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

**from 16 to 29 March 2004**

The Turkish Government has authorised the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2005) 19.

Strasbourg, 8 December 2005

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

Strasbourg, 20 July 2004

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 enclose herewith the report to the Turkish Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Turkey from 16 to 29 March 2004. The report was adopted by the CPT at its 54<sup>th</sup> meeting, held from 28 June to 2 July 2004.

I would like to draw your attention to paragraph 113 of the visit report, in which the CPT requests: that a response be provided **without delay** concerning the issues raised in paragraphs 8, 15 and 52 of the report; that a response be provided within **six months** to the Committee's other recommendations, comments and requests for information. It would be most helpful if the Turkish authorities could provide a copy of the responses in electronic form.

I should also refer to your authorities' comments on the preliminary observations made by the CPT's delegation at the end of the March 2004 visit, which were received on 7 July 2004. As the comments were forwarded after the adoption of the visit report, it was not possible to make reference to them in the text of the report. However, they will be taken fully into account in the context of the CPT's ongoing dialogue with the Turkish authorities.

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

Yours faithfully,

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

Mr Erdoğan IŞCAN  
Minister Plenipotentiary  
Deputy Director General for the  
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## I. INTRODUCTION

### A. Dates and objectives of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Turkey from 16 to 29 March 2004. The visit was organised within the framework of the CPT’s programme of periodic visits for 2004; it was the Committee’s seventeenth visit to Turkey and its fourth of a periodic nature.

2. The visit was carried out by the following members of the CPT:

- Silvia CASALE, President of the CPT (Head of delegation)
- Marc NÈVE, 2<sup>nd</sup> Vice-President of the CPT
- Aleš BUTALA
- Marija DEFINIS-GOJANOVIC
- Esteban MESTRE DELGADO
- Jean-Pierre RESTELLINI.

They were supported by Trevor STEVENS (Executive Secretary of the CPT) and Jan MALINOWSKI of the Committee’s Secretariat,

and assisted by:

- Timothy HARDING, Director of the University Institute of Forensic Medicine, Geneva, Switzerland (expert)
- Zeynep BEKDİK (interpreter)
- Omer BOZKURT (interpreter)
- Belgin DÖLAY (interpreter)
- Kudret SÜZER (interpreter)
- Şehnaz TAHIR (interpreter)
- Serra YILMAZ (interpreter).

3. One of the main objectives of the periodic visit in March 2004 was to assess the impact on the ground of the many recent legal reforms related to custody by law enforcement agencies. As the CPT commented in the report on its last ad hoc visit to Turkey, in September 2003, the legislative and regulatory framework necessary to combat effectively torture and other forms of ill-treatment by law enforcement officials has been put in place; the challenge now is to make sure that all of the provisions concerned are given full effect in practice.

Prison-related issues also formed an important part of the periodic visit. Particular attention was given to the implementation of the Turkish authorities plans to replace large-capacity dormitories by smaller living units for prisoners (a question already addressed in the course of several visits as from August 1996) and to the situation of juveniles held in prisons for adults (about which the CPT expressed serious misgivings in the reports on its periodic visits in 1997 and 2001). The Committee's delegation also examined the quality of health care in the prisons visited, a subject concerning which the Committee has made many recommendations after previous visits.

## **B. Establishments visited and consultations undertaken**

4. The CPT's delegation visited law enforcement and prison establishments in various provinces, with particular emphasis on Gaziantep and Izmir. The specific establishments visited were:

### Law enforcement establishments

- Aydın, Gaziantep, Izmir, Kahraman Maras, Kilis and Manisa Police Headquarters (Anti-Terror, Juvenile, Law and Order, and Smuggling, Trafficking and Organised Crime Departments)
- Dörtyol, Menemen and Türkoglu District Police Headquarters
- Karsiyaka Police Station (Gaziantep); Basmane, Bogaziçi, Gümüşpala and Kantar Police Stations (Izmir); Asarlık Police Station (Menemen)
- Gaziantep, Kahraman Maras and Kilis Provincial Gendarmerie Headquarters
- Armutlu, Ortaklar and Türkoglu Gendarmerie Posts

### Prisons

- Aydın E-type Prison
- Gaziantep E-type Prison
- Izmir (Buca) Closed Prison
- Izmir F-type Prison N° 1

In addition, a number of prisoners were interviewed at Adana F-type, Gaziantep H-type and Kahraman Maras E-type Prisons.

The delegation also went to numerous health-care facilities where persons in police/gendarmerie custody are medically examined.

5. In addition to talks with the officials in charge of the places visited, the CPT's delegation met the Chief Public Prosecutors of the Republic in the Gaziantep and Izmir Provinces as well as several of their colleagues dealing with matters related to the Committee's mandate. Discussions were also held with members of prison monitoring boards and enforcement magistrates in Gaziantep and Izmir.

Further, the delegation held discussions with representatives of the Gaziantep and Izmir Bar Associations and with lawyers practising in those areas, as well as with representatives of the Gaziantep and Izmir branches of the Human Rights Association and of the Izmir branch of the Turkish Human Rights Foundation.

At the end of the visit, during talks in Ankara with senior officials from the Foreign Affairs, Interior, Justice and Health Ministries, the CPT's delegation provided the Turkish authorities with its preliminary observations.

### **C. Cooperation between the CPT and the Turkish authorities**

6. The CPT's delegation received very good cooperation from the Turkish authorities in connection with the carrying out of the periodic visit. It enjoyed immediate access to all places visited and access to all documentation and other information requested.

That said, not for the first time during a CPT visit, the Committee's delegation found that certain law enforcement establishments which (according to the custody registers) regularly hold a considerable number of detainees were practically if not totally empty during the time of the delegation's visit.

7. The principle of cooperation set out in the Convention also implies that Parties take effective steps to improve the situation, in the light of the Committee's findings and remarks. In this connection, the CPT regrets that the Turkish authorities have not provided replies to a number of issues raised by its delegation in the preliminary observations made at the end of the March 2004 visit, some of which were clearly of an urgent nature. The Committee is particularly concerned to note that, despite the information provided by its delegation, no account has been given of specific steps taken to put a stop to ill-treatment in the Law and Order and Smuggling, Trafficking and Organised Crime departments of Gaziantep Police Headquarters. This and other matters raised in the preliminary observations will be addressed later in the present report.

8. Similarly, the response recently provided by the Turkish authorities to the report on the CPT's visit in September 2003 is inadequate or incomplete in relation to a number of issues raised by the Committee. The response to paragraph 9 of the visit report is particularly unsatisfactory. In that paragraph, the CPT drew attention to the detailed and consistent allegations received from several persons interviewed independently to the effect that they had recently been subjected to electric shocks whilst detained in the armed robbery or theft/pick pocketing sections of the Law and Order Department at Diyarbakır Police Headquarters. The CPT's delegation had stressed that the existence of such serious and concordant allegations concerning a specific police department warranted the carrying out of an inquiry, and the Committee requested to be informed of the steps subsequently taken in relation to this matter.

The response provided to paragraph 9 of the report on the September 2003 visit evades the issue raised. **The CPT wishes to be informed without delay of the specific action taken by the Turkish authorities vis-à-vis the situation in the armed robbery and theft/pick pocketing sections of the Law and Order Department at Diyarbakır Police Headquarters, in the light of the information provided by the Committee in that paragraph.**



## **II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED**

### **A. Law enforcement agencies**

#### **1. Preliminary remarks**

9. Detention by law enforcement agencies (police and gendarmerie) is currently governed by a legislative and regulatory framework which the CPT has characterised as being capable of combating effectively torture and other forms of ill-treatment.

Police/gendarmerie custody periods have been significantly reduced; at present, the maximum possible period of custody is four days throughout Turkey. All detained persons, regardless of their suspected offence, have as from the outset of custody formally recognised rights to refrain from making a statement, to have their situation notified to a relative without delay and to have access to a lawyer (the latter includes free legal assistance, private detainee-lawyer consultations and the possibility for lawyers to be present when statements are taken); further, they must be promptly informed of their rights. Detained persons must be given medical examinations at the outset and end of police/gendarmerie custody, and also when transferred to another detention facility or when the custody period is extended. The matters to be addressed in custody registers have also been considerably expanded. Moreover, provision has been made for the monitoring of the situation in law enforcement establishments through frequent visits by public prosecutors and senior officials.

It should also be noted that procedural amendments have been adopted aimed at ensuring the speedy investigation and prosecution of offences under Articles 243 (torture) and 245 (ill-treatment) of the Criminal Code; moreover, sentences of imprisonment imposed under those articles can no longer be converted into a fine or suspended.

10. During the March 2004 visit, the CPT pursued its examination of the current situation on the ground as regards the treatment of persons held by the law enforcement agencies and assessed the operation of the legal safeguards against ill-treatment currently in force. As already indicated, the Committee's delegation focused its attention on the Provinces of Izmir and Gaziantep. Has the Turkish Government's message of "zero tolerance" of torture and ill-treatment been clearly received and acted upon in these parts of the country?

#### **2. Torture and ill-treatment**

11. The situation found by the CPT's delegation in the Izmir region would suggest that matters are broadly moving in a positive direction. The information gathered indicates that resort to severe methods of ill-treatment, such as suspension by the arms and electric shocks, is now a rare occurrence in that part of Turkey. The overall message received from both detained persons interviewed and other interlocutors, including representatives of the Bar Association and of the Izmir branches of the Human Rights Association and the Turkish Human Rights Foundation, was that there had been a distinct improvement in recent times in the manner in which persons were treated whilst in police or gendarmerie custody.

However, some allegations were received of recent physical ill-treatment during custody in local police stations or headquarters' departments, in particular of blows to the body, and in certain cases the delegation gathered medical evidence consistent with those allegations. For example, one person met by the delegation alleged that he had been severely beaten one week previously whilst detained in a local police station in Izmir. On arrival in prison, he was found to bear the following lesions: violet ecchymosis to right eyelid, hyperaemia to right ear, oedema to 4th right finger, scabby superficial lesions to anterior tibial area, superficial lesions to right side of nose. Upon examination by one of the delegation's doctors, he was found to display pain upon palpation to the left temporal-occipital region; a rosy area of skin 0.3 cm in diameter on the right side of the nose; a 4 x 3.5 cm violet-greenish bruise under the right eye, reddish discoloration of the left eyelid; slightly rigid neck, painful upon flexion and extension; pain upon succussion to the right lumbar region; small scabby abrasions aligned over a 6 x 0.5 cm area in the upper third part of the anterior side of the left lower leg. Apparently, the person concerned had lodged a formal complaint about his treatment.

Further, from the information gathered, it would appear that resort can still be had in the Izmir region to methods such as sleep deprivation and prolonged standing, in particular in Anti-Terror departments.

It should also be noted that a number of persons interviewed stated that they had been victims of excessive use of force at the time of their apprehension, and representatives of non-governmental organisations informed the delegation of cases of this kind.

12. It follows from the above that there is a need for continued vigilance in the Izmir region to put a stop to all forms of ill-treatment. The delegation's discussions with the Izmir Chief Public Prosecutor and certain of his colleagues indicated that these officials were adopting a proactive approach in relation to this subject.

Reference should also be made to the initiative taken in 2001 at the Izmir Bar Association to set up a "torture prevention group", which has received EU support. The group provides training and support to lawyers, in particular to those assisting persons in custody or whose clients allege to have been ill-treated by law enforcement officials. The delegation was favourably impressed by the commitment and professionalism displayed by the members of the group met in the course of the visit. **The CPT invites the Turkish authorities to encourage such initiatives in other parts of the country (e.g. in Gaziantep).**

13. The picture which emerges from the information gathered by the delegation in the Gaziantep region is less encouraging. Admittedly, very few allegations of ill-treatment were received from persons held by law enforcement agencies during the two to three weeks preceding the delegation's arrival in the city. Further, a number of detained persons interviewed indicated that the manner in which they had been treated when most recently detained in the Gaziantep region was better than what they had experienced during periods of custody in previous years. Nevertheless, a considerable number of allegations of recent ill-treatment were received from both detained persons and other interlocutors, some of them concerning severe ill-treatment.

In particular, numerous persons, interviewed independently, alleged that they had been subjected to severe ill-treatment in the Law and Order or Smuggling, Trafficking and Organised Crime departments of Gaziantep Police Headquarters, during periods of custody earlier in 2004. The forms of ill-treatment alleged included blows to the body (including on occasion falaka), stripping naked and hosing with cold water, squeezing of the genitals, immersing the head in water and asphyxiation using a plastic bag. At the Law and Order department, a logbook seen by the delegation showed that it was not uncommon for the interrogation of detainees, described as “informal interviews”, to take place very late at night, without any record being made of this in the case file or custody register.

As regards the Anti-Terror department of Gaziantep Police Headquarters, the delegation interviewed only one person who had been held there during 2004 (in February); he stated that he had not been ill-treated. However, several persons interviewed who had been held in the Anti-Terror department towards the end of 2003 alleged that they had been subjected to squeezing of the genitals and hosing with cold water. Further, one person held in the department earlier in 2003 alleged having been subjected to various forms of ill-treatment, including suspension by the arms and falaka; the description given was both detailed and credible.

Allegations were also heard in the Gaziantep region of blindfolding, sleep deprivation and prolonged standing, as well as of threats to harm the detainee and/or members of his family. Further, as in Izmir, allegations were received of the use of excessive force at the time of apprehension.

14. Little medical evidence consistent with the above-mentioned allegations was gathered by the delegation. However, this certainly does not mean that the allegations can be dismissed. As will be made clear later in this report, in Gaziantep, it is far from guaranteed that injuries or other conditions resulting from ill-treatment will be duly observed and recorded (cf. paragraphs 35 and 81). Further, given the time that had elapsed between the period of police custody and the delegation’s own contact with the persons concerned, any injuries which might have been caused by the ill-treatment alleged would almost certainly have healed in the meantime.

As regards the last case mentioned in paragraph 13, third sub-paragraph, the medical record drawn up on the prisoner’s arrival at Gaziantep H-type Prison noted the following injuries: haematomas of 10 x 2 cm and of 4 cm on the left shoulder and several ecchymoses on the right flank. The person concerned indicated that he had complained to the doctor of impaired sensitivity and mobility of the arms; apparently, the doctor had also seen that the soles of his feet were red-violet in colour and covered with bruises, and had given him two tubes of some ointment to apply to those lesions (one of which he still had in his possession). The doctor was evasive when the delegation subsequently raised with him the question whether the medical record drawn up by him recorded all the injuries effectively observed. A few months after his arrival in prison, the prisoner was successively admitted to two mental health facilities for treatment, including the Adana Psychiatric Hospital; on consulting the patient’s medical file at that hospital, the delegation noted that he had been found to display various symptoms (in particular sleep disturbance, nightmares, depressive symptoms, fear of repetition of events) which are recognised indicators of post traumatic stress disorder.

15. The Chief Public Prosecutor of the Republic in Gaziantep expressed surprise and dismay when the information set out in paragraph 13 was brought to his attention, and stated that he would look into the situation in the Headquarters' departments. **The CPT wishes to be informed without delay of the specific steps taken by the Chief Public Prosecutor in this regard, and of remedial action taken.**

16. The situation found by the delegation during its two-day visit to the Aydın region corresponds very much to that observed in Izmir. The allegations of ill-treatment that were received concerned both local police stations and headquarters' departments and, to a lesser extent, gendarmerie establishments.

Hardly any allegations of ill-treatment were heard in the course of the delegation's brief visits to the Kahraman Maras, Kilis and Manisa Provinces. Further, two persons interviewed by the delegation who had recently been held in the Anti-Terror department of Mersin Police Headquarters indicated that they had not been ill-treated.

In contrast, the delegation did receive a certain number of allegations of recent severe ill-treatment in Antalya (Police Headquarters Law and Order department), Dörtyol (Police Headquarters Anti-Terror department and the gendarmerie) and Muğla (Police Headquarters Organised Crime department). One person interviewed alleged that a few days earlier he had been hosed with cold water, beaten and subjected to electric shocks to the penis whilst detained at Antalya Police Headquarters. An examination by a medical member of the delegation revealed inter alia a small dark red linear lesion on the penis. The prisoner also displayed a tender and poorly delimited dark blue haematoma in the right dorso-sacral area measuring 20 x 15 cm (consistent with his allegation that he had been kicked in that part of the body whilst detained at Izmir Police Headquarters, following his transfer from Antalya).

17. The information gathered during the CPT's March 2004 visit, in particular in the Gaziantep region, demonstrates once again that it is essential for the Turkish authorities to pursue vigorously their efforts to combat torture and other forms of ill-treatment by law enforcement officials.

In this connection, the CPT has taken note with interest of the circular of 20 April 2004 from the Ministry of the Interior to all Provincial Security Directorates, which makes clear the need "to avoid attitudes and behaviour that may engender allegations of ill-treatment of detained persons". The circular includes a specific reminder that methods such as sleep deprivation, prolonged standing and threats are unacceptable. However, **the message delivered by the circular as regards blindfolding** ("although it is known that this is not practised, to take care not to blindfold detained persons while taking their statements") **is not sufficiently firm**. Blindfolding is still practised in certain law enforcement establishments; it should be expressly prohibited.

As regards the numerous allegations heard of use of excessive force at the time of apprehension, the CPT has acknowledged in the past that the apprehension of a suspect may often be hazardous, particularly if the individual concerned resists apprehension and/or the law enforcement officials have reason to believe that the person might be armed and dangerous. The circumstances may be such that the apprehended person, and possibly also law enforcement officials, suffer injuries, without this being the result of an intention to inflict ill-treatment. However, no more force than is strictly necessary should be used and, once apprehended persons have been brought under control, there can never be any justification for them being struck. Similarly, resort to physical force should not be the automatic response when a law enforcement official is confronted by a person who contests his authority. **The CPT recommends that law enforcement officials throughout Turkey be reminded of these precepts.**

18. Of course, as the CPT has repeatedly made clear, issuing circulars and reminders will not alone be sufficient to effectively combat torture and other forms of ill-treatment. They must be underpinned by appropriate training for all concerned and effective systems of control by both internal and external authorities.

### **3. Training and systems of control**

19. In the report on its September 2003 visit, the CPT recalled that the best possible safeguard against ill-treatment is for all officials involved in the law enforcement process themselves to unambiguously reject resort to such methods. Appropriate professional training, incorporating the principles of human rights, is therefore an essential component of any strategy for preventing ill-treatment.

The CPT welcomes the information provided by the Turkish authorities in response to the report on that visit, highlighting their ongoing efforts to provide initial and in-service human rights training to law enforcement officials and to develop the use by such officials of modern investigation techniques (including as regards the questioning and taking of statements from suspects). **The CPT recommends that these efforts be vigorously pursued and that measures be taken to ensure that their effects reach the largest possible number of law enforcement officials.**

20. The above-mentioned training must extend beyond police and gendarmerie officers to cover public prosecutors and judges involved in the criminal justice system.

In this connection, a number of persons interviewed by the CPT's delegation during the March 2004 visit (in particular in Gaziantep) claimed that, when they appeared before the prosecutor or judge at the end of their period of police/gendarmerie custody, the proceedings were conducted in such a hasty manner that they had no chance to say anything about the manner in which they had been treated. In many cases, the physical presence at the proceedings of the very same law enforcement officials who had interrogated the persons concerned apparently constituted an additional intimidating factor. In a few cases, persons interviewed claimed that they had nevertheless told the judge that they had been ill-treated but that the judge had displayed no interest in that aspect of their situation. The CPT wishes to underline that when a person is brought before them at the end of police/gendarmerie custody, prosecutors and judges must conduct the proceedings in such a way that ill-treatment (if it has occurred) can come to light; those proceedings should offer the person concerned a real opportunity to make a statement about the manner in which he/she has been treated. Further, due attention must be paid not only to any express allegations that the person may make but also to his/her physical state and/or demeanour. It is also axiomatic that the prosecutor/judge must take appropriate steps when there are indications that ill-treatment has occurred. **The CPT recommends that these points be emphasised during the professional training of public prosecutors and judges.**

Moreover, in paragraph 39 of the report on the September 2003 visit, the CPT highlighted various points related to the reliance that can be placed upon medical reports in the context of combating ill-treatment; it recommended that particular attention be paid to these matters in the professional training of public prosecutors and judges. The Turkish authorities make no reference to this subject in their response to that report; **the CPT wishes to be informed of the measures taken to implement its recommendation.**

21. The CPT has repeatedly emphasised the importance of maintaining the vitality of the "compliance monitoring procedure".

Most - if not all - of the law enforcement establishments visited by the delegation were inspected from time to time by public prosecutors. However, in many cases, the prosecutors' visits were not frequent (e.g. two or three times a year) and, as far as the delegation could ascertain, mostly involved perusal of the custody register and a brief tour of the premises. By way of example, on 12 March 2004, two prosecutors inspected jointly seven police facilities in Gaziantep, including the Law and Order, the Smuggling, Trafficking and Organised Crime, and the Juveniles departments of the Police Headquarters; the prosecutors' cursory report made reference to the orderliness of the registers and to cell lighting and ventilation, but contained nothing to suggest that they had interviewed persons held in custody at the time of their visit (e.g. nine children in the Juveniles department).

**More robust on-the-spot checks of law enforcement establishments are required, in line with the recommendation made in paragraph 40 of the report on the September 2003 visit.<sup>1</sup>**

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<sup>1</sup> The second sub-paragraph of paragraph 40 of the report on the September 2003 visit reads as follows: "The situation in all law enforcement establishments must continue to be thoroughly checked at appropriate (and irregular) intervals. Senior officials and public prosecutors carrying out those checks must examine all issues related to the treatment of persons in custody; those issues concern not only material conditions of detention but also questions such as the recording of detention, information on rights and the actual exercise of those rights (in particular the rights of access to a lawyer and to notify a relative of one's custody), and compliance with the rules governing the medical examination of persons in police/gendarmerie custody. To explore these different issues in an effective manner will involve interviewing in private persons who are in detention."

22. One of the most effective means of preventing ill-treatment by law enforcement officials lies in the diligent examination by the relevant authorities of all complaints of such treatment and, where appropriate, the imposition of a suitable penalty. This will have a very strong deterrent effect. As was highlighted in paragraphs 41 and 42 of the report on the September 2003 visit, extremely positive legal measures have been adopted in this regard in recent times. The question remains whether this clear intent on the part of the legislator to “get tough” on torture and ill-treatment is being fully translated into reality by the criminal justice and internal disciplinary systems.

In the report on the September 2003 visit, the CPT requested the Turkish authorities’ assessment of the manner in which the above-mentioned measures had been implemented in 2003 and the first quarter of 2004. No such assessment is provided in the Turkish authorities’ response to that report, just statistics. Further, the CPT wonders whether the statistics provided are accurate. For example, it is stated that, in 2003, 32 law enforcement officials were prosecuted in Turkey on charges of torture (Article 243 of the Criminal Code); however, according to statistics provided by the Chief Prosecutor of Izmir to the delegation that carried out the March 2004 visit, 18 law enforcement officials were prosecuted on charges of torture during 2003 in that province alone. Regardless of which statistics are examined, it would appear that convictions under Articles 243 and 245 of the Criminal Code remain a rare occurrence. Similarly, the statistics provided in the Turkish authorities’ response to the report on the September 2003 visit indicate that administrative sanctions are very rarely imposed against law enforcement officials subject to proceedings under Articles 243 and 245 of the Criminal Code.

It should also be noted that the information gathered during the March 2004 visit indicated that some problems were being experienced in relation to the amendments to the Code of Criminal Procedure introduced on 7 August 2003 concerning investigations and prosecutions in relation to Articles 243 and 245 of the Criminal Code. In particular, the delegation was informed by prosecutors in Izmir that the courts in that province were having great difficulties in complying with the rule that the hearings of cases concerning offences under those articles cannot be adjourned for more than 30 days.

**The CPT reiterates its request for the Turkish authorities’ assessment of the manner in which the measures referred to in paragraphs 41 and 42 of the report on the CPT’s September 2003 visit are being implemented in practice.**

#### **4. Procedural safeguards against ill-treatment**

##### **a. notification of custody**

23. From the information gathered during the visit, it would appear that, with certain exceptions, the obligation to notify without delay a relative of the detained person was being complied with, at least in the months prior to the visit. In a few cases, detainees had been given the opportunity themselves to speak to their relatives. In most of the establishments visited, the custody registers confirmed that a high proportion of detained persons exercised the right to notify a relative of their custody, and the information recorded in the registers adapted pursuant to the amendments to the Regulations on Apprehension, Custody and Taking of Statements which entered into force on 3 January 2004 was detailed.

However, as had been the case during the September 2003 visit, some allegations of delays in notification were received. Further, in some places (e.g. in Kantar Police Station), the custody register indicated that only a surprisingly small number of detained persons wanted that their families or friends be informed of their situation. In the September 2003 visit report, the CPT recommended that, whenever a detained person does not wish to use the right to notify a relative, he be required to fill out himself the relevant entry in the custody register and to add his signature. The Committee is pleased to note that this recommendation has been reflected in the previously-mentioned circular of 20 April 2004.

##### **b. access to a lawyer**

24. The examination of custody registers and case files during the March 2004 visit continued to give the impression that only a small minority of detained persons had had access to a lawyer during police/gendarmerie custody, in many cases less than 10%.

As was acknowledged in the report on the September 2003 visit, this state of affairs is no doubt to a considerable extent the result of an unwillingness on the part of many detained persons to involve a lawyer in their case at this early stage of the procedure. However, the delegation also heard many allegations that persons had only been informed of their right of access to a lawyer at a late stage of their custody (i.e. when a formal statement was about to be taken). Further, it is also clear that many persons remain under the impression that, without money, they cannot benefit from the presence of a lawyer; some persons claimed that they had been told this explicitly by police officers. The delegation heard some allegations, including from lawyers, that law enforcement officials had deliberately obstructed access to a lawyer for persons in their custody; in this connection, it should be noted that custody registers indicated that a considerable time could elapse between a request to see a lawyer and the actual detainee-lawyer contact.



25. In response to recommendations made in the report on the September 2003 visit, it is stipulated in the Ministry of the Interior circular of 20 April 2004 that detained persons should be informed of the fact that access to a lawyer can be obtained free of charge, and that detained persons should themselves fill out in their own handwriting the section of the custody register indicating whether or not they wish to have access to a lawyer. The CPT welcomes this development. The Committee has also taken note of the statistics provided in the response to the report on the September 2003 visit which indicate that the number of persons detained for State Security Court offences who request access to a lawyer is gradually increasing.

**The CPT recommends that the Turkish authorities continue to actively promote access to a lawyer during police/gendarmerie custody; cooperation between the law enforcement agencies and local Bar Associations in order to increase knowledge among the general public about the right of access to a lawyer for detained persons should form part of the strategy adopted in this regard.**

26. As regards the issues of the length and confidentiality of meetings between lawyers and persons in police/gendarmerie custody, the delegation heard no allegations of limits being imposed on their duration and most of the establishments visited had adequate rooms set aside for this purpose.

However, the delegation did receive some complaints from lawyers that they had not been offered the possibility to use premises ensuring the confidentiality of their meetings with detained persons. Apparently, they were on occasion obliged to use unsuitable places for such meetings, e.g. a corridor or a flight of stairs. In one of the establishments visited - namely Kilis Police Headquarters - the delegation discovered that meetings between detained persons and lawyers took place in an interrogation room equipped with electronic means enabling events in the room to be both seen and heard from the outside; this is clearly a totally inappropriate arrangement.

**The CPT trusts that the Turkish authorities will persist in their efforts to ensure that suitable premises for meetings between detained persons and lawyers both exist and are used in practice in all law enforcement units dealing with detained persons.**

c. information on rights

27. Some of the persons interviewed during the visit stated that they had been promptly informed of their rights. Further, in one of the establishments visited (Kilis Provincial Gendarmerie Headquarters), a notice of rights of detained persons was displayed within the cells.

However, many other persons claimed that they had not been informed of their rights or that they had only been given the rights form after some considerable time in detention. Further, for certain persons, the oral information given to them and the form used were apparently difficult if not impossible to understand.

As regards the content of the suspects rights forms, in all but one of the establishments visited it did not reflect the current legal situation concerning access to a lawyer (the exception concerned Gümüşpala Police Station in Izmir, where police officers had taken the initiative to download the most recent version of the form from the internet). Further, the forms were usually only available in Turkish; one notable exception was the Law and Order department of the Gaziantep Police Headquarters, where the form was available in 11 languages. Nevertheless, the Turkish authorities' response to the report on the September 2003 visit suggests that these particular problems have now been resolved.

**The CPT trusts that compliance with the requirement that detained persons are to be given a copy of the suspects rights form at the outset of their custody will continue to be closely monitored.**

d. custody registers

28. The custody registers provided for in the Regulations on Apprehension, Custody and Taking of Statements were further developed by changes introduced on 3 January 2004. In particular, additional information must now be recorded concerning the exercise of the right of notification of custody. In many of the establishments visited in March 2004, these changes had already been incorporated into the custody registers in use.

If properly completed, the custody registers in their present form ensure that practically all aspects of a person's custody are well recorded. That said, **the CPT recommends that it be made clear in point 7 (temporary departures) of the custody register that the phrase "other essential purposes" includes the detained person's removal from his cell for any form of questioning or other investigative procedure.**

29. In some of the establishments visited, the custody register was being properly completed. However, record keeping left a lot to be desired in other establishments; in particular, there was a tendency to leave certain sections blank. Further, instances were found of the detained person signing in advance all sections of the custody register where his signature was required, before those sections were filled out; for example, in certain cases the detainee had signed the sections concerning information to a relative and access to a lawyer, without any indication being given of the choice made by the detainee on these matters. This latter problem will hopefully be resolved through implementation of the requirement that detainees themselves fill out these sections of the custody register (cf. paragraphs 23 and 25).

More generally, the CPT welcomes the reminder given in the Ministry of the Interior circular of 20 April 2004 that custody registers must be filled out meticulously and at the appropriate time.

e. specific issues related to juveniles

30. The delegation paid particular attention to the application of specific safeguards concerning juveniles apprehended in relation to a criminal offence. It should be recalled that Article 18 of the Regulations on Apprehension, Custody and Taking of Statements specifies that the relatives and lawyers of detained juveniles must be informed of the apprehension, that the juvenile concerned should immediately be brought before the public prosecutor, who must himself conduct the preliminary investigation, and that the juvenile's lawyer must be present when a statement is taken.

31. In fact, the delegation found that, in many cases, detained juveniles were not brought before the public prosecutor immediately following their apprehension. Further, it was still common practice in several provinces visited for juveniles to sign, in the absence of a lawyer, an incident and apprehension report setting out a detailed account of the alleged offence and, on occasion, including statements said to have been made by them.

In Gaziantep the practice had been taken even further: official documentation clearly showed that the preliminary investigation was, in large part, completed before the juvenile was taken before the public prosecutor. The delegation saw examples of juvenile detainees' files including a statement signed by the juvenile, in the presence of a lawyer, at the Juvenile Department; the files were forwarded to the prosecutor with a cover letter from the Juvenile Department stating "the juvenile admits the offence". In Aydin, the delegation found a case in which, on the basis of a reported self-incriminating statement and agreement on the part of a minor to lead the police to his accomplices, the public prosecutor had authorised extension of custody for further investigation without the minor concerned having been brought before him. In Kahraman Maras, cases were recorded in the custody register of juveniles declining to be assisted by a lawyer.

32. Procedures such as those described in the preceding paragraph respect neither the letter nor the spirit of Article 18 of the Regulations on Apprehension, Custody and Taking of Statements. It is clear from the response given to the report on the September 2003 visit that the Turkish authorities fully agree with the CPT on this subject; they emphasise that "a public prosecutor must be present during all activities and procedures conducted as part of the preliminary investigation concerning minors, including the drawing up of location identification records. When these records and similar documents (placing the minor under an obligation) are drawn up, the minor's lawyer must clearly be present because the minor makes statements concerning the act for which he is charged."

The Ministry of the Interior circular of 20 April 2004 recalls the provisions of Article 18 of the Regulations on Apprehension, Custody and Taking of Statements and stipulates that they must be strictly complied with. **The CPT calls upon the Turkish authorities to ensure that the observance of these provisions is kept under close review in the context of the compliance monitoring procedure.**

33. In paragraph 26 of its report on the September 2003 visit, the CPT recommended that a specific version of the suspects rights form, setting out the particular position of detained minors, be developed and given to all minors taken into custody. However, the Turkish authorities' response to that visit report is silent on this subject. **The CPT reiterates the above-mentioned recommendation.**

## **5. Medical examination of persons in police/gendarmerie custody**

34. The existing system for the medical examination of persons in police/gendarmerie custody was addressed once again in depth in the report on the CPT's September 2003 visit, both in the light of the facts found during that visit and the subsequent Ministry of Health circular of 10 October 2003 (cf. CPT (2004) 21, paragraphs 28 to 34). The 10 October circular stressed that such medical examinations must be carried out without law enforcement officials being present; it also set out the precise modalities of such examinations (e.g. the person to be examined entirely unclothed) and of the forwarding of the report on the examination to the relevant authorities (in particular, transmission in a sealed envelope).

If it functions satisfactorily, the system for the medical examination of persons in police/gendarmerie custody will constitute a significant safeguard against ill-treatment. The March 2004 visit offered an opportunity to review the operation of that system; for this purpose, the CPT's delegation heard the accounts of a large number of persons who were or had been in custody and of police/gendarmerie officers, interviewed a significant number of doctors called upon to examine detained persons, and examined many medical reports drawn up following such examinations.

35. As regards the requirement that law enforcement officials should not be present in the room where the medical examinations are carried out, the information gathered indicated that this requirement was on the whole being met in Izmir and Manisa. However, in other parts of the country visited, it would appear that, in a significant number of cases, the confidentiality of the medical examination was not guaranteed.

The most alarming situation was found in Gaziantep. Practically all detained persons interviewed affirmed that they had been examined in the presence of law enforcement officials when taken to the State Hospital in the city. Further, the examination performed was, in most cases, apparently very superficial, many persons alleging that it had consisted of nothing more than the doctor asking whether they had any "marks". Numerous persons who alleged to the delegation that they had been ill-treated stated that the presence of law enforcement officials had dissuaded them from informing the doctor of that fact. A few persons stated that they had told the doctor that they had been ill-treated, but that this had not led the doctor to physically examine them.

From the detailed discussions held at the Gaziantep State Hospital with the doctors concerned, it transpired that most of the medical examinations of persons in police/gendarmerie custody were indeed carried out in the presence of law enforcement officials and without the person being unclothed, i.e. in flagrant breach of the Health Ministry instructions of 10 October 2003 (and this despite the fact that a copy of those instructions was fixed to the wall of the room where the examinations took place). This state of affairs appears to be the result not only of the wishes of law enforcement officials but also of the attitude of the doctors, who clearly were not committed to this particular task assigned to them.

This blatant disregard in Gaziantep of the rules governing the medical examination of persons in police/gendarmerie custody was compounded by the fact that newly-arrived prisoners at Gaziantep E-type Prison were not being systematically examined by the prison doctor (cf. paragraph 81). This situation can only have the perverse effect of obscuring rather than revealing torture and ill-treatment.

36. At the end of the March 2004 visit, the delegation called upon both the Health and Interior Ministries to take immediate steps to ensure that the medical examination of persons in police/gendarmerie custody in Gaziantep is carried out in full accordance with the rules in force and, more particularly, the provisions of the circular of 10 October 2003. **The CPT wishes to be informed of the steps taken in this respect.**

As regards Turkey as a whole, the CPT was pleased to note that the Ministry of the Interior circular of 20 April 2004 highlights the importance of complying with the requirement that the doctor and the person examined remain alone. Similarly, the CPT welcomes the circular issued by the Ministry of Health on 15 April 2004, insisting upon the importance of providing suitable, secure rooms for the medical examination of persons in police/gendarmerie custody. **The CPT trusts that compliance with these requirements will be kept under close review.**

37. As regards the precise modalities of the medical examinations of persons in police/gendarmerie custody, the delegation was impressed by the facts found at Manisa. In addition to full respect of the confidentiality of the examinations and compliance with the requirement that the persons concerned be examined unclothed, the doctors responsible for such examinations were recording their findings in detail. The situation was far less favourable in other areas visited; in particular, the record of findings was frequently extremely terse.

The CPT highlighted once again in the report on the September 2003 visit that the form used for recording the medical examination of persons in police/gendarmerie custody should contain distinct sections for the detainee's statements (including any allegations of ill-treatment), the doctor's objective medical findings, and the doctor's conclusions in the light of those two elements. The Committee recommended that the Turkish authorities redouble their efforts to ensure that such a form is used and that the doctors concerned systematically complete each of the form's sections. The Turkish authorities' response fails to address this subject; **the CPT reiterates the above-mentioned recommendation and wishes to be informed of the steps taken with a view to its implementation.**

38. The Supreme Administrative Court has recently annulled the provision of Article 10 of the Regulations on Apprehension, Custody and Taking of Statements according to which a copy of the medical report should be given to the law enforcement unit which detained the person concerned. This is a very positive development, entirely in line with the views previously expressed by the CPT itself on this subject.

However, even after this decision, it will still be necessary to ensure the confidential transmission of the medical report to other relevant authorities (e.g. the prosecutor). In the report on the September 2003 visit, the CPT recommended in this regard that a copy of the medical report under no circumstances be given to the law enforcement officials escorting the person, and that instead all copies of the report be forwarded to the authorities concerned by means which are entirely separate from the escort team. In their response to that report, the Turkish authorities simply refer to the existing instructions according to which the report should be handed over to the escort team in a sealed envelope. The information gathered during the March 2004 visit confirmed once again that, in the vast majority of cases, those instructions are not complied with. **The CPT recommends that the opportunity be taken of the above-mentioned decision of the Supreme Administrative Court to review the provisions of paragraph 4 of Article 10 of the Regulations on Apprehension and all related instructions; means must be found of ensuring the confidential transmission to the relevant authorities of the reports drawn up after the medical examination of persons in police/gendarmerie custody.**

39. In the report on the September 2003 visit, the CPT also recommended that the Turkish authorities examine the possibility of designating in each city one specific medical facility with primary responsibility for performing the routine medical examinations of persons in police/gendarmerie custody. As was pointed out in that report, such a measure would have multiple advantages, not the least being to counter the phenomenon of "health-care unit shopping". The information gathered during the March 2004 visit has only confirmed the relevance of that recommendation.

The Turkish authorities' response to the report on the September 2003 visit fails to address this subject; **the CPT reiterates the above-mentioned recommendation and wishes to be informed of the steps taken with a view to its implementation.**

## **6. Detention and interrogation facilities**

40. Progress continues to be made as regards conditions of detention in law enforcement establishments. Conditions in the police and gendarmerie facilities visited were, with a few exceptions, adequate for the periods of custody involved.

On the whole, cells were clean and well ventilated, had adequate artificial light and benefited from at least some access to natural light, and were equipped with means of rest (plinths or benches, on occasion fitted with some padding). Detained persons were provided with blankets (usually clean) and, in many cases, sleeping arrangements also included mattresses. The sanitary facilities for use by detained persons (situated outside the cells) were in most cases clean and on occasion included a shower.

Nevertheless, shortcomings were observed in certain establishments. For example, the cells in the Smuggling, Trafficking and Organised Crime department of Izmir Police Headquarters were poorly lit, had no mattresses and, more generally, were mediocre facilities. The delegation was told that this department was soon to be relocated to premises at the main Headquarters' site; **the CPT trusts that it will then have at its disposal detention facilities which are in full conformity with the current legal requirements.**

Conditions of detention at Türkoglu District Police Headquarters were also very poor; the establishment's cell had no artificial lighting, only limited access to natural light, and was dirty. Further, cells in the Anti-Terror department at Kahraman Maras Police Headquarters and at Menemen District Police Headquarters were poorly lit. **The CPT recommends that appropriate steps be taken to remedy these deficiencies.**

41. Specific reference should be made to the Juvenile Departments at the Police Headquarters visited. Conditions of detention were adequate in Izmir, and the delegation was informed that the department would be provided with even better facilities when it was relocated to new premises in the near future. The detention facilities in the Juvenile Department in Aydın were also of an acceptable standard.

However, the detention facilities for criminal suspects in the Juvenile Department of Gaziantep Police Headquarters displayed serious deficiencies; they had no access to natural light, were poorly equipped (e.g. no mattresses) and were frequently overcrowded. Conditions in this part of the Department were in striking contrast to the very good conditions in the facility (totally empty at the time of the visit) officially designated for the accommodation of children in care. A similar situation was observed in the Juvenile Department at Kahraman Maras Police Headquarters. **The CPT recommends that the police detention facilities for juvenile criminal suspects in Gaziantep and Kahraman Maras be subsequently improved.**

42. As regards interrogation/identification rooms, the facilities in some of the establishments visited (e.g. the refurbished premises at Manisa Police Headquarters) were of a satisfactory standard.

However, rooms of an intimidating nature were still in service in a few of the establishments visited. The two "identification rooms" in the Law and Order Department of Izmir Police Headquarters, fitted with black padding on the walls, were particularly oppressive; the same can be said of the black padded interrogation/identification rooms at Menemen District Police Headquarters. The interrogation rooms in the Anti-Terror and the Smuggling, Trafficking and Organised Crime Departments in Izmir, as well as in the Anti-Terror Departments at Kahraman Maras and Kilis, were not much better despite being fitted with lighter coloured padding.

Certain of the interrogation/identification rooms were equipped with powerful spotlights. The delegation was able to demonstrate that those lights were not necessary for the purpose of ensuring that witnesses identifying suspects could not be seen by the latter, and requested that they be removed immediately. In this connection, the CPT welcomes the stipulation in the Ministry of the Interior circular of 20 April 2004 that any spotlights in interview rooms be removed.

More generally, **the CPT trusts that the Turkish authorities will pursue their efforts to bring all interrogation/identification facilities throughout the country up to an acceptable standard.** In addition to being adequately lit, heated and ventilated, such facilities should allow for all participants in the interview process to be seated on chairs of a similar style and standard of comfort; the interviewing officer should not be placed in a dominating (e.g. elevated) or remote position vis-à-vis the interviewee; colour schemes should be neutral; further, the practice of soundproofing rooms by covering walls with heavy fabric/padding should be avoided, as it will inevitably give a room an intimidating character regardless of the colour used.

## **B. Prisons**

### **1. Preliminary remarks**

43. The CPT's delegation examined the situation in four establishments: the E- type Prisons in Aydın and Gaziantep, Izmir F-type Prison No. 1 and Izmir (Buca) Closed Prison. Only the last-mentioned establishment had previously been visited by the Committee (in 1997).

Aside from the core issue of the manner in which inmates were treated by staff, the CPT's delegation wished to examine the quality of conditions of detention following the introduction of smaller living units for prisoners. Other issues explored in some depth were the situation of juveniles held in the above-mentioned establishments and the quality of health-care for prisoners.

44. F-type prisons are high security establishments intended primarily for persons held under the Law to Fight Terrorism or under Law No. 4422 (organised crime). As in other establishments of this type, most of the inmate accommodation at Izmir F-type Prison No. 1 consists of duplex units for 3 prisoners. At the time of the March 2004 visit, the prison was operating well within its official capacity of 368; there were 245 prisoners, all adult males. The bulk of the inmate population (some 150) was made of prisoners held under Law No. 4422; the number of persons held under the Law to Fight Terrorism stood at 87.

45. Aydın and Gaziantep E-type Prisons are essentially pre-trial establishments, though they also accommodate some sentenced prisoners. Each of the establishments was accommodating, in addition to adult males, a considerable number of juveniles (43 at Aydın and 86 at Gaziantep) as well as some adult female prisoners (32 at Aydın and 33 at Gaziantep).

Many of the original large-capacity dormitories at Aydın and Gaziantep had been converted to smaller living units. However, the favourable effects of this conversion were being vitiated by overcrowding. At the time of the visit, both prisons were operating well in excess of their official capacities: at Aydın, 593 prisoners for an official capacity of 334; at Gaziantep, 925 prisoners for an official capacity of 560.

46. With an official capacity of 1600, Izmir (Buca) Closed Prison is one of the largest penitentiary establishments in Turkey. At the time of the March 2004 visit, it was accommodating 1937 inmates, approximately 85% of whom were pre-trial prisoners. The inmate population included 143 juveniles as well as 78 adult women.

In its report on the 1997 visit, the CPT severely criticised conditions of detention at Buca Prison. More than six years later, the establishment seemed to be frozen in time. No significant improvements were apparent as compared to the situation found in 1997. As regards, more particularly, the establishment's large capacity dormitories, they remained intact.



## 2. Torture and ill-treatment

47. The CPT was pleased to note that its delegation heard no allegations of the *physical ill-treatment* of prisoners by staff in Izmir F-type Prison No.1. More specifically, it would appear that the headcount procedure is currently not a source of friction between inmates and staff in this F-type establishment.

48. As regards Izmir (Buca) Closed Prison and the E-type establishments in Aydın and Gaziantep, most of the prisoners interviewed indicated that staff behaved correctly towards them. However, there were also clear indications that breaches of discipline or other behaviour considered as inappropriate could meet with a violent reaction.

Some allegations of beatings of prisoners (including on occasion of falaka) were heard in each of the three establishments. They mostly concerned juveniles, though certain allegations of the physical ill-treatment of adult prisoners were received in Buca and Gaziantep Prisons. It should also be noted that in those two establishments, the allegations of the beating of juveniles were confirmed by adult prisoners.

49. Specific reference should be made to a disturbance which took place on 5 November 2003 in one of the juvenile units at Buca Prison. Allegations have been made that a considerable number of juvenile inmates were severely ill-treated in the immediate aftermath of that disturbance by both prison staff and members of the gendarmerie, and that some of them were ill-treated again at a later stage following their placement in unit 17.

According to the prison medical records, 25 juveniles from the unit concerned were subsequently found to bear visible lesions, mostly situated on the shoulder or scapula region, on the head and on the wrists and forearms. Twelve of the juveniles bore one or more elongated (1-2 cm x 5-10 cm ) “hyperaemic areas” on their bodies, principally on their backs, shoulders or buttocks. A subsequent report from the Forensic Institute, to which 29 of the juveniles were referred, described the same injuries. These medical findings are fully consistent with allegations of being beaten with truncheons.

50. In the light of the above, **the CPT recommends that staff at Izmir (Buca) Closed Prison and the E-type prisons in Aydın and Gaziantep be given a firm reminder that the ill-treatment of inmates is not acceptable and will be the subject of severe sanctions; it should be made clear to them that prisoners who breach discipline must be dealt with exclusively in accordance with existing disciplinary procedures and that any form of unofficial punishment will not be tolerated.**

With regard to the disturbance in one of the juvenile units at Buca Prison on 5 November 2003, the Chief Public Prosecutor of the Republic in Izmir assured the delegation that his Office was carrying out a thorough investigation into the allegations of ill-treatment. **The CPT would like to receive in due course detailed information on the outcome of that investigation.**

51. More generally, the information gathered by the CPT's delegation highlights once again the pressing need to find an alternative to placing juveniles on remand in pre-trial prisons for adults. Such establishments have neither the staff nor the facilities required to assume responsibility for this category of inmate; this augments the risk of incidents of the kind described in the preceding paragraphs. This matter will be pursued further in a later section of the report.

52. Reference should be made in this section of the report to the situation of two *seriously ill prisoners* met by the delegation in Gaziantep E-type Prison. One person with an untreated mental illness had been held continuously in the establishment's new arrivals unit (conditions in which were appalling - cf. paragraph 64) for almost three years, with the exception of three brief hospitalisations; in other words, he had been abandoned from a therapeutic standpoint. Another man, some 80 years old, suffering from numerous medical complaints including dementia and incontinence, was being held in an overcrowded dormitory where he was cared for exclusively by his fellow prisoners; the resulting situation could certainly be described as degrading for both the prisoner concerned and those sharing his dormitory.

Intolerable situations such as those described above require immediate remedial action. As regards more particularly the 80 year-old prisoner, the prosecutor responsible for the prison evoked the possibility of release on the basis of Article 399 of the Code of Criminal Procedure. In its statement at the end of the visit, the CPT's delegation indicated that it looked forward to receiving information on the action taken to find more adequate solutions for these two prisoners. Three months later, no information has been provided. **The Committee wishes to be informed without delay of the steps taken in the light of its delegation's remarks on this matter.**

53. Finally, the CPT wishes to draw the attention of the Turkish authorities to reports heard by its delegation of *sexual exploitation of prisoners* at Izmir (Buca) Closed Prison. Apparently, two female prisoners from one of the women's units were being used as prostitutes for male prisoners, prison staff making the necessary arrangements.

**Any such scheme would constitute serious abuse and should be eliminated forthwith.**

### **3. Conditions of detention**

54. The CPT was informed as long ago as 1996 of the Turkish authorities' plans to discard the traditional approach of large multi-occupancy dormitories and move towards smaller living units for prisoners. The implementation of these plans involves both the conversion of existing establishments to a "room system" and the construction of a new generation of prisons based on a system of small living units, in particular the F-type establishments.

As from the outset, the CPT has made clear that, in principle, it has no objections to the above-mentioned plans; large-capacity dormitories are for various reasons not a satisfactory means of accommodating inmates. However, the Committee has also emphasised repeatedly that the move 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.

a. Izmir F-type Prison No. 1

55. Conditions of detention in F-type prisons have been examined in depth during several CPT visits in 2000, 2001 and 2002. Material conditions have always been found to be good in these establishments. In contrast, the development of communal activities outside living units has proven problematic, in part because of the reluctance of prisoners held under the Law to Fight Terrorism to make use of the facilities available but also because the authorities did not display a sufficiently proactive, enterprising approach vis-à-vis this subject.

Nevertheless, in the report on its March 2002 visit, the CPT concluded that prisoners in F-type prisons “now have at their disposal a range of communal activities involving both structured and unstructured opportunities for human contact”. The main purpose of the visit to Izmir F-type Prison No. 1 in March 2004 was to ascertain whether this remained the case.

56. As in other F-type establishments visited by the CPT in the past, material conditions of detention in Izmir F-type Prison No. 1 were of a high standard. Most of the inmates were accommodated in groups of three, in spacious and well-equipped duplex living units. Material conditions in single cells were also satisfactory.

However, the communal activities programme in operation at the time of the visit was disappointing; it was very limited in terms of both content and hours of participation. The considerable potential of the on-site facilities was far from being fully exploited and this could not be explained away by the attitude of the inmates concerned, most of whom were detained under Law No. 4422.

57. In the course of the week during which the visit took place, only four of the establishment’s eight workshops were in use. Those workshops operated partially Monday through Thursday. There were morning and/or afternoon sessions lasting slightly over three hours each; however, only two or three workshops were operating concurrently during any session period. In total, 46 individual prisoners took part in workshop activity during the week i.e. less than 20% of the inmate population.

The gymnasium was scheduled for use during two morning sessions from Monday through Thursday and two afternoon sessions from Monday through Wednesday. Each session was scheduled for one hour. However, the permitted maximum of 10 prisoners together was scheduled at only nine of the total of fourteen sessions. If the gym were used every weekday for two mornings and two afternoon sessions (each time for the permitted maximum of prisoners), a total of 200 places would be available, in contrast to the 126 places scheduled in the week of 15 March 2004.

As for the outdoor sports area, it had not been used since November 2003. The delegation was informed that winter conditions had rendered the pitch unusable; however, it was certainly in a usable state at the time of the March 2004 visit. Further, no thought had apparently been given to using the large and entirely secure concrete-covered area adjacent to the pitch for sport/recreation activities during the winter months. In other words, this very good outdoor facility was not being adequately exploited, a state of affairs which reflects that found previously in other F-type prisons.

The written statistics provided concerning sessions in the library (including classes) during the week of 15 March 2004 showed that even less use was being made of this facility than of the gym. Library sessions were scheduled only on Monday through Wednesday; seven such sessions were planned (each for 70 minutes), but only two of them for the permitted maximum of 10 prisoners. In all, 61 prisoners were scheduled to attend one session each in the library during the week.

Association (conversation periods), which took place in the two open visits rooms, were scheduled only on Thursday and Friday. Thirteen association sessions of one hour each were planned, but only five of them for the permitted maximum of 10 prisoners. In all, 112 prisoners were due to have one hour of association during the week. It is clear that the facilities available (which are used for open visits only once a month) offer considerable scope for expanding the activity of association.

58. From discussions with staff, it transpired that a major factor in the limited regime of activities was the number of staff and the manner of their deployment. For example, the small number of staff on duty at any given moment reduced the possibilities to operate several activity facilities simultaneously. The current approach as regards the internal escorting of prisoners to specific appointments (teams of three to four officers) also represented a considerable drain on staff resources and might usefully be reconsidered.

Discussions with both staff and prisoners also revealed that there was scope for rendering the content of the activities programme better suited to the inmate population. For some of the prisoners at least, music activity and computer or language courses would probably prove more appealing than a bead workshop.

59. As the CPT has made clear in the past, the credibility of the whole F-type prison project hinges on the issue of communal activities. If their potential in this regard is fully exploited, F-type prisons could rightly be regarded as a model form of penitentiary establishment; if not, the claim that a system of small-group isolation is being applied within them will always be difficult to dismiss.

**The CPT recommends that the Turkish authorities take all necessary steps to develop the communal activity programmes at Izmir F-type Prison No. 1, in terms of both the range of activities on offer and the number of prisoners engaging in those activities. In this connection, the remarks made in paragraphs 57 and 58 should be taken fully into account.**

Further, in order to obtain a complete picture of the present situation as regards communal activities in F-type prisons, **the CPT would like to receive the following information in respect of each of those establishments:**

- **each type of communal activity taking place;**
- **the total number of hours during which each communal facility is in use by prisoners per week;**
- **the total number of prisoners (broken down by category of prisoner) engaging in communal activity per week;**

- **the number of prisoners (broken down by category of prisoner) participating in each communal activity per week;**
- **the largest number of prisoners (broken down by category of prisoner) participating at the same time in each communal activity.**

b. Aydın and Gaziantep E-type Prisons

60. As already indicated, prisoner accommodation at Aydın and Gaziantep E-type Prisons had in large part been converted to smaller units. This is, in principle, a positive development, provided occupancy rates in the smaller living units are reasonable and prisoners benefit from an adequate programme of activities outside of their living units. However, as the CPT has pointed out in previous reports, the detrimental effects of overcrowding and the absence of an organised programme of activities will be felt more acutely in smaller living units than in large dormitories. The Committee is therefore concerned by the facts found by its delegation in the two E-type prisons visited.

61. From the information provided in paragraph 45, it is clear that both Aydın and Gaziantep E-type Prisons were overcrowded, which inevitably had a negative impact on material conditions in prisoner accommodation.

At Gaziantep, for example, the Prison Director indicated that he was obliged to place in converted units up to double the number of inmates originally foreseen. The delegation saw for itself that conditions in prisoner accommodation could on occasion be very cramped. Further, several units at Gaziantep were found to be holding more prisoners than the number of beds available.

Material conditions were on the whole somewhat better at Aydın (e.g. 9 prisoners in upstairs dormitories of some 28 m<sup>2</sup>, with continuous access to the downstairs area). However, conditions in certain of the unconverted facilities were also very cramped, for example in the unit for sex-offenders, where 56 prisoners were sharing 54 beds.

62. The effects of overcrowding were compounded by the fact that the establishments offered very little by way of programmes of activities.

At Gaziantep, some 50 prisoners had jobs in the prison's general services (kitchen, food distribution, barber shop, cleaning, etc.), and metal/woodwork and bookbinding rooms reportedly employed a dozen inmates. According to written statistics provided to the delegation, 117 prisoners were taking part in educational courses; however, as far as the delegation could ascertain, they were mostly studying by themselves, with some guidance or provision of text books. Statistics provided also indicated that approximately 100 prisoners had been involved in vocational courses (foreign languages, sewing, cooking, hotel services, hairdressing), but there was no sign of such activities at the time of the visit. The establishment did possess a large concert/conference room in which events were occasionally arranged, but from the information gathered it would appear that this occurred only once or twice a year.

It was patently obvious from the delegation's observations that the vast majority of inmates spent almost all of their time in their living units, the principal sources of distraction being walking in an exercise yard (which was accessible throughout much of the day) and watching television.

The situation observed at Aydın E-type Prison as regards activities was much the same as at Gaziantep. The delegation was shown plans for new workshops and sports facilities; however, their implementation had apparently been postponed due to budget difficulties.

63. Ensuring that every prisoner has his/her own bed is one of the most basic responsibilities of any penitentiary system; **the CPT calls upon the Turkish authorities to take immediate steps to ensure that this responsibility is met vis-à-vis all inmates at Aydın and Gaziantep E-type Prisons.**

Further, **the CPT recommends that the necessary steps be taken to ensure that occupancy rates in all prisoner accommodation units at Aydın and Gaziantep E-type Prisons are of a reasonable level. Moreover, in the light of its delegation's observations, the level of hygiene in prisoner accommodation areas at the Gaziantep establishment should be reviewed.**

As regards activities, paragraph 8 of the Ministry of Justice circular of 3 November 1997 stressed the importance of both sentenced and remand prisoners being offered purposeful activities; emphasis was placed on education, social and cultural activities, as well as individual skills and workshop activities. The facts found during the CPT's March 2004 visit show that this paragraph remains an unfulfilled aspiration, at least insofar as Aydın and Gaziantep E-type Prisons are concerned. **The CPT calls upon the Turkish authorities to redouble their efforts to transform the intentions reflected in the circular of 3 November 1997 into reality throughout the Turkish prison system, including at pre-trial establishments.**

64. Specific mention must be made of the appalling conditions of detention in the unit for new arrivals at Gaziantep E-type Prison. At the time of the visit, 63 prisoners were sharing 42 beds in a space of some 75 m<sup>2</sup>; the delegation was told that the overcrowding had been even worse in the recent past, with up to 80 prisoners in the unit. The situation was exacerbated by the fact that, during the five to seven day period spent by most prisoners in the new arrivals unit, there was no possibility to take outdoor exercise. Conditions in the unit's sanitary facility were also very poor.

Conditions in the unit for new arrivals at Aydın E-type Prison were considerably better. Material conditions were just about acceptable and there was generous access to outdoor exercise.

The delegation informed the Turkish authorities at the end-of-visit talks that it had called upon the Director of Gaziantep E-type Prison as well as the prosecutor with responsibility for the establishment to take immediate steps to reduce overcrowding in the unit for new arrivals and to seek ways of offering inmates access to outdoor exercise during their stay in that unit. **The CPT wishes to be informed of the measures subsequently taken in this regard.**

c. Izmir (Buca) Closed Prison

65. In paragraph 91 of the report on its 1997 visit, the CPT described the mediocre conditions prevailing at that time in a typical accommodation unit at Buca Prison. That description remained practically word for word accurate in March 2004.

Triple bunks for up to 81 prisoners were crammed into an area of some 120 m<sup>2</sup>. Two TV sets, one table and a few chairs and lockers completed the “furnishings” on the upper floor. In addition to containing rudimentary sanitary/washing facilities, the downstairs area was equipped with some tables and benches and used as a refectory. This part of the unit was also exploited as a walking area during times when access to the yard was not possible. The yard was shared with a neighbouring unit, each unit having access to it for some 5 hours a day.

The accommodation units’ facilities as a whole were in a very poor state of repair and frequently dirty; further, there were clear indications, from both information provided by prisoners and the delegation’s own observations, that they were infested with rats.

66. Again as had been the case in 1997, there was an almost total lack of organised activities for adult prisoners (as regards juveniles, cf. paragraph 70). In total there were work places for 82 prisoners, i.e. 4% of the inmate population. No other out-of-unit activities of any kind were offered to adult prisoners; consequently, practically all prisoners spent the whole of the day in the accommodation units, their only sources of distraction (apart from each other’s company) being watching television, reading, and pacing up and down a courtyard or room.

67. The delegation was informed that no attempt would be made to convert the existing dormitories at Izmir (Buca) Closed Prison into smaller living units. Instead, there was general agreement at both local and central level that the best approach was to close the establishment at the earliest opportunity and replace it by several smaller prisons.

The CPT fully concurs with the view that, in its present state, Buca Prison is totally unsuited for use as a penitentiary establishment; further, the costs involved in bringing the prison up to an acceptable standard would no doubt be prohibitive. **The CPT recommends that a very high priority be given to the withdrawal from service of Izmir (Buca) Closed Prison; it would like to receive a detailed account of the Turkish authorities’ plans in this regard.**

Pending its closure, efforts should be made to alleviate the hardship flowing from the poor conditions of detention at Izmir (Buca) Closed Prison. The very welcome decision to transfer the entire juvenile inmate population of Buca Prison to facilities at Bergama (cf. paragraph 71) offers a window of opportunity in this respect. For example, the delegation indicated that this transfer should make it possible to offer outdoor exercise to the 80-plus inmates regularly held in the unit for new arrivals; **the CPT wishes to be informed whether prisoners in that unit are indeed now offered outdoor exercise on a daily basis.**

The availability of the premises formerly used to accommodate juveniles should also make it possible to develop activity programmes. The introduction of more work places, building on the initiative already taken to establish a workshop making galoshes, would be most welcome. Further, better use should be made of the establishment's cinema hall; as far as the delegation could ascertain, it lies empty for much if not most of the year. **The CPT recommends that the Turkish authorities vigorously pursue efforts to provide more activities for adult prisoners at Buca Prison, including inmates on remand.**

#### **4. The juvenile population in the establishments visited**

68. In the reports on its visits in 1997 and September 2001, the CPT has made clear its serious misgivings concerning the policy of having juveniles who are remanded in custody placed in prisons for adults. A combination of mediocre material conditions and an impoverished regime has all too often created an overall environment which is totally unsuitable for this category of inmate. The facts found in the course of the March 2004 visit have only strengthened those misgivings. Here again, the laudable provisions of the Ministry of Justice circular of 3 November 1997 ("the physical conditions of the prison sections allocated to juvenile offenders shall be revised and improved to conform with child psychology and enable practising educative programmes, aptitude intensive games and sports activities") have apparently had little practical impact.

69. With the exception of the very small number of female juveniles (who were accommodated in the units for adult females), the juveniles held in the E-type prisons at Aydın and Gaziantep and at Izmir (Buca) Closed Prison were accommodated in quite distinct units. As for their material conditions of detention, they were comparable to those of adult inmates; in other words, they were particularly poor at both Gaziantep and Buca.

For example, at Gaziantep, one juvenile unit visited was accommodating 29 juveniles in an upstairs dormitory of 34 m<sup>2</sup> equipped with 22 beds. Fortunately, the juveniles also had continuous access to the downstairs area, which was equipped with some chairs and tables and served as a refectory. That said, the overall material environment in the unit was distinctly uninviting.

Juvenile units at Buca were of a higher capacity; for example, 20 sets of triple bunks in an upstairs dormitory sleeping area of 117 m<sup>2</sup>. To place so many juveniles together, and then leave them basically unattended for most of the day (cf. paragraph 70), is a recipe for trouble. As in Gaziantep, equipment in the units was minimal and generally in a poor state of repair or hygiene; however, at the time of the visit, every juvenile at Buca appeared to have his own bed. Some of the juveniles at Buca were placed in cellular-type accommodation, and conditions in part of this accommodation (in particular, on the ground floor of unit 17) were appalling at the beginning of the visit; however, steps to improve the situation were taken before the delegation left the establishment.



70. None of the three establishments provided the juveniles in their custody with a programme of activities adapted to the needs of this age group. Nor had prison staff called upon to deal with these inmates received any special training for this task.

Some of the juveniles at Buca attended reading/writing lessons for 1.5 hours a day; however, literacy courses did not appear to be available at Aydın or Gaziantep. As for more advanced education, there were no classes as such. Rather, the juveniles concerned were provided with the relevant materials and occasional guidance, and expected to study in their own units. Very few of the juveniles had jobs, and sports activities were limited to playing with a ball/running around an exercise yard.

In other words, almost all of the juveniles spent practically all of their time in their units, unsupervised, and with little to do other than watch TV and play games.

71. Management staff at the establishments visited acknowledged that the juvenile inmate population was not receiving appropriate treatment, but stressed that they had neither the material nor the human resources necessary to improve the situation. However, as regards more particularly Izmir (Buca) Closed Prison, the delegation was informed that the entire juvenile inmate population of the establishment would shortly be transferred to specially- prepared facilities at Bergama Prison; this transfer should have taken place by the end of May 2004 at the latest. Prison Department officials from Ankara met by the delegation in Izmir indicated that the juveniles would be accommodated quite separately from adult inmates in units for a maximum of 10 inmates; they spoke of special staff training and of staff interacting with the juveniles and providing social activities.

As long ago as 1998, in the report on its visit in 1997, the CPT recommended that the Turkish authorities vigorously pursue efforts to offer a full programme of educational, recreational and other purposeful activities to juvenile prisoners at Izmir (Buca) Closed Prison. The Committee trusts that this recommendation has finally been implemented via the above-mentioned measure. **The CPT wishes to receive confirmation that the transfer of juvenile inmates at Buca to facilities at Bergama has now been completed, as well as full details of the new facilities for the juveniles (material conditions, programmes of activities, staffing arrangements, etc).**

72. The CPT has repeatedly emphasised that it would be far preferable for all juvenile prisoners, whether on remand or sentenced, to be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young. In their responses, the Turkish authorities have referred to plans to bring into service more remand prisons for juveniles (in addition to the two which already exist and the three Reformatories for sentenced juveniles in Ankara, Elazig and Izmir). In the report on the September 2001 visit, the CPT encouraged the Turkish authorities to envisage the opening of further detention facilities specifically for juveniles in other parts of the country; **the Committee would like to receive updated information on the current situation in this regard and on future plans.**

73. The essential components of an appropriate custodial environment for juveniles are: accommodation in small units; a proper assessment system to ensure suitable allocation to units; a multi-disciplinary team (preferably of mixed gender) selected and specially trained for work with juveniles; a full programme of education for those below school leaving age, with emphasis on literacy and numeracy skills, as well as further education and vocational training for older juveniles; a daily programme of sport and other recreational activities; association and social activities; facilities to allow juveniles to maintain close contact with their families.

**The CPT recommends that care be taken to ensure that these components are present in all existing and future detention facilities specifically designed for juveniles, whether on remand or sentenced.**

74. For as long as juveniles continue to be held in pre-trial establishments for adults, whether at Aydın, Gaziantep or elsewhere, **the CPT calls upon the Turkish authorities to redouble their efforts to provide them with a suitable material environment and activities adapted to their specific needs, having regard inter alia to the provisions of the Ministry of Justice circular of 3 November 1997. In this context, the situation of female juveniles held in pre-trial establishments should not be overlooked.**

**As regards more particularly material conditions in the juvenile units at Aydın and Gaziantep E-type Prisons, the recommendations made in paragraph 63 are to be read as applying equally to such units.**

## **5. Health care for prisoners**

### a. introduction

75. Ever since the outset of the CPT's activities in Turkey in 1990, the need to radically improve health care services for prisoners has been a constant theme of the Committee's visit reports. Many of the problems identified have related to the availability of resources and training; however, structural weaknesses in the overall organisation of prison health care have also been repeatedly highlighted. The CPT has inter alia stressed the desirability of a greater involvement of the Ministry of Health in prison health care as well as the need to ensure that the work of prison doctors is assessed by a qualified medical authority, not the local prison administration.

76. The Turkish authorities have adopted a number of measures in response to the Committee's recommendations; they have included a Protocol of January 2000 between the Ministry of Justice and the Ministry of Health, with a view to increasing the role of the latter Ministry in prison health care provision. Nevertheless, the facts found during the March 2004 visit show that serious problems remain. With the exception of Izmir F-type Prison No. 1, the health-care services in the prisons visited were seriously under-resourced, and several of the doctors assigned to the establishments concerned had clearly not received proper training for the tasks and responsibilities involved. Further, the relationship of prison doctors with the local prison administrations continued to have implications as regards their independence, and the principle of medical confidentiality was often not fully respected.

77. It is high time that an in-depth and comprehensive examination was carried out of health-care services in Turkish prisons. The support being made available through the Judicial Modernisation and Penal Reform Programme signed between the European Commission of the European Union and the Turkish authorities last year, and which has recently begun to be implemented, might be used in this context.

**The CPT recommends that a full-scale review be carried out of the organisation and resources of prison health-care services in Turkey. The overall aim of the review should be to ensure that prisoners are guaranteed a level of medical care which is equivalent to that provided to persons in the outside community. In this regard, the greatest possible participation of the Ministry of Health in the field of prison health care should be sought.**

**Particular attention should be given to the principles of the independence of prison doctors in the performance of their duties and of medical confidentiality, as well as to the specific training required by prison doctors for them to perform their duties satisfactorily.**

b. health care in general

78. Health-care staff resources at Izmir F-type Prison No. 1 were on the whole of an acceptable level. There was a full-time doctor; in addition, night periods, weekends and public holidays were covered by two other doctors. Other staff included a health care assistant, an auxiliary staff member, a psychologist and a dentist (half time).

Prisoners confirmed that requests to see the doctor were met promptly. Further, with the exception of psychiatric treatment (cf paragraph 82), arranging outside specialist consultations did not appear to pose difficulties.

79. The situation was far less favourable in the other three prisons visited.

At Izmir (Buca) Closed Prison, two doctors were required to provide health care to more than 1900 prisoners, as well as primary health care to prison staff and their families (a third doctor assigned to the prison had been seconded for several months to duties elsewhere). They were supported by 1 health care assistant, 2 auxiliary staff, 1 psychologist and a dentist. Such a health care team is totally inadequate for the workload involved, and it is therefore not surprising that the CPT's delegation received widespread complaints from prisoners about failures in health care. The delegation witnessed for itself that medical "consultations" frequently consisted of extremely basic and brief exchanges.

Health care staff resources at Aydın and Gaziantep E-type Prisons were also inadequate: 1 doctor at Aydın, for some 600 prisoners plus staff and their families; 2 doctors at Gaziantep for more than 900 prisoners plus staff and families.

The insufficient resources were no doubt largely responsible for the inadequate medical screening of new arrivals at Buca and Gaziantep (cf. paragraph 81) and for instances of serious failures to provide primary health care observed in each of the three prisons. As regards the latter, one striking example was the neglect of an inmate with a pelvic fracture who had been placed in the new arrivals unit at Gaziantep; he should certainly have been admitted to the establishment's well equipped, and apparently underused, infirmary.

**The CPT recommends that the health care staff resources in Izmir (Buca) Closed Prison and the E-type Prisons in Aydın and Gaziantep be reinforced.**

80. The CPT has repeatedly emphasised the importance of prompt medical screening of new arrivals, in particular at establishments which represent points of entry into the prison system. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, of suicide prevention and of the timely recording of any injuries.

The Turkish authorities have issued several circulars on this subject, insisting that prisoners be systematically examined by a doctor on admission to the establishment concerned and that the results be recorded.

81. The situation observed at Izmir F-type Prison No. 1 and Aydın E-type Prison as regards the medical examination of new arrivals was on the whole satisfactory. However, this was certainly not the case at Izmir (Buca) Closed Prison and Gaziantep E-type Prison.

At Buca, the so-called medical examination on entry took the form of lining up new arrivals in a corridor, in the presence of custodial staff, and asking them whether they had any "marks". At Gaziantep, new arrivals were seen by a doctor on an individual basis, but once again the interview consisted essentially of asking about the presence of any marks; doctors there affirmed that with the time available, a proper medical history and examination were not possible. Further, at both of these establishments, it was clear that when pressure of work was intense, newly-arrived prisoners might not have any contact whatsoever with the health-care service.

**The CPT recommends that steps be taken to ensure that all new arrivals at Izmir (Buca) Closed Prison and Gaziantep E-type Prison receive adequate medical screening. This should not be limited to enquiries about possible lesions but should include a brief review of all current medical problems as well as the provision of basic information about health care and hygiene in prison.**

c. psychiatric care

82. Provision for psychiatric care was deficient in each of the four prisons visited. None of the establishments received regular visits from a psychiatrist; as the CPT has made clear in the past (cf. paragraph 113 of the report on the September 2001 visit), this constitutes a serious lacuna. Further, the prison doctors had received no training in psychiatry and did not appear to be motivated to deal with mental health problems. Consequently, there were practically no proactive interventions in the field of mental health care; early detection of psychiatric problems, suicide prevention, counselling of juveniles with severe behaviour disorders, etc, were needs which were largely unmet and even unrecognised.

**The CPT recommends that steps be taken without delay to arrange for regular visits by a psychiatrist to Izmir F-type Prison No 1, Izmir (Buca) Closed Prison and the E-type Prisons in Aydın and Gaziantep.**

83. It must be added that in each of the prisons visited, the delegation encountered prisoners suffering from serious mental illnesses who were not receiving appropriate psychiatric care. Efforts to care for such prisoners were handicapped by the difficulty in transferring them for more than short, and sometimes very short, periods to psychiatric hospitals. The issue being raised here concerns a small number of prisoners who have major psychotic disorders leading to bizarre and disturbed behaviour. The usual response of the prison authorities was to place such persons in single cells with little or no activities; such a regime can only exacerbate the symptoms of the persons concerned.

For example, at the time of the delegation's visit to Buca Prison, two persons known to have serious psychiatric disorders had been placed in a "single person unit" because of risks of self harm or aggressive behaviour; neither of them were receiving any form of psychiatric treatment. In Izmir F-type Prison No 1, four prisoners had been in de facto solitary confinement for several months due to their psychiatric symptoms. They were followed regularly by the prison psychologist, but her praiseworthy efforts were handicapped by the lack of adequate support from an outside psychiatric hospital facility. Similarly, in Gaziantep E-type Prison, the delegation met prisoners known to have serious psychiatric disorders who had been returned to the establishment after only short spells in a psychiatric hospital, as it was impossible to provide a more prolonged treatment programme. They had spent prolonged periods in solitary confinement or, in the case of one of them, in the admissions unit.

The above-mentioned situation needs to be addressed as a matter of urgency; untreated psychiatric illness in a prison setting leads to ad hoc measures which may easily constitute inhuman and degrading treatment. **The CPT recommends that the Turkish authorities seek to implement throughout the prison system the following measures in relation to prisoners with psychiatric disorders:**

- **motivate and train medical staff and psychologists working in prisons to diagnose such cases and to participate actively in their management;**
- **provide specialist care within prisons for such cases by assigning a psychiatrist to make regular consultations;**
- **ensure the availability of adequate supplies of psychotropic drugs;**

- **ensure that, when necessary, longer term hospital care with an active psychosocial component is possible.**

d. medical confidentiality

84. Another problem common to all four prisons visited was the non-respect of medical confidentiality. As the CPT has found in the past, custodial staff were frequently present during doctor-inmate consultations, whether on a prisoner's arrival or at a subsequent stage. This inadmissible state of affairs had even been formalised at Izmir F-type Prison No. 1; a specific instruction from the Prison Director, displayed in the doctor's office, stipulated that custodial staff must be present during consultations with prisoners. The situation at this prison is all the more incomprehensible given that the establishment's social worker and psychologist regularly had private interviews with prisoners in an adjacent office.

85. The CPT has emphasised time and time again that all medical examinations of prisoners should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of custodial staff. The Committee had understood from the Turkish authorities' response to its report on the March 2002 visit that this matter had finally been resolved - "The CPT's recommendations on the confidentiality of medical examinations have been complied with .. the Ministry of Justice issued two circulars on the subject on 28 May and 22 August 2002". **The CPT calls upon the Turkish authorities to take all necessary steps to ensure that those circulars are complied with in practice.**

86. Reference should also be made in this context to the enduring rule that prisoners' visits to the doctor are subject to the prison administration's approval, save in emergency situations. This rule is open to criticism on a number of grounds, not the least being that it amounts to a violation of medical confidentiality ( the prisoner being required to justify his request to see the doctor).

The CPT recommended as long ago as March 1997 (in the report on the August 1996 visit) that this rule be rescinded and prisoners' requests to consult a doctor transmitted directly to the prison's health-care service. **The Committee reiterates that recommendation.** The prison doctor is better placed than the Director to determine whether a given prisoner is deliberately occupying the doctor's time without good reason.

## 6. Other issues

### a. discipline/observation units

87. In addition to prisoners subject to the sanction of placement in a disciplinary cell, these units contained prisoners removed for a variety of reasons from ordinary inmate accommodation. As had been the case during previous CPT visits, material conditions in the facilities concerned often left a great deal to be desired.

Conditions were so bad in two disciplinary cells in Aydın E-type Prison (located in the attic of the unit with no window or other aperture to the outside) and two isolation cells at Gaziantep E-type Prison (located on the stairway of the segregation unit) that the delegation requested the establishments' Directors to withdraw them from service as prisoner accommodation. **The CPT would like to receive confirmation that this has been done.**

More generally, **the CPT recommends that steps be taken to ensure that all cells in disciplinary/segregation units are kept in a reasonable state of repair and have access to natural light as well as adequate artificial lighting.**

88. Despite repeated assurances given over the years, the delegation which carried out the March 2004 visit found once again that at least some of the prisoners held in discipline/segregation units were not benefiting from regular outdoor exercise. **The CPT calls upon the Turkish authorities to ensure that all prisoners without exception, including those placed for whatever reason in disciplinary/segregation units, are offered at least one hour of outdoor exercise every day.**

89. With the exception of prisoners subject to a formal disciplinary sanction, the placement of prisoners in the discipline/segregation units was not properly recorded. Neither the reasons for the placement nor its length could be ascertained from the documentation available. This is a situation which lends itself to abuse. It should be noted in this connection that many of the prisoners had been placed in the units for discipline-related reasons but were not the subject of a formal sanction.

**The CPT recommends that a special register be kept of all measures of segregation, recording the identity of the prisoner, the reasons for the measure, the date and time of the outset and end of the measure, the deciding authority and the precise place(s) where the prisoner segregated has been accommodated.**

b. mothers with babies or young children

90. Izmir (Buca) Closed Prison and Aydın and Gaziantep E-type Prisons were accommodating a few mothers together with their children aged two months to three years. From discussions with staff and prisoners, it emerged that this situation was regarded as a “privilege” for the mother.

In the view of the CPT, **the governing principle as to whether - and, if so, for how long - it should be possible for babies and young children to remain in prison with their mothers must in all cases be the welfare of the child.**

91. As far as the delegation could ascertain, no provision was being made in the establishments visited in respect of the specific needs of babies and young children and of breast-feeding mothers (as regards the situation found during the September 2001 visit, cf. CPT/Inf (2002) 8, paragraphs 98 to 101 and 111). No specialist (including medical) support was provided, mothers with babies or young children were accommodated in ordinary units also holding other female prisoners, premises had not been laid out for children to play/exercise and no educational materials or toys were available. Moreover, baby food (e.g. adapted powdered milk) was not provided free of charge.

The CPT would underline that post natal care provided in custody should be supervised by specialists in social work and child development, and that access to specialist paediatric medical care should be guaranteed. Arrangements should also be made to ensure that the movement and cognitive skills of babies held in prison develop normally; in particular, they should have adequate play and exercise facilities. It goes without saying that appropriate food must be provided for babies, children and breast-feeding mothers (e.g. high protein products, fresh fruit and vegetables), and arrangements should be made for storing such products adequately.

**The CPT recommends that steps be taken to ensure that prison establishments fully assume their responsibilities vis-à-vis mothers imprisoned together with their babies or young children, in the light of the above remarks.**

c. monitoring procedures

92. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. The CPT attaches particular importance to regular visits to all prison establishments by an independent body with the authority to inspect the premises, to interview prisoners in private and to receive (and, if necessary, take action on) complaints.

Positive developments in this area occurred in Turkey in 2001, with the introduction of prison monitoring boards and enforcement magistrates<sup>2</sup>. The former, consisting of members of the general public, monitor the manner in which prisons are administered, whilst the latter investigate and take decisions on prisoners complaints. The March 2004 periodic visit provided an opportunity to examine the activities of these new entities.

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<sup>2</sup> Cf. the Prison Monitoring Boards Act of 14 June 2001 and the Enforcement Magistracies Act of 16 May 2001.



93. The CPT's delegation met the *prison monitoring boards* responsible for Gaziantep E-type and Izmir (Buca) Closed Prisons and was able to examine some of their most recent reports. The delegation was impressed by the obvious commitment of the boards members to their task and by the fact that they did not hesitate to criticise shortcomings observed in the establishments concerned.

94. A problem facing both of the boards was the workload involved. Each of them was responsible for several establishments, often situated at a considerable distance one from the other. This combined with the rule according to which visits had to be carried out by the absolute majority of a board's members plus one (i.e. by 4 members of a five-member board) meant that the boards were not able to be present in the prisons as frequently as they would have liked. In fact, they were finding it difficult to meet even the minimum requirement of a visit every two months.

The delegation was informed that consideration was being given to lowering the quorum for visits. This would be a very welcome development. As the CPT has emphasised in the past, for prison monitoring boards to be effective, there must be a regular presence - preferably weekly and at least monthly - of one or more of their members in each of the establishments for which they have responsibility. **The Committee recommends that the quorum for visits be lowered significantly.**

95. Further, it is essential for members of the prison monitoring boards to be independent from the authorities, and to be seen to be so. In this connection, the CPT was concerned to learn that one of the members of the board in Gaziantep was the Deputy Governor of the Province. **The CPT would like to receive the comments of the Turkish authorities on this point.**

96. The CPT's delegation also met the *enforcement magistrates* responsible for Gaziantep E-type and Izmir (Buca) Closed Prisons. Like the prison monitoring boards, they each exercised this function in respect of a number of prisons (in addition to other judicial duties). The enforcement magistrate in Izmir indicated that he had dealt with a total of 284 applications in 2003, almost half of which concerned the obligatory submission of disciplinary sanctions for his approval. As regards the enforcement magistrate in Gaziantep, he received some 50 applications per year.

The judge in Izmir indicated that, when the function of enforcement magistrate had been established, it had been expected that much more work than at present would be generated. The CPT is itself struck by the low number of complaints reaching the two magistrates, especially bearing in mind the poor conditions of detention observed at Buca and Gaziantep E-type Prisons. From the information gathered by its delegation, it would appear that this situation is largely explained by a lack of sufficient knowledge among the inmate populations about the enforcement magistrates.

**The CPT recommends that greater efforts be made to inform prisoners about the existence and role of the enforcement magistrates, including the possibility to raise complaints with them directly. In this connection, the Committee would like to receive confirmation that prisoners are able to address complaints to the enforcement magistrate on a confidential basis, i.e. without anyone else (prison director, prosecutor assigned to the prison, etc.) seeing the content of the complaint prior to its receipt by the magistrate.**

97. The enforcement magistrate in Izmir told the delegation that he had never been to Buca Prison, and it transpired from the discussion with the magistrate in Gaziantep that he rarely visited the establishments for which he had responsibility. Further, neither of the magistrates systematically received the reports setting out the findings of the relevant prison monitoring boards.

**The CPT believes that it is essential for enforcement magistrates to visit from time to time all the establishments for which they have responsibility.** This will give the magistrates a picture of the overall context and thereby put them in a better position to assess specific complaints.

For the same reason, the enforcement magistrate should receive the full text of all reports of prison monitoring boards dealing with establishments under his responsibility. In fact, the Prison Monitoring Boards Act expressly provides that the reports should be sent to the enforcement magistrate; however, the subsequent Regulations governing the Boards' activities stipulate that the reports shall be sent to the enforcement magistrate's office "if there are grounds for a complaint falling within the office's jurisdiction". **The CPT recommends that this qualification be removed and the wording of the Regulations brought fully in line with that of the Act.**

98. Finally, following the introduction of the prison monitoring boards and, more particularly, of the function of enforcement magistrate, there would appear to be a risk of *overlapping of functions* with those of the prosecutor assigned to each prison. The view was expressed to the delegation that consideration might now usefully be given to phasing out the role currently played by the prosecutor, especially if all prison directors were to benefit from appropriate legal training. **The CPT would like to receive the comments of the Turkish authorities on this question.**

### III. RECAPITULATION AND CONCLUSIONS

#### A. Law enforcement agencies

99. Detention by law enforcement agencies is currently governed by a legislative and regulatory framework capable of combating effectively torture and other forms of ill-treatment. The challenge now is to make sure that all of the provisions concerned are given full effect in practice.

The situation found in the Izmir region during the March 2004 visit would suggest that matters are broadly moving in a positive direction. Resort to severe methods of ill-treatment appears now to be a rare occurrence in that part of Turkey. The overall message received from both detained persons and other interlocutors was that there had been a distinct improvement in recent times in the manner in which persons were treated whilst in police or gendarmerie custody. However, some evidence was gathered of recent physical ill-treatment in police facilities, in particular of blows to the body. Further, it would appear that resort can still be had in the Izmir region to methods such as sleep deprivation and prolonged standing.

The situation found in the Aydin region corresponds very much to that observed in Izmir. However, the picture which emerges from the information gathered in the Gaziantep region is less encouraging. Admittedly, a number of detained persons interviewed indicated that the manner in which they had been treated when most recently detained in Gaziantep was better than what they had experienced during periods of custody in previous years. Nevertheless, a considerable number of allegations of recent ill-treatment were received from both detained persons and other interlocutors, some of them concerning severe ill-treatment. The allegations related in particular to the Law and Order and Smuggling, Trafficking and Organised Crime Departments of Gaziantep Police Headquarters and, to a lesser extent, the Headquarters' Anti-Terror Department.

100. The information gathered during the visit, in particular in the Gaziantep region, demonstrates once again that it is essential for the Turkish authorities to pursue vigorously their efforts to combat torture and other forms of ill-treatment by law enforcement officials. In this regard, the CPT looks forward to receiving information on the specific steps taken to remedy the situation in the Gaziantep Police Headquarters' departments.

Shortly after the visit, on 20 April 2004, a new circular was issued emphasising the need to avoid ill-treatment and giving a specific reminder that methods such as sleep deprivation, prolonged standing and threats are unacceptable. This is a welcome development. However, the message delivered by the circular as regards blindfolding is not sufficiently firm; blindfolding is still practised in certain law enforcement establishments and should be expressly prohibited.

101. Issuing circulars and reminders will not alone be sufficient to effectively combat torture and other forms of ill-treatment. They must be underpinned by appropriate training for all concerned and effective systems of control by both internal and external authorities.

The CPT has stressed that the ongoing efforts to provide initial and in-service human rights training to law enforcement officials and to develop the use by such officials of modern investigation techniques must be vigorously pursued. Training must also extend to public prosecutors and judges involved in the criminal justice system; for example, the information gathered during the March 2004 visit has shown the need to make prosecutors and judges fully aware that, when detained persons are brought before them at the end of police/gendarmerie custody, they must conduct proceedings in such a way that ill-treatment (if it has occurred) can come to light and that they must take appropriate action when indications of ill-treatment become apparent.

The need for robust on-the-spot checks of law enforcement establishments by public prosecutors and senior officials, in the context of the “compliance monitoring procedure”, has also been highlighted.

102. As regards procedural safeguards against ill-treatment, it was found that the obligation to notify without delay a relative of the detained person was on the whole being complied with.

However, the examination of custody registers and case files during the March 2004 visit continued to give the impression that only a small minority of detained persons have access to a lawyer during police/gendarmerie custody. This state of affairs is no doubt to a considerable extent the result of an unwillingness on the part of many detained persons to involve a lawyer in their case at this early stage of the procedure. However, numerous detained persons alleged that they had only been informed of their right of access to a lawyer after some considerable time in custody; further, many persons clearly remain under the impression that, without money, they cannot benefit from the presence of a lawyer. The CPT has welcomed remedial action taken in this connection via the previously-mentioned circular of 20 April 2004, and recommended that the Turkish authorities continue to actively promote access to a lawyer during police/gendarmerie custody.

Custody registers have recently been further developed by changes introduced in January 2004; if properly completed, they will ensure that practically all aspects of a person’s custody are well recorded. It was observed during the March 2004 visit that the custody register was being properly filled out in some of the establishments visited; however, record keeping left a lot to be desired in other establishments.. The CPT has welcomed the reminder given in the circular of 20 April 2004 that custody registers must be filled out meticulously and at the appropriate time.

103. The CPT has expressed serious concern about the frequent failure to comply with the rules in force concerning juveniles apprehended in relation to a criminal offence. It was found during the March 2004 visit that, in many cases, detained juveniles were not brought before the public prosecutor immediately following their apprehension. Further, it was common practice in several provinces visited for juveniles to sign, in the absence of a lawyer, an incident and apprehension report setting out a detailed account of the alleged offence and, on occasion, including statements said to have been made by them. Such procedures respect neither the letter nor the spirit of Article 18 of the Regulations on Apprehension, Custody and Taking of Statements.

The CPT has called upon the Turkish authorities to ensure the strict observance of the provisions in force and reiterated its recommendation that a specific version of the suspects rights form, setting out the particular position of detained juveniles, be developed and given to all minors taken into custody.

104. The March 2004 visit offered an opportunity to review the operation of the system for the medical examination of persons in police/gendarmerie custody.

The requirement that law enforcement officials not be present in the room where the medical examinations are carried out was on the whole being met in Izmir and Manisa. However, in other parts of the country visited, it would appear that, in a significant number of cases, the confidentiality of the medical examination is not guaranteed. The most alarming situation was found in Gaziantep, where doctors at the State Hospital confirmed that most of the medical examinations of persons in police/gendarmerie custody were carried out in the presence of law enforcement officials, and without the person concerned being unclothed i.e. in flagrant breach of the Health Ministry instructions of 10 October 2003. The CPT looks forward to receiving information on the specific steps taken to remedy the situation at Gaziantep in this regard.

The information gathered during the March 2004 visit also indicated that the confidential transmission of the medical reports to the relevant authorities was still not guaranteed; in the vast majority of cases, the existing instructions according to which the report should be handed over in a sealed envelope to the law enforcement officials escorting the detained person were not complied with. This is another problem which needs to be resolved without further delay.

The CPT also trusts that the Turkish authorities are examining the possibility of designating in each city one specific medical facility with primary responsibility for performing the routine examinations of persons in police/gendarmerie custody; such a measure would have multiple advantages.

105. Progress continues to be made as regards conditions of detention in law enforcement establishments. Conditions in the police and gendarmerie facilities visited were, with a few exceptions, adequate for the periods of custody involved. However, the detention facilities for criminal suspects in the Juvenile Department of Gaziantep Police Headquarters displayed serious deficiencies, and a similar situation was observed in the Juvenile Department at Kahraman Maras Police Headquarters. The CPT has recommended that police detention facilities for juvenile criminal suspects in these cities be substantially improved.

As for interrogation/identification rooms, the facilities in some of the establishments visited (for example, the refurbished premises at Manisa Police Headquarters) were of a satisfactory standard. However, rooms of an intimidating nature were still in service in certain other establishments. The CPT trusts that the Turkish authorities will pursue their efforts to bring all interrogation/identification facilities throughout the country up to an acceptable standard.

## **B. Prisons**

106. The CPT heard no allegations of the physical ill-treatment of prisoners by staff in Izmir F-type Prison No. 1, and most prisoners interviewed in the other establishments visited indicated that staff behaved correctly towards them.

However, there were clear indications at Izmir (Buca) Closed Prison and the E-type establishments in Aydın and Gaziantep that breaches of discipline or other behaviour considered as inappropriate could meet with a violent reaction. Some allegations of beatings of prisoners were heard in each of the three establishments. They mostly concerned juveniles, though certain allegations of the ill-treatment of adult prisoners were also received. The CPT has recommended that staff in these three establishments be given a firm reminder that the ill-treatment of inmates is not acceptable and will be the subject of severe sanctions; it should be made clear to them that prisoners who breach discipline must be dealt with exclusively in accordance with existing disciplinary procedures and that any form of unofficial punishment will not be tolerated.

The information gathered during the visit also highlights once again the pressing need to find an alternative to placing juveniles on remand in pre-trial prisons for adults. Such establishments have neither the staff nor the facilities required to assume responsibility for this category of inmate; this clearly augments the risk of incidents of the kind described above.

107. As in other F-type establishments visited by the CPT in the past, material conditions of detention in Izmir F-type Prison No. 1 were of a high standard. However, the communal activities programme in operation at the time of the visit was disappointing; it was very limited in terms of both content and hours of participation. The considerable potential of the on-site facilities was far from being fully exploited.

The CPT has recommended that the Turkish authorities take all necessary steps to develop activity programmes at Izmir F-type Prison No. 1. The credibility of the whole F-type prison project hinges on the issue of activities. If the possibilities in this regard are fully exploited, these prisons could rightly be regarded as a model form of penitentiary establishment; if not, the claim that a system of small-group isolation is being applied within them will always be difficult to dismiss.

108. Prisoner accommodation at Aydın and Gaziantep E-type Prisons had in large part been converted to smaller units, which is in principle a positive development. The CPT has always made clear that large-capacity dormitories are, for various reasons, not a satisfactory means of accommodating inmates. However, the Committee has also stressed that occupancy rates in smaller living units must be of a reasonable level and that prisoners must benefit from an adequate programme of activities outside of their living units; the detrimental effects of overcrowding and the absence of an organised programme of activities will be felt more acutely in smaller living units than in large dormitories.

The CPT has therefore expressed concern about the situation found in Aydin and Gaziantep E-type Prisons. Both of the establishments (and in particular Gaziantep) suffered from overcrowding, and they offered very little by way of programmes of activities; the Committee has made recommendations addressing these important shortcomings. The appalling conditions of detention in the unit for new arrivals at Gaziantep E-type Prison (severe overcrowding, insufficient number of beds, lack of outdoor exercise) have also been highlighted.

109. In the report on its visit to Turkey in 1997, the CPT severely criticised conditions of detention at Izmir (Buca) Closed Prison. More than six years later, the establishment seemed to be frozen in time. No significant improvements were apparent as compared to the situation found in 1997. The large capacity dormitories remained intact, overcrowded and poorly-furnished, and there was an almost total lack of organised activities for prisoners.

In its present state, Buca Prison is unsuitable for use as a penitentiary establishment. There is general agreement that the establishment should be withdrawn from service at the earliest opportunity, and the CPT has recommended that a very high priority be given to its closure. In the meantime, every opportunity should be taken to alleviate the hardship flowing from the poor conditions of detention and to provide more activities for prisoners.

110. The CPT has made clear in the past its serious misgivings concerning the policy of having juveniles who are remanded in custody placed in prisons for adults. A combination of mediocre material conditions and an impoverished regime has all too often created an overall environment which is completely unsuitable for this category of inmate. The facts found in the course of the March 2004 visit in the juvenile units at Aydin and Gaziantep E-type Prisons and Izmir (Buca) Closed Prison have only strengthened those misgivings.

The juveniles' material conditions of detention were comparable to those of adult inmates; in other words, they were particularly poor at both Gaziantep and Buca. Further, none of the three establishments provided the juveniles in their custody with a programme of activities adapted to the needs of this age group. Nor had prison staff called upon to deal with these inmates received any special training for this task. Almost all of the juveniles spent practically all of their time in their units, unoccupied and unsupervised.

111. The CPT understands that the entire juvenile inmate population at Izmir (Buca) Closed Prison has now been transferred to specially-prepared facilities at Bergama Prison. This is in principle a very welcome development; the Committee has requested full details of these new facilities (material conditions, programmes of activities, staffing arrangements, etc).

More generally, the CPT has sought information on the Turkish authorities plans as regards the opening of further detention facilities specifically designed for juveniles, and has recalled the essential components of an appropriate custodial environment for juveniles. Further, for so long as juveniles continue to be held in pre-trial establishments for adults, whether at Aydin, Gaziantep or elsewhere, the Committee has called upon the Turkish authorities to redouble their efforts to provide them with a suitable material environment and activities adapted to their specific needs.

112. The facts found during the March 2004 visit show that serious problems remain in the field

of health care for prisoners. With the exception of Izmir F-type Prison No.1, the health-care services in the prisons visited were seriously under-resourced, and several of the doctors assigned to the establishments concerned had clearly not received proper training for the tasks and responsibilities involved. Further, the relationship of prison doctors with the local prison administrations continued to have implications as regards their independence, and the principle of medical confidentiality was often not fully respected.

The CPT has recommended that a full-scale review be carried out of the organisation and resources of prison health-care services in Turkey. The overall aim should be to ensure that prisoners are guaranteed a level of medical care which is equivalent to that provided to persons in the outside community. The greatest possible participation of the Ministry of Health in the field of prison health care should be sought.

Specific recommendations made concerning the establishments visited relate to staff reinforcement and medical screening of new arrivals; further, all of them should benefit from regular attendance by a psychiatrist. The CPT has also highlighted a number of measures in relation to prisoners with psychiatric disorders which need to be implemented as a matter of urgency throughout the prison system.

### **C. Action on the CPT's recommendations, comments and requests for information**

113. The various recommendations, comments and requests for information formulated by the CPT are listed in the Appendix to this report.

The CPT wishes to receive **without delay** a response concerning the issues raised in paragraphs 8, 15 and 52 of the report.

As regards the CPT's other recommendations, comments and requests for information, the Committee requests the Turkish authorities to provide a response within **six months**.



## **APPENDIX**

### **List of the CPT's recommendations, comments and requests for information**

#### **Cooperation**

##### requests for information

- the specific action taken by the Turkish authorities vis-à-vis the situation in the armed robbery and theft/pick pocketing sections of the Law and Order Department at Diyarbakır Police Headquarters, in the light of the information provided by the CPT in paragraph 9 of the report on the September 2003 visit (paragraph 8).

#### **Law enforcement agencies**

##### **Torture and ill-treatment**

##### recommendations

- law enforcement officials throughout Turkey to be reminded that no more force than is strictly necessary should be used during the apprehension of a person, that once apprehended persons have been brought under control there can never be any justification for them being struck, and that resort to physical force should not be the automatic response when a law enforcement official is confronted by a person who contests his authority (paragraph 17).

##### comments

- the Turkish authorities are invited to encourage in other parts of the country (e.g. in Gaziantep) initiatives such as the setting up of a "torture prevention group" by the Izmir Bar Association (paragraph 12);
- the message delivered by the Ministry of the Interior circular of 20 April 2004 is not sufficiently firm as regards the prohibition of blindfolding (paragraph 17).

##### requests for information

- the specific steps taken by the Chief Public Prosecutor of the Republic in Gaziantep in response to the information brought to his attention by the CPT's delegation concerning the treatment of persons detained in Gaziantep Police Headquarters' departments, and the remedial action taken (paragraph 15).

## **Training and systems of control**

### recommendations

- ongoing efforts to provide initial and in-service human rights training to law enforcement officials and to develop the use by such officials of modern investigation techniques (including as regards the questioning and taking of statements from suspects) to be vigorously pursued, and measures to be taken to ensure that the effects of such training reach the largest possible number of law enforcement officials (paragraph 19);
- during the professional training of public prosecutors and judges, it should be emphasised: that when a person is brought before them at the end of police/gendarmerie custody, they must conduct the proceedings in such a way that ill-treatment (if it has occurred) can come to light; that those proceedings should offer the person concerned a real opportunity to make a statement about the manner in which he/she has been treated; that due attention must be paid not only to any express allegations that the person may make but also to his/her physical state and/or demeanour; and that the prosecutor/judge must take appropriate steps when there are indications that ill-treatment has occurred (paragraph 20).

### comments

- more robust on-the-spot checks of law enforcement establishments are required, in line with the recommendation made in paragraph 40 of the report on the September 2003 visit (paragraph 21).

### requests for information

- the measures taken to implement the recommendation made in paragraph 39 of the report on the September 2003 visit that particular attention be paid in the professional training of public prosecutors and judges to various points related to the reliance that can be placed upon medical reports in the context of combating ill-treatment (paragraph 20);
- the Turkish authorities' assessment of the manner in which the measures referred to in paragraphs 41 and 42 of the CPT's report on its September 2003 visit are being implemented in practice (paragraph 22).

## **Procedural safeguards against ill-treatment**

### recommendations

- the Turkish authorities to continue to actively promote access to a lawyer during police/gendarmerie custody; cooperation between the law enforcement agencies and local Bar Associations in order to increase knowledge among the general public about the right of access to a lawyer for detained persons to form part of the strategy adopted in this regard (paragraph 25);

- to make clear in point 7 (temporary departures) of the custody register that the phrase “other essential purposes” includes the detained person’s removal from his cell for any form of questioning or other investigative procedure (paragraph 28);
- observance of the provisions of Article 18 of the Regulations on Apprehension, Custody and Taking of Statements to be kept under close review (paragraph 32);
- a specific version of the suspects rights form, setting out the particular position of detained minors, to be developed and given to all minors taken into custody (paragraph 33).

#### comments

- the CPT trusts that the Turkish authorities will persist in their efforts to ensure that suitable premises for meetings between detained persons and lawyers both exist and are used in practice in all law enforcement units dealing with detained persons (paragraph 26);
- the CPT trusts that compliance with the requirement that detained persons are to be given a copy of the suspects rights form at the outset of their custody will continue to be closely monitored (paragraph 27).

#### **Medical examination of persons in police/gendarmerie custody**

##### recommendations

- the Turkish authorities to redouble their efforts to ensure that the form used for recording the medical examination of persons in police/gendarmerie custody contains distinct sections for the detainee’s statements (including any allegations of ill-treatment), the doctor’s objective medical findings and the doctor’s conclusions in the light of those two elements, and that the doctors concerned complete systematically each of the form’s sections (paragraph 37);
- the provisions of paragraph 4 of Article 10 of the Regulations on Apprehension, Custody and Taking of Statements and all related instructions to be reviewed, in order to ensure the confidential transmission to the relevant authorities of the reports drawn up after the medical examination of persons in police/gendarmerie custody (paragraph 38);
- the possibility to be examined of designating in each city one specific medical facility with primary responsibility for performing the routine medical examinations of persons in police/gendarmerie custody (paragraph 39).

##### comments

- the CPT trusts that compliance with the requirements that the doctor and the detained person examined remain alone, and that suitable secure rooms are provided for the medical examination of persons in police/gendarmerie custody, will be kept under close review (paragraph 36).

requests for information

- the steps taken by the Health and Interior Ministries to ensure that the medical examination of persons in police/gendarmerie custody in Gaziantep is carried out in full accordance with the rules in force and, more particularly, the provisions of the Ministry of Health circular of 10 October 2003 (paragraph 36).

**Detention and interrogation facilities**

recommendations

- appropriate steps to be taken to remedy the deficiencies observed in the cell at Türkoglu District Police Headquarters and in the cells in the Anti-Terror Department at Kahraman Maras Police Headquarters and at Menemen District Police Headquarters (paragraph 40);
- the police detention facilities for juvenile criminal suspects in Gaziantep and Kahraman Maras to be substantially improved (paragraph 41).

comments

- the CPT trusts that, following its relocation to premises at the main Headquarters' site, the Smuggling, Trafficking and Organised Crime department of Izmir Police Headquarters will have at its disposal detention facilities which are in full conformity with the current legal requirements (paragraph 40);
- the CPT trusts that the Turkish authorities will pursue their efforts to bring all interrogation/identification facilities throughout the country up to an acceptable standard (paragraph 42).

**Prisons**

**Torture and ill-treatment**

recommendations

- staff at Izmir (Buca) Closed Prison and the E-type prisons in Aydın and Gaziantep to be given a firm reminder that the ill-treatment of inmates is not acceptable and will be the subject of severe sanctions; it should be made clear to them that prisoners who breach discipline must be dealt with exclusively in accordance with existing disciplinary procedures and that any form of unofficial punishment will not be tolerated (paragraph 50).

comments

- any scheme for the sexual exploitation of prisoners would constitute serious abuse and should be eliminated forthwith (paragraph 53).

requests for information

- detailed information on the outcome of the investigation by the Chief Public Prosecutor of the Republic in Izmir into the allegations of ill-treatment in the aftermath of the disturbance which took place on 5 November 2003 in one of the juvenile units at Izmir (Buca) Closed Prison (paragraph 50);
- information on the steps taken to find more adequate solutions for the two seriously ill prisoners held in Gaziantep E-type Prison and referred to in paragraph 52 (paragraph 52).

**Conditions of detention**

recommendations

- the Turkish authorities to take all necessary steps to develop the communal activity programmes at Izmir F-type Prison No. 1, in terms of both the range of activities on offer and the number of prisoners engaging in those activities; in this connection, the remarks made in paragraphs 57 and 58 to be taken fully into account (paragraph 59);
- immediate steps to be taken to ensure that every prisoner at Aydın and Gaziantep E-type Prisons has his/her own bed (paragraph 63);
- the necessary steps to be taken to ensure that occupancy rates in all prisoner accommodation units at Aydın and Gaziantep E-type Prisons are of a reasonable level (paragraph 63);
- the level of hygiene in prisoner accommodation areas at Gaziantep E-type Prison to be reviewed (paragraph 63);
- the Turkish authorities to redouble their efforts to transform the intentions concerning activities for prisoners reflected in the Ministry of Justice circular of 3 November 1997 into reality throughout the Turkish prison system, including at pre-trial establishments (paragraph 63);
- a very high priority to be given to the withdrawal from service of Izmir (Buca) Closed Prison; the CPT would like to receive a detailed account of the Turkish authorities' plans in this regard (paragraph 67);
- the Turkish authorities to pursue vigorously efforts to provide more activities for adult prisoners at Buca Prison, including inmates on remand (paragraph 67).

requests for information

- as regards each F-type prison:
  - each type of communal activity taking place;
  - the total number of hours during which each communal facility is in use by prisoners per week;
  - the total number of prisoners (broken down by category of prisoner) engaging in communal activity per week;
  - the number of prisoners (broken down by category of prisoner) participating in each communal activity per week;
  - the largest number of prisoners (broken down by category of prisoner) participating at the same time in each communal activity (paragraph 59);
- the measures taken by the Director of Gaziantep E-type Prison and the prosecutor with responsibility for the establishment to reduce overcrowding in the unit for new arrivals and to offer inmates access to outdoor exercise during their stay in that unit (paragraph 64);
- whether prisoners held in the unit for new arrivals at Izmir (Buca) Closed Prison are now offered outdoor exercise on a daily basis (paragraph 67).

**The juvenile population in the establishments visited**

recommendations

- care to be taken to ensure that the essential components of an appropriate custodial environment for juveniles, as set out in paragraph 73, are present in all existing and future detention facilities specifically designed for juveniles, whether on remand or sentenced (paragraph 73);
- the Turkish authorities to redouble their efforts to provide juveniles held in pre-trial establishments for adults with a suitable material environment and activities adapted to their specific needs, having regard inter alia to the provisions of the Ministry of Justice circular of 3 November 1997; in this context, the situation of female juveniles held in pre-trial establishments should not be overlooked (paragraph 74);
- the recommendations made in paragraph 63 to be read as applying equally to material conditions in the juvenile units at Aydın and Gaziantep E-type Prisons (paragraph 74).

requests for information

- confirmation that the transfer of juvenile inmates from Izmir (Buca) Closed Prison to facilities at Bergama Prison has now been completed, as well as full details of the new facilities for the juveniles (material conditions, programmes of activities, staffing arrangements, etc.) (paragraph 71);
- updated information on the current situation and future plans as regards the bringing into service of further detention facilities specifically for juveniles (paragraph 72).

**Health care for prisoners**

recommendations

- a full-scale review to be carried out of the organisation and resources of prison health-care services in Turkey; the overall aim of the review to be to ensure that prisoners are guaranteed a level of medical care which is equivalent to that provided to persons in the outside community; the greatest possible participation of the Ministry of Health to be sought in the field of prison health care. Particular attention should be given to the principles of the independence of prison doctors in the performance of their duties and of medical confidentiality, as well as to the specific training required by prison doctors for them to perform their duties satisfactorily (paragraph 77);
- health care staff resources to be reinforced in Izmir (Buca) Closed Prison and the E-type Prisons in Aydın and Gaziantep (paragraph 79);
- steps to be taken to ensure that all new arrivals at Izmir (Buca) Closed Prison and Gaziantep E-type Prison receive adequate medical screening; this should not be limited to enquiries about possible lesions but should include a brief review of all current medical problems as well as the provision of basic information about health care and hygiene in prison (paragraph 81);
- steps to be taken without delay to arrange for regular visits by a psychiatrist to Izmir F-type Prison No 1, Izmir (Buca) Closed Prison and the E-type Prisons in Aydın and Gaziantep (paragraph 82);
- the Turkish authorities to seek to implement throughout the prison system the following measures in relation to prisoners with psychiatric disorders:
  - motivate and train medical staff and psychologists working in prisons to diagnose such cases and to participate actively in their management;
  - provide specialist care within prisons for such cases by assigning a psychiatrist to make regular consultations;
  - ensure the availability of adequate supplies of psychotropic drugs;
  - ensure that, when necessary, longer term hospital care with an active psychosocial component is possible (paragraph 83);

- all necessary steps to be taken to ensure that the Ministry of Justice circulars of 28 May and 22 August 2002 on the confidentiality of medical examinations are complied with in practice (paragraph 85);
- the rule that, save in emergency situations, prisoners' visits to the doctor are subject to the prison administration's approval to be rescinded; prisoners' requests to consult a doctor to be transmitted directly to the prison's health-care service (paragraph 86).

### **Other issues**

#### recommendations

- steps to be taken to ensure that all cells in disciplinary/segregation units are kept in a reasonable state of repair and have access to natural light as well as adequate artificial lighting (paragraph 87);
- the Turkish authorities to ensure that all prisoners without exception, including those placed for whatever reason in disciplinary/segregation units, are offered at least one hour of outdoor exercise every day (paragraph 88);
- a special register to be kept of all measures of segregation, recording the identity of the prisoner, the reasons for the measure, the date and time of the outset and end of the measure, the deciding authority and the precise place(s) where the prisoner segregated has been accommodated (paragraph 89);
- steps to be taken to ensure that prison establishments fully assume their responsibilities vis-à-vis mothers imprisoned together with their babies or young children (paragraph 91);
- the quorum for visits by prison monitoring boards to be lowered significantly (paragraph 94);
- greater efforts to be made to inform prisoners about the existence and role of the enforcement magistrates, including the possibility to raise complaints with them directly (paragraph 96);
- the qualification in the Regulations governing the prison monitoring boards' activities, that their reports shall be sent to the enforcement magistrate's office "if there are grounds for a complaint falling within the office's jurisdiction", to be removed and the wording of the Regulations brought fully in line with that of the Prison Monitoring Boards Act (paragraph 97).

#### comments

- the governing principle as to whether - and, if so, for how long - it should be possible for babies and young children to remain in prison with their mothers must in all cases be the welfare of the child (paragraph 90);
- it is essential for enforcement magistrates to visit from time to time all the establishments for which they have responsibility (paragraph 97).



requests for information

- confirmation that two disciplinary cells in Aydın E-type Prison (located in the attic of the unit with no window or other aperture to the outside) and two isolation cells at Gaziantep E-type Prison (located on the stairway of the segregation unit) have been withdrawn from service as prisoner accommodation (paragraph 87);
- comments on the fact that the Deputy Governor of the Province is one of the members of the prison monitoring board in Gaziantep (paragraph 95);
- confirmation that prisoners are able to address complaints to the enforcement magistrate on a confidential basis, i.e. without anyone else (prison director, prosecutor assigned to the prison, etc.) seeing the content of the complaint prior to its receipt by the magistrate (paragraph 96);
- comments on whether the role currently played by the prosecutor assigned to each prisoner could be phased out (paragraph 98).