stimulation and, in particular, human contact. For example, it would be desirable for certain suitably-skilled staff members to be designated to converse with them on a regular basis.

At its 45<sup>th</sup> meeting (3 to 6 July 2001), the CPT will be considering all the information gathered during the visits to Turkey in December 2000/January 2001 and April/May 2001, as well as the previously-mentioned response of the Turkish authorities of 2 May 2001 and the other documents and materials forwarded to the Committee. In this connection, it would be most helpful if your authorities' response to the preliminary observations set out in my present letter could be forwarded to the CPT by 29 June 2001 at the latest, so that it might also be taken into account during the Committee's deliberations at the 45<sup>th</sup> meeting.

Yours faithfully,

Silvia CASALE

**Copy: Mr Alev KILIÇ, Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of Turkey to the Council of Europe**





## **Response of the Turkish Government**

Note: The Appendices to the response can be obtained upon request to the CPT's Secretariat

Secretariat of the CPT  
Human Rights Building  
Council of Europe  
F-67075 STRASBOURG Cedex

Tel.: +33 3 88 41 23 88  
Fax: +33 3 88 41 27 72  
E-mail: [cptdoc@coe.int](mailto:cptdoc@coe.int)  
Internet: [www.cpt.coe.int](http://www.cpt.coe.int)



1 November 2001

**REPLY OF THE TURKISH GOVERNMENT TO THE REPORT  
ON THE VISITS CARRIED OUT BY THE EUROPEAN COMMITTEE  
FOR THE PREVENTION OF TORTURE (CPT)  
FROM 10 TO 16 DECEMBER 2000, 10 TO 15 JANUARY 2001, 18 TO 21 APRIL 2001  
AND 21 TO 24 MAY 2001**

The report on the visits to Turkey conducted by the European Committee for the Prevention of Torture from 10 to 16 December 2000, 10 to 15 January 2001, 18 to 21 April 2001 and 21 to 24 May 2001 was transmitted to our Government by letter of 17 July 2001 from Silvia Casale, President of the CPT. Our replies to the observations made in the report are set out below by subject and in the order of the paragraphs in the report.

**Paragraph 13**

Information has already been given to the Committee on the gases used in the prison interventions. These tear gases contain pepper gas and Oleoresin Capsicum (OC) and have no lasting effect on human health. There have been no forensic medical institute findings to date, either in Turkey or abroad, to the effect that these gases have a neurological effect engendering temporary loss of control over bodily movements.

**Paragraphs 14 and 15**

The Eyüp Chief Public Prosecutor's Office, Istanbul, has opened an investigation into the allegations made against the security forces in connection with the operation conducted in dormitory C1 at Bayrampaşa Closed Prison. As part of this investigation, proceedings have been brought before the Eyüp Criminal Court against 166 remand and sentenced prisoners on charges of rebellion against the prison administration.

As the CPT knows, during "Operation Return to Life", illegal terrorist organisations poured kerosene over some of their own members and set fire to them, (these acts were witnessed by the general public and the press), in protest against the operation and the transfers to F-type prisons. However, in order to denigrate the security forces in the eyes of international public opinion, the terrorist organisations claimed that those deaths had been caused by the security forces.

In Bayrampaşa Prison, as in the other prisons and as indicated in the incident report, terrorist offenders, in dormitories with 80 to 100 occupants, started the fire. It was impossible to control the fire because of the fact that the security forces had intervened with the aid of tear gas before the prisoners started the fire in that area and that the prisoners were using the LPG bottles located in the prison as flame-throwers against the security forces.

The report drawn up by the three inspectors appointed by the Ministry of Justice confirms that the prisoners started the fire.

Experience in dormitory-system prisons has shown that members of terrorist organisations who confess to their offences, give information about their organisation or fail to observe the organisation's discipline during police interrogation or during trial are interrogated under torture by their organisations, killed or forced into acts such as hunger strikes. In the past five years, sixteen inmates, held for terror offences, have been killed by members of their own organisations. It has become apparent that most of those who lost their lives during the death fast and those who were burned to death during the prison interventions were persons sacrificed by their organisations in this way.

The discrepancies between the information set out in the incident report and the statements made to the CPT delegation by prisoners who were in the dormitory concerned at the time of the intervention are not surprising, given the strict organisational discipline to which these persons are subject. It must be borne in mind that on the instructions of their organisations, these people act according to specific disciplinary rules.

The investigation opened by the Eyüp Chief Public Prosecutor's Office into the allegations made against the security forces involved in the operation at Bayrampaşa Prison is in progress. The issues to be investigated include how the fire started, who started it, whether or not the gases used during the intervention caused the fire to spread, what types of weapon caused the injuries of those who died or were injured during the intervention, what types of weapon made the marks found inside the building and on the walls and whether or not these weapons belonged to the security forces. Independent experts are carrying out investigations and examinations on the spot. The investigation continues.

### **Paragraph 17**

Some prisoners belonging to terrorist organisations regard applications to various organisations to the effect that they have been ill-treated and tortured as a specific form of struggle. The prisoners concerned accordingly claim that the bruises, abrasions and injuries received during the turmoil arising from resistance to the security forces during the prison interventions occurred during their transfers.

### **Paragraph 19**

The Law on Prison Monitoring Boards does not contain any provisions preventing the monitoring boards from acting as independent observers during prison interventions. Under Section 7 of the law, the boards may visit prisons whenever they deem it necessary. It would not, therefore, be inappropriate to regard prison interventions as ranking foremost among the situations where such visits are considered necessary. In addition, public prosecutors will retain their duties and powers regarding supervision and monitoring in prisons.

## Paragraph 21

During the admission of the persons transferred to F-type prisons as a result of the prison interventions, it was confirmed by their initial medical examinations that the great majority of prisoners who bore bruises and abrasions on their hands or other parts of their bodies had received their injuries in the course of the interventions.

The allegations of ill-treatment during admission to the prisons have been proved unfounded by the enquiries and investigations conducted. For example, a prisoner claimed to have been raped with a fluorescent light bulb during his admission to Kandıra F-type Prison, but withdrew his statement when the claim was disproved by medical and technical findings during the investigation.

Likewise, as regards prisoner X (\*), who alleged to have been sexually abused with a truncheon and a fluorescent light bulb during his transfer to Kocaeli F-type Prison, the report on the initial examination by three doctors during his admission to prison and the forensic medical report also signed by three doctors show the allegations to be unfounded. When later required to give evidence, the prisoner gave explanations inconsistent with those in his initial statements. The same applies to prisoner Y (\*), who made similar allegations. The medical reports relating to both claims are appended.

It is worth noting that allegations of ill-treatment during transfer were not made during these prisoners' admission to prison, but only after a certain lapse of time.

Under Article 226 of the Prison Administration and Sentence Enforcement Regulations, prisoners are not allowed to have long hair or beards, in the interests of their own health. This is entirely a matter of institutional hygiene. The shaving of hair and beards cannot on any account have a punitive character. We do not share the Committee's view in that respect. Disciplinary penalties are clearly provided for in the Enforcement Regulations and the internal regulations, and they do not include the shaving of hair and beards.

At institutions such as prisons, which are vulnerable and high-risk places in matters of security, attaining tranquility and maintaining order is of utmost importance. Therefore, it is necessary that everyone entering such institutions be searched. The search may be more meticulous depending on the nature of the offences committed by those admitted to the prison. In many West European prisons serious offenders and drug offenders are strip-searched. The European Court of Human Rights has dismissed applications concerning meticulous searches of this kind, considering that visitors and prisoners must comply with the obligation to undergo a search at the entrance to prisons, where security is the rule.

Under Section 7/a of the Law on the Organisation, Duties and Authorities of the Gendarmerie, the external security of prisons falls within the responsibility of the gendarmerie. Article 70 of the Regulations on the Organisation, Duties and Authorities of the Gendarmerie stipulates that prisoners be searched on admission and that any weapons, devices that might be used for an escape, valuables or money in their possession be seized. The person concerned is issued with a document indicating the nature and the number or amount of the items handed over.

---

(\*) In accordance with Article 11, paragraph 3, of the Convention, the prisoners' names have been deleted.

If the prison staff has the suspicion that a prisoner entering the prison is hiding something anywhere on his body, he is requested first to remove his clothes, then to remove the object in question and hand it over to the security forces. If he resists, his clothes may be forcibly removed under Rule 63 of the European Prison Rules. If the staff can remove the hidden object without the necessity of physical contact with the prisoner, it is removed; otherwise, the prison doctor is informed and requested to remove the object. The search procedure is conducted in a special room and care is taken to respect the prisoner's dignity. This necessity hardly ever arises in our prisons.

In various decisions concerning British prisoners stripped and given an anal search on admission to prison, the European Commission of Human Rights has found that this type of search will not be degrading treatment for prisoners who are aware of the risks for prison security engendered by the violent acts they commit in prison.

### **Paragraphs 22 and 23**

For headcounts in F-type prisons, no physical coercion is used against prisoners who come downstairs in response to the summons and stand side-by-side in such a way that the staff can see them. There is no question of prisoners being made to "stand to attention".

During the first few days following the transfers to F-type prisons, the physical coercion applied to prisoners who persisted in refusing to come downstairs for the headcount consisted of taking them by the arms and bringing them downstairs. As stated in various decisions of the European Commission and Court of Human Rights, prisoners are required to comply with the obligations of prison discipline and sentence enforcement. Consequently, this cannot be regarded as degrading treatment. The Ministry of Justice inspectors who examined the allegations that this procedure constituted degrading treatment concluded that the allegations were groundless. The inspectors are members of the judiciary and their independence is guaranteed by the Constitution. The doubts expressed by the Committee concerning the findings of this enquiry are therefore unnecessary.

### **Paragraphs 24 and 25**

At the time of the CPT's visit in May 2001, the only area for communal activities, which had been brought into service in the F-type prisons, was the multi-purpose hall, while the other areas were under construction. As of 30 June 2001, all the communal activity areas foreseen for the F-type prisons were completed and brought into service, and at present none of the facilities planned are lacking. For the time being, the great majority of prisoners convicted of terrorist offences still refuse to enter the communal activity areas, but they are exercising their rights to open visits and to the use of the telephone.

The expectation is that in the near future the death fasts will end and all prisoners will take advantage of the communal facilities. Far from receiving acceptance and support, the death fasts arouse a negative reaction among the general public.

## **Paragraph 26**

Prisoners are able to make use of the exercise yards adjacent to their accommodation units all day, without restriction. They are also free to use the multi-purpose hall and the outdoor sports ground in accordance with the prison management plan and their rehabilitation programmes. The yards adjacent to prisoners' rooms measure 50m<sup>2</sup> in area and thus offer three prisoners fairly broad opportunities for physical exercise.

## **Paragraph 27**

In line with the CPT recommendation made in this paragraph, a call system has been installed in all rooms to enable prisoners to reach the prison staff easily in emergencies; warning lights have also been placed in the main corridors to make it easier for staff to see that there is a call. When staff see the warning light and the number of the room using the call system, they immediately go to the room in question. To make this compulsory, the switch for turning off the warning light is placed immediately outside the door of the room. This compels the staff concerned to go to the room door.

## **Paragraphs 30 and 31**

Solitary confinement is a measure applied pursuant to a court decision or disciplinary penalty. In Western Europe a person held in solitary confinement is normally placed in an isolation cell ranging from 5.5 to 8.5m<sup>2</sup> in area, with small windows, which are usually painted over. There are no such areas in F-type prisons.

The small number of prisoners indicated as having been held in solitary confinement for more than six months are accommodated, due to the dangerous security risk they have, in rooms, measuring 11m<sup>2</sup>, with a bathroom and toilet. Radio, television, newspapers and books are available and they have access to an exercise yard all day. These are the prisoners' own rooms. The prisoners accommodated in these rooms are leaders of the terrorist organisations, who have planned numerous terrorist acts and ordered their fellow-prisoners to be burned to death as a protest during the prison interventions. They selected the members of their organisations to take part in the death fast and they supervise the aforementioned "organisational discipline".

The European Commission of Human Rights has dismissed a number of applications alleging that solitary confinement was in breach of Article 3 of the European Convention on Human Rights. The Commission considered that the applicants were subjected to exceptional detention arrangements, characterised by their exclusion from the prison community and their confinement to a security area, that the government concerned had explained the security requirements which governed the devising of these arrangements and that the applicants were dangerous and had used firearms at the time of their arrest; with these in mind, the Commission concluded that there were pressing reasons for subjecting the applicants to arrangements directly based on security measures.

**Examples of such decisions include the Commission's decision of 8 July 1978 on applications 7572/76, 7586/76 and 7577/76, D.R.No.14, pages 64 ff, and its report of 16 December 1982 on application 8463/78.**

**However, the prisoners in question are free to make use of all the communal activity areas brought into service in the F-type prisons.** They persist in refusing to take part in communal activities and also prevent other prisoners belonging to their organisations from participating. The few prisoners belonging to organisations who make use of the communal activity areas, and even the other prisoners, are branded traitors by these persons and threatened with death.

### **Paragraph 33**

Circulars were issued to the effect that the approach to persons taking part in hunger strikes and death fasts should be in line with the recommendations made by the National Health Council at its 214th meeting on 20 and 21 December 2000. Essentially, the recommendations were to refrain from forcible treatment of prisoners who were conscious and refused medical treatment, and to intervene in accordance with medical ethics if a prisoner lost consciousness and the faculty of consent. Accordingly, no steps, which might warrant the reservation indicated in this paragraph of the CPT report, are being taken and no practices to the contrary have been reported.

### **Paragraphs 34 and 35**

There is no such practice as shackling prisoners receiving hospital treatment to their beds with handcuffs.

Given the capacity of prisoner wards in hospitals, some temporary difficulties are sometimes encountered when demand exceeds capacity, but the necessary arrangements are made as soon as possible to overcome these difficulties. Apart from this, investment continues without interruption in order to improve general material conditions in hospitals and conditions in prisoner wards.

### **Paragraphs 36, 37 and 38**

As the Committee might have observed, the draft Enforcement Magistrates Law and the draft Law on Prison Monitoring Boards have been adopted by the Grand National assembly of Turkey and have come into force. The Committee has been supplied with the full texts of these laws.

We are pleased to note that the Committee, too, considers the decision to have members of the monitoring boards selected by the judicial authorities as a suitable approach.

We share the CPT's view that it would not be compatible with the nature and functions of the monitoring boards for their members to be formal representatives of non-governmental organisations. However, there is nothing to prevent members of such organisations from being selected as members of a monitoring board. In this respect, it is important that such persons should not have lost their impartiality.



**Rather than persons in Turkey who could take part in the work of the prison monitoring boards, the Ministry of Justice is in favour of the CPT proposing persons with international experience in this area, especially from Britain, the country that provided the model for the boards. For example, as part of the co-operation initiated with the British Council, a co-operation project has been drawn up for the training of members of Turkey's prison monitoring boards.**

The Law on Prison Monitoring Boards provides for implementing regulations to come into force within six months. These regulations have been drawn up and came into force on publication in the Official Gazette of 7 August 2001.

The regulations provide for a transparent election procedure, and the qualifications sought in candidates and the rules governing their election are clearly specified in Article 5. This article also provides for the qualifications sought in candidates to be advertised on court notice boards, in local newspapers and through similar channels.

Under Article 15 of the regulations, members of the monitoring boards will be given training in the general principles of prison law, the general principles of sentence enforcement law, the judicial and prison system, sentence enforcement legislation, international rules and human rights. As part of this training, under the heading of prison security, it is also considered advisable to provide them with information on prison interventions.

Under Article 8 of the regulations, members of the monitoring boards will be able to interview prisoners in private.

Under Article 9 of the regulations, monitoring boards will draw up a report setting out their views and proposals at least once every three months.

In conclusion, all the proposals put forward by the CPT with regard to the monitoring boards have been included in the regulations.