



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

CPT/Inf (2004) 3

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

from 16 to 17 February 2003

The Turkish Government has authorised the publication of the report on the CPT's visit to Turkey from 16 to 17 February 2003 (see CPT/Inf (2004) 2) and of its response. The Government's response is set out in this document.

Strasbourg, 25 February 2004

17.04.2003

REPORT BY THE TURKISH GOVERNMENT

IN REPLY TO THE RECOMMENDATIONS AND REQUESTS SET OUT IN THE REPORT ON THE VISIT TO TURKEY CARRIED OUT BY THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE ON 16 AND 17 FEBRUARY 2003

Paragraph 6 of the report states that at the Gemlik Gendarmerie Communications Office the delegation was not provided with information and was asked to leave the premises, and that this attitude is not in accordance with Articles 3 and 8 of the European Convention for the Prevention of Torture.

Article 3 of the Convention provides that "The Committee and the competent national authorities of the Party concerned shall co-operate with each other".

Article 8, paragraph d. provides that "In seeking such information, the Committee shall have regard to applicable rules of national law and professional ethics".

Having discussed this point with the Bursa Regional Gendarmerie Command, we believe that the staff of the Gemlik Gendarmerie Communications Office answered the CPT delegation's questions on the subjects they knew about and to the extent of their information, and told the delegation that they would be able to obtain detailed information from the Bursa Regional Gendarmerie Command; the incident described as the delegation being asked to leave the Communications Office premises may have stemmed from a misunderstanding.

On the other hand, we consider that the Committee's conduct at the Gendarmerie Communications Office was not in accordance with Article 8, paragraph d. of the convention.

The CPT recommends that the relevant instructions should be modified so that, if necessary, İmralı-10, or if it is unavailable, a coastguard vessel can be used to transport the prisoner's relatives and lawyers to İmralı Island.

In paragraph 12 of the report the CPT notes that according to letter No.1999/2-5161 of 8.12.1999 from the Bursa Chief Public Prosecutor's Office, İmralı-9 must not be used in poor weather conditions in the period from 15 September to 15 April.

Letter No. 1999/2-5161 of 8.12.1999 from the Bursa Chief Public Prosecutor's Office is simply a warning that greater care must be taken in poor weather conditions. It also states that İmralı-9 and İmralı-10 are not seaworthy in winds of more than force 4. Although İmralı-10 is larger, the use of this vessel in conditions involving winds of force 4 or more is also dangerous. For this reason, on visiting days on which Öcalan's lawyers and relatives were unable to travel to the island in İmralı-9, İmralı-10 was not used either because the wind exceeded force 4.

At present only these two vessels are used for transport to İmralı Closed Prison. İmralı-9 is designed for passenger transport and used for this purpose, while İmralı-10 is chiefly assigned to goods transport. In accordance with the purpose for which it was built, it has no passenger cabin, but simply a small cabin with four seats used by the crew. There are no seating facilities other than these. The staff on duty on the island are transported to and from work on this vessel. The statement that it has a capacity of 20 passengers is therefore thought to stem from a misunderstanding.

The transport of supplies and changeover of staff are important to maintain living conditions on the island. It is therefore natural that İmralı-10 should be assigned to the transport of supplies, equipment and staff. (Copies of the instructions for the use of both vessels are appended.) As the report also indicates, although transport was provided by İmralı-9 prior to the 2002-2003 winter period, no transport problems exceeding three or four consecutive weeks were encountered and no difficulties arose. Extremely severe weather conditions have occurred in winter 2002-2003, to the extent that the force of the waves caused parts of the İmralı Island pier to collapse (the technical report and appendices on the subject are appended). As such harsh winter conditions are an unpredictable factor, our government's goodwill should not be doubted on the grounds of the transport difficulties encountered.

Paragraph 11 of the report states that the Ministry of Justice has not answered the letter from the Bursa Chief Public Prosecutor concerning the provision of a more seaworthy vessel.

In response to the Chief Public Prosecutor's letter and in view of the transport problems encountered, the Ministry of Justice has taken the necessary steps to acquire a new and more seaworthy vessel. However, we consider that the purchase of a new vessel is at the same time a budgetary problem and that in this connection our country's economic problems need to be borne in mind.

The CPT recommends that visits which cannot take place on Wednesdays should be held on another day.

The current pier on İmralı Island is unsuitable for the safe mooring of more than one boat. You will appreciate the importance of the island for the coastal security operations carried out by the Navy Command, which has shifted them to days other than Wednesday because this is visiting day. The schedule provides for the island's requirements to be met, staff to be changed over and Navy boats to be moored on the island on Mondays, Tuesdays, Thursdays and Fridays. During lawyers' and relatives' visits to Öcalan, special measures have to be taken. For this reason, staff medical treatment and training activities are also arranged according to the above schedule. In order for female visitors to be searched during visits, female prison officers have to be on duty. All in all, as this involves the complex organisation of inter-related factors, it is impossible to alter the entire schedule within a short time.

If the visits scheduled to take place each Wednesday cannot be carried out for a long period on account of weather conditions or a technical fault, and provided that notification is given at least 24 hours in advance for the purposes of security arrangements, it will be possible to allow the prisoner to receive visits on another day of the week if there are no circumstances preventing it. The Ministry of Justice has given the necessary instructions on the subject to the Bursa Chief Public Prosecutor's Office, by letter No.16093 of 12 March 2003.

The CPT recommends that visits to the prisoner by his relatives should not take place behind a glass panel but, as in the case of his lawyers, at a table, face to face.

Article 154/2 of the Prison Administration and Sentence Enforcement Regulations requires visits in closed prisons to take place in such a way as to prevent any physical contact with prisoners and to ensure that conversations may be heard by the prison staff present. The rule is therefore that visits in closed prisons are conducted on a closed basis. Article 13 of the Internal Regulations of İmralı Closed Prison, concerning visiting rules, likewise provides for visits to take place on a closed basis. In line with Article 155 of the Prison Administration and Sentence Enforcement Regulations, the internal regulations provide for lawyers' visits to their clients to take place on an open basis. In addition, where lawyers are concerned, no restrictions are placed on the number of persons entitled to visit or the duration of visits.

Ministry of Justice Circular No.9-51 of 8 April 2002 allows all remand and sentenced prisoners who are not subject to a disciplinary penalty other than a reprimand to receive one open visit a month from their mothers, fathers, spouses and children. In addition, on national, official and religious holidays, Mother's Day, Father's Day and New Year's Day, prisoners are entitled under Article 154/3 of the Prison Administration and Sentence Enforcement Regulations to receive open visits from their mothers, fathers, spouses, brothers, sisters and children; permission for the open visit is granted by a circular specially issued on each occasion. Öcalan is also able to exercise the right to open visits under the conditions stated above. The Ministry of Justice has taken no action to the contrary.

INSTRUCTIONS TO THE CAPTAIN AND CREW OF COASTAL VESSEL İMRALI-9

1. Coastal vessel İmralı-9 will be used between İmralı Island and Mudanya for personnel and logistical supplies.
2. Given the critical importance of the duty to be performed, the boat's captains will give priority to security measures of all kinds.
3. For security reasons, İmralı-9 will be tied up at the Mudanya Communications Office landing stage or tied to the landing vessels located at the landing stage. If there is any likelihood of the boat sustaining damage due to a violent storm or very rough sea, it will be sent to Zeytinbağı harbour at the captain's request, with the permission of the Mudanya Communications Office Commander. When weather conditions improve again, the boat will return to the Mudanya landing stage.
4. When the boat is stationary and tied up at the landing stage, its energy requirements will be met by its own generator or by a cable from a neighbouring boat.
5. Each time they embark and disembark on the island and at the landing stage, the boat's crew and the equipment or supplies they bring with them will be checked by the duty NCO at the Communications Office.
6. Equipment or supplies to be sent to the island will be loaded from the Mudanya Communications Office landing stage after completion of the requisite searches and checks. No equipment or supplies will be loaded from Zeytinbağı harbour without the permission of the Communications Office Commander.
7. No technical equipment, food or any other items will be taken directly to the fire-fighting personnel, agricultural workers, prison staff or other personnel on the island without the permission of the Communications Office Commander. Such items will be handed over to the Communications Office Commander by the official sending them, with a "Prison communications personnel" document, and will be loaded on the boat after completion of the necessary checks.
8. Equipment or supplies loaded on the boat to be sent to the island, or from the island to Mudanya, will not be removed from the boat or used for private purposes.
9. The crew will comply with the shift hours notified to them. During these hours the crew will not leave the boat for any reason whatsoever without informing the Communications Office Commander.
10. When the boat is alongside the landing stage, a crew member will keep watch at all times of the day and night in order to prevent any attacks or sabotage by illegal elements. (This will be arranged by the boat's captain.)
11. Food supplies given to the boat's crew for their own consumption will on no account be removed from the boat, but will be eaten by the crew on the boat.

12. No relatives, spouses, children or similar persons will be admitted onto the boat or shown round it for visits.
13. No alcoholic drinks, including beer, will be carried on the boat. Crew members will not board the boat when under the influence of alcohol.
14. No telephones will be carried other than those notified to the Communications Office Commander. Registered telephones will remain connected round the clock.
15. On days when it is to sail, the boat will be held ready at the Mudanya landing stage at 07.30 and the Communications Office Commander will be informed of the equipment or supplies already loaded onto it.
16. During searches of the boat before departure to and on return from the island, every assistance will be given to the military personnel conducting the search.
17. Given the critical nature of the duty to be performed, the captains and crew will under no circumstances disclose or comment on anything heard or seen on the boat in relation to İmralı Island and their duties.
18. There will be no changes in boats or shifts. Where such changes are necessary, the boat's captains will inform the Communications Office Commander without fail.
19. Before the boat sails, the captain will check the crew members against the shift lists and will inform the Communications Office Commander, in writing, of those who are absent without justification.
20. The captains and crew will on no account talk to the lawyers or the prisoner's relatives during the journey. They will under no circumstances disclose to anyone, or comment on, these persons' journeys to and from the island, their behaviour or movements or the times and places of their outward and return journeys.
21. The boat's captains will determine the working procedures and principles of the crew members under their orders and will notify them of these in writing.
22. During a journey the boat's captains bear prime responsibility for all aspects of the boat's management.
23. While the boat is sailing or tied up at the landing stage, its captains will act in accordance with the powers and responsibilities conferred on them by maritime law.

Bursa Deputy Chief Public Prosecutor

Cemil KUYU

(signed)

INSTRUCTIONS TO THE CAPTAIN AND CREW OF COASTAL VESSEL İMRALI-10

1. Coastal vessel İmralı-10 will be used between İmralı Island and Mudanya for personnel and logistical supplies.
2. Given the critical importance of the duty to be performed, the boat's captains will give priority to security measures of all kinds.
3. For security reasons, İmralı-10 will be tied up at the Mudanya Communications Office landing stage or tied to the landing vessels located at the landing stage. If there is any likelihood of the boat sustaining damage due to a violent storm or very rough sea, it will be sent to Zeytinbağı harbour at the captain's request, with the permission of the Mudanya Communications Office Commander. When weather conditions improve again, the boat will return to the Mudanya landing stage.
4. When the boat is stationary and tied up at the landing stage, its energy requirements will be met by its own generator or by a cable from a neighbouring boat.
5. Each time they embark and disembark on the island and at the landing stage, the boat's crew and the equipment or supplies they bring with them will be checked by the duty NCO at the Communications Office.
6. Equipment or supplies to be sent to the island will be loaded from the Mudanya Communications Office landing stage after completion of the requisite searches and checks. No equipment or supplies will be loaded from Zeytinbağı harbour without the permission of the Communications Office Commander.
7. No technical equipment, food or any other items will be taken directly to the fire-fighting personnel, agricultural workers, prison staff or other personnel on the island without the permission of the Communications Office Commander. Such items will be handed over to the Communications Office Commander by the official sending them, with a "Prison communications personnel" document, and will be loaded on the boat after completion of the necessary checks.
8. Equipment or supplies loaded on the boat to be sent to the island, or from the island to Mudanya, will not be removed from the boat or used for private purposes.
9. The crew will comply with the shift hours notified to them. During these hours the crew will not leave the boat for any reason whatsoever without informing the Communications Office Commander.
10. When the boat is alongside the landing stage, a crew member will keep watch at all times of the day and night in order to prevent any attacks or sabotage by illegal elements. (This will be arranged by the boat's captain.)
11. Food supplies given to the boat's crew for their own consumption will on no account be removed from the boat, but will be eaten by the crew on the boat.

12. No relatives, spouses, children or similar persons will be admitted onto the boat or shown round it for visits.
13. No alcoholic drinks, including beer, will be carried on the boat. Crew members will not board the boat when under the influence of alcohol.
14. No telephones will be carried other than those notified to the Communications Office Commander. Registered telephones will remain connected round the clock.
15. On days when it is to sail, the boat will be held ready at the Mudanya landing stage at 07.30 and the Communications Office Commander will be informed of the equipment or supplies already loaded onto it.
16. During searches of the boat before departure to and on return from the island, every assistance will be given to the military personnel conducting the search.
17. Given the critical nature of the duty to be performed, the captains and crew will under no circumstances disclose or comment on anything heard or seen on the boat in relation to İmralı Island and their duties.
18. There will be no changes in boats or shifts. Where such changes are necessary, the boat's captains will inform the Communications Office Commander without fail.
19. Before the boat sails, the captain will check the crew members against the shift lists and will inform the Communications Office Commander, in writing, of those who are absent without justification.
20. The boat's captains will determine the working procedures and principles of the crew members under their orders and will notify them of these in writing.
21. During a journey the boat's captains bear prime responsibility for all aspects of the boat's management.
22. While the boat is sailing or tied up at the landing stage, its captains will act in accordance with the powers and responsibilities conferred on them by maritime law.

Bursa Deputy Chief Public Prosecutor

Cemil KUYU

(signed)

RESTRICTED

TECHNICAL REPORT

REPORT PREPARED BY: Civil engineer Metin KAPLAN, Electrical engineer Ufuk TEMEL

DATE: 14 December 2002

SUBJECT OF THE REPORT: Partial collapse of the pier on İmralı Island

1. **INVESTIGATION:**

A. **CONSTRUCTION:**

The pier on İmralı Island, which starts at the island entry checkpoint, is formed of three sections separated by two expansion seams; it extends approximately 100 metres towards the sea, then turns at right angles, forming an L shape for a distance of about 45 metres. The first 80-metre section, starting from the island, consists of a 15cm concrete floor plate laid on a fill foundation. The two following sections are built on pile foundations, the width of the pier being 8.10 metres. Approximately 60 metres from the shoreline, cracks are apparent and a 15-metre segment of the pier has collapsed; the pier, which is made of a rather poor-quality type of concrete, has broken up because the collapsed segment faces the open sea and the sea combined with the wind has eroded the fill.

B. **ELECTRICITY:**

1. As a result of the partial collapse of the pier, the 3x95 + 60/6mm NYFGBY power cable buried in the concrete, leading along the pier from the generator located 450 metres further on and providing the electricity supply to boats, has bent at a single point in the area of the collapse. This has not interrupted the electricity supply, however. It was not possible to determine the damage caused to the cable because the cable channel was not opened.

2. There are four light masts on the pier. One of these is a metal halide projector (four 1,000-watt lamps) and the other three are 125-watt mercury vapour fittings. The power supply to the metal halide projectors is functioning, but two of the fittings in question are not working because of a fault in the projector lamps. The mercury vapour fittings on the other three light masts are thought not to be working because of the damage to the power supply cable as a result of the partial collapse of the pier.

3. The power line supplying the camera system on the pier was also found to have been damaged.

2. CONCLUSION:

A. CONSTRUCTION:

The area of the pier which has collapsed could be filled in and the side facing the open sea consolidated with rocks, concrete and similar materials as a breakwater; this segment could then be repaired with reinforced concrete. However, in the medium term, violent storms, the wind and the sea could cause similar deteriorations to occur again. In my opinion, the definitive solution is to rebuild the pier with reinforced concrete, installing bore piles from the point where the pier leaves the shore.

B. ELECTRICITY:

The power supply line extending over a distance of 550 metres between the generators and the pier needs to be cut at the point where it has bent and an extension needs to be laid. In my opinion, it will be advisable to repair electrical panel No.1, which is not supplying electricity, to renew the power supply cables to mercury vapour light masts Nos.1, 2 and 3, to change the camera mast, which appears to be unfit for use, and to renew the two metal halide projector fittings which are not working.

(signed)
Metin KAPLAN
Civil engineer

(signed)
Ufuk TEMEL
Electrical engineer

Certified copy
(signed, stamped)