

## **Response**

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

**from 9 to 21 June 2013**

The Turkish Government has requested the publication of this response. The CPT's report on the June 2013 visit to Turkey is set out in document CPT/Inf (2015) 6.

Strasbourg, 15 January 2015

**RESPONSE OF THE TURKISH GOVERNMENT  
TO THE REPORT OF  
THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND  
INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)  
ON ITS VISIT TO TURKEY FROM 9 TO 21 JUNE 2013**

**INTRODUCTION**

The views of the Turkish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Turkey from 9 to 21 June 2013 are set out below in the order adopted in the report. Extracts from the CPT's report are reproduced in bold typeface with paragraph references.

The Turkish Government is pleased to learn that the CPT received very good co-operation at all levels during its visit.

**Monitoring of places of deprivation of liberty and complaints bodies**

**requests for information**

**- progress made towards setting up or designating a national preventive mechanism under the Optional Protocol to the United Nations Convention against Torture (paragraph 8);**

In accordance with the obligations stemming from the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT), the Human Rights Institution of Turkey has been designated as the National Preventive Mechanism. The authorisation to that effect was published in the Official Gazette of 28 January 2014.

The Human Rights Institution of Turkey is currently working on amendments on its establishment law to enhance its capacity and facilities with a view to efficiently carrying out its new task as the National Preventive Mechanism.

**- the activities carried out to date by the Ombudsman Institution concerning the situation of persons deprived of their liberty (paragraph 9).**

As per the Law on the Ombudsman Institution, the Ombudsman Institution investigates prisons upon complaints, such as physical conditions in the prison, complaints about the prison administration, the unjust implementation of the Regulation on Awarding the Prisoners and Detainees, the problems encountered during the visit days, the distance of the prisons to the prisoners' home cities and the ensuing problems including transfer requests, as well as allegations of unfair trial procedures and decisions.

Upon receipt of complaints and after looking into the matter, the Ombudsman Institution takes decisions and sends them to the Office of the Public Prosecutor or the Ministry of

Justice. No decisions are taken against court verdicts. In some instances, the problems are solved through negotiations with the relevant institution.

Although not in that scope of the investigation visits, the relevant Ombudsperson in charge visited on 4 December 2013, Ankara Child Training House, Ankara Child and Youth Closed Prison and Women's Closed Prison. During these visits, information was gathered from the management of the institutions, the physical conditions were observed and information was provided to the children about the Ombudsman Institution.

### **Police custody**

#### **Ill-treatment**

#### **recommendations**

**- a formal statement emanating from the relevant authorities be delivered to all law enforcement officials in the Diyarbakır and Şanlıurfa areas, reminding them that they should be respectful of the rights of persons in their custody and that the ill-treatment of such persons will be the subject of severe sanctions (paragraph 13).**

The law enforcement staff serving in all security units are bound by the Circulars no. 2007/78, 2008/74 and 2008/92 of the General Directorate of Security, which specify the procedure to be followed in terms of human rights and legal provisions during the arrest and taking into custody of suspects. The Circulars are still applicable and judicial and administrative proceedings are brought in respect of officials who act contrary to the provisions of the said Circulars.

**- (recommendation): the Chief Prosecutor of Diyarbakır to remind prosecutors under his authority of their obligation to carry out investigations into cases of possible ill-treatment by law enforcement officials in a prompt, thorough and comprehensive manner. Reference should be made in this context to the relevant case-law of the European Court of Human Rights (paragraph 15);**

**- (comment): the CPT considers that the investigation into the case referred to in paragraph 15 should be re-opened (paragraph 15).**

As to the investigation into the alleged ill-treatment of a juvenile in Diyarbakır E-type Prison, Y.G., a juvenile suspected from stealing money from a person was being chased by the police while riding a motorcycle along with a co-accused named Ş.K. Despite calls to them by the police to stop, they continued to flee but subsequently lost balance during a turn, fell down from the motorcycle and were arrested by the police.

As Y.G. stated that he complained of the police officers who apprehended him on 6 May 2013 while entering the prison, a report was drawn up, in which redness of the skin in his legs, neck, face and left arm was indicated.

In his statement taken by the public prosecutor in the presence of a defence lawyer, Y.G. denied charges of theft and extortion and did not submit any allegations of ill-treatment. He

was later brought before the Diyarbakır 5<sup>th</sup> Magistrates' Court where he also gave statement with the assistance of a lawyer, and again did not make any claims of torture or ill-treatment.

The case file contained copies of judgments by several courts in which the accused was previously convicted of theft, damage to property, possession of narcotics for own use, calumny, pickpocketing and simple injury. The announcement of the verdict was suspended in respect of these offenses.

An indictment was filed by the Diyarbakır Chief Public Prosecutor's Office and criminal proceedings commenced before Diyarbakır Juvenile Assize Court in respect of the accused.

Concerning allegations of ill-treatment by Y.G., an investigation was carried out by the Diyarbakır Chief Public Prosecutor's Office and it was concluded that he was lightly injured from the motorcycle crash while trying to escape from the police during the chase, which was the cause of the redness of the skin identified in several parts of his body. The prosecutor considered that Y.G. subsequently exploited these injuries while being admitted to the prison, in order to evade punishment and to incriminate the law enforcement officers who carried out the investigation in respect of him.

The Chief Public Prosecutor's Office carried out an effective and thorough investigation into the allegations by collecting evidence but as there was no proof that the injuries were the result of ill-treatment by officers, a decision of non-prosecution was delivered. The decision was communicated to Y.G. on 13 June 2013. Despite the fact that the right of appeal to the assize court was indicated clearly in the decision, the complainant chose not to resort to this remedy.

### **requests for information**

**Statistical data indicating complaints and prosecutions relating to ill-treatment submitted since 1 January 2011 (paragraph 16):**

**a) the number of complaints of ill-treatment made against law enforcement officials per year and the number of criminal/disciplinary proceedings which have been instituted as a result;**

As a result of investigations carried out from 2011 to 2013 in respect of law enforcement officials on complaints of ill-treatment:

A total of 46 complaints were filed by people against public officials for ill-treatment, 12 of which were referred to the judicial authorities, 14 of which were found to have already been subject to judicial investigations, and 20 of which were found to be based on false allegations.

No official has been convicted of the offence of torture during this period.

**b) the number of complaints of ill-treatment made against law enforcement officials per year and the number of criminal/disciplinary proceedings which have been instituted as a result;**

The following disciplinary penalties were imposed under Article 7 § A-1 of the Disciplinary Statute of the Security Organization, for “beating employees or persons who visit or were brought to the security premises”:

Suspension of promotion for four months and ¼ salary cut:	5 officials
Suspension of promotion for four months:	33 officials
Suspension of promotion for 12 months and ½ salary cut:	3 officials
Suspension of promotion for 12 months and ¼ salary cut:	1 official
Suspension of promotion for 12 months:	17 officials

From 1 January 2011 to 24 February 2014, one official was dismissed from his duties for “torturing employees or persons who visit or were brought to the security premises”, under 8 § 39 of the Disciplinary Statute of the Security Organization.

**c) the outcome of the proceedings referred to in (a) and (b), including an account of criminal/disciplinary sanctions imposed on the law enforcement officials concerned;**

Table of criminal convictions ruled from 1 January 2011 to 24 February 2014, for the offence of “exceeding the limits of the power to use force”, under Article 256 of the Criminal Code:

<b>Judgments delivered</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>TOTAL</b>
Acquittal	33	14	2	0	49
No penalties shall be determined or imposed	6	0	0	0	6
No decision shall be delivered	1	0	0	0	1
Suspension of the pronouncement of the judgment	10	5	2	0	17
Judicial fine	1	0	0	0	1
Non-prosecution	436	679	478	4	1597
Termination of the proceedings	3	1	0	0	4
Case discontinued, case not put in action or no examination was required of the case	16	0	0	0	16

Table of criminal convictions ruled from 1 January 2011 to 24 February 2014, for the offence of torture under Articles 94 and 95 of the Criminal Code:

<b>Judgments delivered</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>TOTAL</b>
Acquittal	8	1	0	9
Non-prosecution	140	115	22	277

Table of cases from 1 January 2011 to 24 February 2014, where disciplinary decisions were delivered for “torturing employees or persons who visit or were brought to the security premises”, under 8 § 39 of the Disciplinary Statute of the Security Organization:

<b>Judgments delivered</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>TOTAL</b>
No penalties shall be determined	16	11	0	27

Case discontinued	73	39	17	129
Dismissal from duties	0	1	0	1

Table of cases from 1 January 2011 to 24 February 2014, where disciplinary decisions were delivered for “beating employees or persons who visit or were brought to the security premises”, under 7 § A-1 of the Disciplinary Statute of the Security Organization:

<b>Judgments delivered</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>TOTAL</b>
No penalties shall be determined	824	411	127	0	1362
Case discontinued	122	42	14	1	179
Short term suspension of promotion (4, 6 or 10 months)	6	24	8	0	38
Long term suspension of promotion (12, 16, 20 or 24 months)	5	15	3	0	23
Statutory time limit expired	1	0	0	0	1

#### **Situation of persons detained in the context of recent public demonstrations**

##### **recommendations**

**- a firm message to be delivered to all law enforcement officials throughout Turkey who are involved in crowd control operations, reminding them that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be punished accordingly. It should be made clear to the law enforcement officials concerned that no more force than is strictly necessary is to be used when carrying out an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them (or using tear gas against them) (paragraph 18);**

With a view to achieving nationwide standard practices by clearly determining the stages and means of force to be used and the tactical order to be employed during assemblies and demonstration marches and to ensure that proportionate force is used by the police, the “Directive on the Procedure and Principles To Be Followed by Riot Control Officers During Assemblies and Demonstration Marches” entered into force on 25 August 2011.

Moreover, within the framework of annual training plans, a total of 10,997 officers from riot control units throughout the country received basic, in-service and specialist training in 2013. Instructive letters are issued as necessary, urging law enforcement units to comply with the applicable legislation during interventions and arrest operations.

**- the Turkish authorities to take the necessary steps to ensure that law enforcement officials who are involved in police operations in the context of public demonstrations are identifiable (e.g. by means of a clearly visible number on the uniform or helmet).**

**Law enforcement officials should be reminded that the concealment of identification numbers constitutes a serious offence (paragraph 21).**

With a view to identifying the riot control officers who use disproportionate force during public demonstrations, the “Implementation Directive No.62 on Numbering Riot Police Helmets” has been issued and communicated to relevant law enforcement units.

**requests for information**

**- updated information on all criminal and administrative inquiries which have been initiated so far in relation to formal complaints and other information indicative of ill-treatment and/or excessive use of force during the police operations in Ankara and Istanbul referred to in paragraphs 17 to 19, as well as on any action subsequently taken (paragraph 20).**

İSTANBUL

1) As to the incidents that occurred in İstanbul;

In terms of disciplinary proceedings: Two officials received the penalty of long-term suspension of promotion for 16 months, as they were found guilty of “being involved in actions and conduct which undermines the dignity and trust required by the official position while serving duty”;

Four officials were reprimanded;

The disciplinary investigation reports drawn up in respect of two officials, which indicated the opinion that the penalty of suspension of promotion for 16 months should be imposed, were submitted to the competent disciplinary board.

In respect of one official, the Central Disciplinary Board of the General Directorate of Security ruled on 27 November 2013 that “no penalties should be imposed”.

In terms of judicial proceedings: A total of 38 investigations are pending in respect of law enforcement officials, for allegations such as ill-treatment and injury.

Moreover, a criminal action was filed before the İstanbul 4<sup>th</sup> Criminal Court of First Instance, against one public official. One case is pending before the Çatalca Criminal Court of Peace. Two investigations are underway by Büyükçekmece Chief Public Prosecutor and one by Küçükçekmece Chief Public Prosecutor.

Two investigations are underway in respect of public officials before İstanbul Anadolu Chief Public Prosecutor.

2) As to the allegation that H.Y. was seriously injured;

In terms of judicial proceedings: An investigation initiated by İstanbul Anadolu Chief Public Prosecutor’s Office is pending.

In terms of disciplinary proceedings: As the alleged offenses by four officials have not been established, a disciplinary investigation report indicating the opinion that “no penalties should be imposed” was submitted to the Governorship of İstanbul.

3) As to the allegation that news reporters who followed the Gezi protests were prevented and battered;

The following facts appeared in the investigation report by chief inspectors of civil administration who were appointed by the Ministry on 12 August 2013 to investigate allegations that journalists were prevented from covering disproportionate use of force against the demonstrators:

It was indicated that the judicial investigation was in progress regarding the allegations and in the event that proof capable of verifying the allegations would be found during the judicial investigation, it would be possible to impose disciplinary sanctions on the persons concerned. Therefore, no action shall be taken in respect of any official.

4) As to the injury of R.T. during the protests;

A criminal complaint was filed with İstanbul Public Prosecutor’s Office on 26 August 2013 by the lawyer of R.T. indicating that on 15 June 2013, as he went to Taksim Square in support of the demonstrators, a police officer intentionally targeted him and broke his nose. He issued a complaint against the officer and the public officials who gave the order. A police chief investigator was appointed to investigate the matter.

#### ANKARA

A total of 162 investigations are pending in respect of public officials before Ankara Chief Public Prosecutor. A criminal action was filed before the Ankara 6<sup>th</sup> Assize Court against one public official on the charge of “homicide by way of exceeding the limits of self-defence” (See below).

1) As to the death of E.S.;

In terms of disciplinary proceedings: A disciplinary report was issued, indicating that one officer should be sanctioned with “suspension of promotion for a period of 24 months”, which was submitted to the disciplinary board.

In terms of judicial proceedings: Prosecution is pending before Ankara 6<sup>th</sup> Assize Court in respect of the officer concerned on the charge of “homicide by way of exceeding the limits of self-defence”.

2) As to the allegation that M.I. was subjected to violence by the police in Kızılay, Ankara on 1 June 2013, the Civil Administration and Police Chief Investigator was appointed to investigate the allegation. It was found that the events complained of are within the purview of public prosecutors, and a report was drawn up requesting the necessary evaluations and actions by the Ankara Chief Public Prosecutor’s Office.



3) As to the allegations that F.Y. was unlawfully detained, verbally abused and battered:

In terms of judicial proceedings: It was found that the events complained of are within the purview of public prosecutors, and a report was drawn up requesting the necessary evaluations and actions by the Ankara Chief Public Prosecutor's Office.

In terms of disciplinary proceedings: Three officials were imposed the sanction of "salary deduction amounting up to three days" for "carelessness and negligence of duty".

4) As to the allegation that İ.Ö. was exposed to pepper spray by the police;

The investigation report by the Civil Administration and Police Chief Investigator indicated that, although the person made a complaint stating that her eyes were affected by the operation in which pepper spray was used, she withdrew her complaint and did not wish to testify and as she stated that the grievance she experienced ended the same night, the file was discontinued by the Ministry of Interior.

5) As to allegations that B.U. was exposed to teargas in a café and was beaten and thrown out of the café;

The investigation report by the Civil Administration and Police Chief Investigators indicated the opinion that, the address specified by the person was inaccurate. He was not among those taken into custody and there was no record or application in respect of him. As no offence was constituted which would warrant a preliminary investigation, and there was no action to be taken, the case was discontinued by the Ministry of Interior.

6) As to allegations that E.K. was harassed while being apprehended and taken into custody and that she submitted her complaints through the website of Ankara Security Directorate;

The investigation report by the Civil Administration and Police Chief Investigator indicated the opinion that, as the allegations concerned the judicial processes of arrest and taking into custody, a criminal investigation should be carried out by public prosecutors. Since the matter has been referred to the judicial authorities, no administrative actions would be taken. Should any administrative actions be required in the course of the judicial examination, the matter would be re-examined by the relevant authority.

## **Fundamental safeguards against ill-treatment**

### **recommendations**

**- law enforcement officials throughout Turkey to be reminded of their legal obligations regarding the implementation of the right of notification of custody (paragraph 24);**

As per Article 95 of the Code of Criminal Procedure, titled "Notification of the relatives of persons apprehended or taken into custody", a relative or a person designated by the person arrested or taken into custody is notified without delay, by order of the public prosecutor, upon the person's arrest, being taken into custody or extension of custody. If the person is a

foreign national, the consulate of his/her country is notified of the situation, unless a written refusal is made by the person.

As per Article 10 of the Anti-Terror Law, titled “Determination of jurisdiction and investigation and prosecution procedures”, if the purpose of the investigation is likely to be jeopardised, only one relative of the person arrested or taken into custody shall be notified by order of the public prosecutor.

In accordance with the provisions cited above, law enforcement officials inform the relatives of those taken into custody and add the relevant documents to the investigation file.

**- the Turkish authorities to take the necessary steps to ensure that the right of detained persons to have a lawyer present during questioning, as well as the obligation of having a lawyer present if the detained person is a juvenile, are fully respected in practice in all police/gendarmerie establishments (paragraph 26);**

As per Article 149 of the Code of Criminal Procedure, titled “Selection of the defence lawyer by the suspect or defendant”, the right of the lawyer to consult with the suspect or the accused, to be present during the interview or interrogation, and to provide legal assistance shall not be prevented or restricted at any stage of the investigation or prosecution.

Moreover, pursuant to Article 150 of the same Law, titled “Appointment of a defence lawyer”, a defence lawyer is appointed without a request in respect of investigations and prosecutions which carry five years’ imprisonment or more.

As per Article 10 of the Anti-Terror Law, titled “the determination of jurisdiction and investigation and prosecution procedures”, the right of the suspect under custody to meet his defence lawyer may be restricted by the decision of the judge for up to 24 hours upon a request by the public prosecutor. However, no statement shall be taken during this period.

As stated above, law enforcement officers act in accordance with the legal provisions and add the relevant documents to the investigation files.

**- steps to be taken in consultation with the relevant Bar Associations to ensure that *ex officio* lawyers appointed to represent persons in police custody perform their functions in a diligent and, more specifically, timely manner (paragraph 26);**

It is important that lawyers perform their duties in a diligent and timely manner. It is considered that consultations with Bar Associations would be useful in this regard.

**- the Turkish authorities to take all necessary steps – including of a legislative nature – to ensure that every person detained by law enforcement agencies under anti-terror legislation has the right to talk in private with a lawyer and to benefit from his/her presence during questioning, as from the very outset of deprivation of liberty, it being understood that whenever there are reasonable doubts about the professional integrity of the lawyer chosen by the detained person, another lawyer will be appointed *ex officio* (paragraph 27);**

As per Article 150 of the Code of Criminal Procedure, which provides that a defence lawyer shall be appointed without a request in respect of investigations and prosecutions which carry five years' imprisonment or more, those who have been taken into custody under the Anti-Terror Law are also able to benefit from the legal assistance of a lawyer.

**- whenever the access of a detained person to the lawyer of his/her own choice is delayed/denied, the reasons for the decision to be recorded and a written copy of the decision and the reasoning to be provided to the person concerned (paragraph 27);**

In cases where a suspect's right to meet his/her lawyer is restricted by the decision of a judge upon a request by a public prosecutor for a period of up to 24 hours in accordance with Article 10 of the Anti-Terror Law, a written notification of the decision is served to the suspect under custody.

**- appropriate steps to be taken by the Ministries of the Interior and Health to ensure that medical examinations of persons in police/gendarmerie custody are carried out in full compliance with the requirements set out in Section 9 of the Regulation on Apprehension, Detention and the Taking of Statements (paragraphs 22 and 28);**

**- the Turkish authorities to take the necessary steps to ensure that all persons in police/gendarmerie custody have the right to be examined, if they so wish, by a doctor of their own choice, in addition to any medical examination carried out by a doctor called by the police (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his/her own expense). To this end, the Regulation on Apprehension, Detention and the Taking of Statements should be amended accordingly (paragraph 29);**

**- steps to be taken to ensure that the right of persons in police/gendarmerie custody to be examined at any time by a doctor (including by a doctor of their own choice) is incorporated into the SRF (paragraph 30).**

Medical examinations of persons in police/gendarmerie custody are carried out in compliance with the requirements set out in Article 9 of the Regulation on Apprehension, Custody and Taking of Statements.

Article 9, titled "Health checks" of the said Regulation contains the following provisions:

"In cases where the person arrested is to be taken into custody or has been apprehended using force, he/she shall be subjected to a medical examination so as to determine the state of health at the time of apprehension.

The state of health shall also be established by a medical report in cases of transfer (for any reason), extension of custody, release or committal to judicial authorities.

Those whose state of health deteriorated or suspected to have deteriorated under custody shall immediately be examined by a doctor and treated where necessary. Among these, those who have chronic illnesses shall be examined and treated by an official doctor, overseen by a doctor they may choose, if they so request."

The provisions enable detainees who have chronic illnesses to be examined in the presence of the physician of their choice.

Moreover, as per Article 9 of the Regulation cited above, medical examinations, checks and treatments are carried out by the forensic medicine institute or other official healthcare institutions. Therefore there is no issue of any person under police custody being examined by doctors called by the police.

Additionally, with respect to paragraphs 22, 28, 29 and 30, with a view to ensuring that all prisoners are able to enjoy these rights, a “working group for the identification of problems faced by prisoners in accessing healthcare services and for developing solutions” has been established in coordination with the Turkish Human Rights Institution, which includes representatives from the Ministries of Interior, Justice and Health. To allow a more participatory and comprehensive approach, members of NGOs have also been included in the meetings by the working group.

**- the Turkish authorities to take the necessary measures to ensure that all persons detained by law enforcement agencies – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police/gendarmerie). This should be ensured by provision of clear verbal information at the moment of apprehension, to be supplemented at the earliest opportunity (that is, immediately upon the first arrival at a law enforcement establishment) by the provision of the SRF. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights and always be given a copy of the SRF. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police/gendarmerie officers to ascertain that this is the case (paragraph 31).**

As per Article 6, titled “Apprehension procedure” of the Regulation on Apprehension, Custody and Taking of Statements, the “Arrest and Custody Record” and “Suspect and Defendant Rights Form” are drawn up and a signed copy is handed out, which indicates that the person has been notified in writing of his rights and that he/she understood them.

**- the Turkish authorities to take steps to ensure that all interviews of detained persons in Anti-Terror Departments are electronically recorded (by audio and video recording) and that recordings are kept for a reasonable period and are made available to be viewed by appropriate persons (including those responsible for monitoring and inspecting detention facilities and those charged with investigating allegations of ill-treatment as well as the detained person and/or his/her lawyer) (paragraph 33).**

Pursuant to its principle of “zero tolerance towards torture”, and so as to:

- Prevent suicides and self harm by persons taken into custody,
- Prevent putting the staff under suspicion for any reason,
- Eliminate allegations of human rights violations and prevent individual violations of detainees’ human rights by law enforcement officials,

the General Directorate of Security is carrying out a “Project for the Procurement of Machinery and Equipment for the Detention Centres and Interrogation Rooms of Anti-Terror Departments”. Within the framework of the project, from 2007 to 2013, digital video and sound recording systems have been installed in 214 detention facilities and 99 interrogation rooms of Anti-Terror Departments located in 62 provinces. Charts of statistical information indicating works carried out in 2013 and planned for 2014 are shown below.

#### STATUS OF PROJECTS REALIZED AND IN PROGRESS IN VARIOUS PROVINCES

Projects realized in 2013:

Province	Detention facility	Interrogation room
Ağrı	5	0
Bilecik	0	1
Gaziantep	4	0
Hatay	0	2
Muş	0	1
Bayburt	2	1
Karaman	0	1
Kırıkkale	0	1
Düzce	0	1
TOTAL	11	8

Projects planned for 2014:

Province	Detention facility	Interrogation room
Ağrı		2
Ankara	14	
Artvin	2	2
Batman	6	1
Bilecik		1
Diyarbakır	20	6
Elazığ		1
Mersin	1	
Nevşehir		
Siirt	1	
Istanbul	24	
Kırklareli		1
TOTAL	68	14

#### comments

- the Turkish authorities are encouraged to introduce a system of recording of interviews in other law enforcement departments, in addition to Anti-Terror Departments (paragraph 33).

As per Article 147 § (h) of the Code of Criminal Procedure, which states “technical facilities shall be used in the recording of statement taking and interrogations”, recording devices and systems are used while taking the statements of suspects, as necessary.

## **Material conditions**

### **recommendations**

**- the Turkish authorities to review the conditions of detention in all law enforcement establishments where persons may be held for 24 hours or more, in order to ensure that the detention facilities have adequate access to natural light (paragraph 34).**

Article 25, titled “Detention facilities and interrogation rooms” of the Regulation on Apprehension, Custody and Taking of Statements sets out the minimum physical standards and conditions the detention facilities shall possess. Accordingly, adequate natural lighting and ventilation should be provided. Diligence is shown to meet these conditions.

**- steps to be taken to improve artificial lighting in the custody cells at Izmir Police Headquarters (Anti-Terror and Law and Order Departments) (paragraph 34).**

- reviewing detention facilities to ensure that these places receive adequate daylight,  
- improving artificial lighting systems in detention cells,  
are among issues being addressed.

**- steps to be taken to ensure that persons held overnight in a law enforcement establishment are always provided with a mattress (in addition to blankets) (paragraph 35).**

Adequate number of fixed and durable seats and beds and, taking into account the climate and physical conditions of detention facilities, adequate number of blankets and beds are provided for the use of detainees who are held overnight.

**- the Turkish authorities to take steps to ensure that persons held for 24 hours or more in a law enforcement establishment are offered outdoor exercise on a daily basis (paragraph 37)**

Daily outdoor exercise may not be possible at all times due to some reasons such as limited physical capacity of the establishments. However, the issue is considered important, and best practices in other European countries could also be taken into account.

### **requests for information**

**- clarification on the official capacity for overnight stay of the custody cells in the various departments at the Police Headquarters in Ankara, Istanbul and Izmir (paragraph 36).**

While in custody, persons are held in detention cells the standards of which have been determined taking also into account the opinions of the CPT.

In this context, Article 11 of the Regulation on Apprehension, Custody and Taking of Statements provides that “no more than five persons may be held in one detention cell” and Article 25 states “detention cells shall be constructed having an area of at least 7 m<sup>2</sup>, 2.5 meters high and with at least 2 meter distance between walls”. Law enforcement manages 191 detention cells in Ankara, 334 in İstanbul and 161 in İzmir, having these standards.

### **Detention of foreign nationals under aliens legislation**

#### **recommendations**

**- for as long as the detention facility for foreign nationals at the Ankara Police Headquarters remains in service, detained persons to be offered access to the open air for at least one hour every day (paragraph 40).**

Foreigners held at the Ankara Police Headquarters are provided access to the open air in small groups accompanied by an official except during working hours.

#### **requests for information**

**- further information on the new detention facilities for foreign nationals in Ankara and an indication of when the existing detention facilities will be withdrawn from service (paragraph 40);**

**- a copy of the regulation, mentioned in paragraph 41, on the management, operation and supervision of removal centres once it has been issued (paragraph 41);**

**- progress made in constructing new detention centres for foreign nationals and closing old sub-standard establishments; in particular, detailed information on all the new detention centres which have already been brought into service (e.g. capacities for male and female inmates, living space per person, communal activities, number of custodial staff, presence of health-care staff, etc.) (paragraph 42).**

With a view to establishing the legal and institutional framework required for addressing illegal immigration and asylum movements, works are underway to build a total of six Admission Centers in Erzurum, Gaziantep, Kayseri, Kırklareli, İzmir and Van, with 750-person capacity each, and a Removal Center with 750-person capacity in Erzurum.

It has been planned that the buildings will be completed in 2014.

Pursuant to Paragraph 2 of Provisional Article 1 of the Law on Foreigners and International Protection, which came into force on 11 April 2013, removal centers are transferred in 2014 to the General Directorate of Immigration Administration, which has been established as per the Law.

Within the framework of a protocol to be signed with the General Directorate of Security and the General Directorate of Immigration Administration, smaller scale removal centers which are located in provincial Security Directorates are planned to be closed down rather than being transferred to the said Administration.

## **Prisons**

### **Preliminary remarks**

#### **recommendations**

**- the Turkish authorities to redouble their efforts – in consultation with the prosecutorial and judicial authorities – to combat prison overcrowding by adopting policies designed to limit or modulate the number of persons sent to prison. In so doing, the authorities should be guided by, inter alia, Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, Recommendation Rec(2008)11 on the European rules for juvenile offenders subject to sanctions or measures, and Recommendation Rec(2010)1 on the Council of Europe Probation Rules (paragraph 46).**

With a view to combating overcrowding in prisons and improving the implementation of sanctions alternative to imprisonment, the Law on the Execution of Sentences and Security Measures (“LESSM”) and the Law on Probation, Assistance Centers and Boards of Protection have been amended on 11 April 2012. The Article 105 § A added to the LESSM by the amendment made it possible for:

1. Sentenced prisoners with good conduct, who have one year or less time left for parole and have served

- a) the last six months continuously in an open prison or
- b) one fifth of the total sentence in a juvenile reformatory

2. Sentenced prisoners who were unable to be transferred to open prisons for reasons out of their control and were returned to the closed prison, despite the fact that they were eligible for open penitentiaries,

to serve the remaining period of their sentence in probation. Wider opportunities have been introduced for juvenile convicts, female convicts with children aged up to six years, and convicts who are unable to spend their lives alone due to severe illness, disability or ageing, to take advantage of this sentence execution procedure. The number of prisoners who were released on probation in this context is 140,549.



By an amendment to the Code of Criminal Procedure on 5 July 2012, the upper limit condition for judicial control measures laid down in Article 109 of the Law has been lifted. Accordingly, while judicial control measures used to be applied for offenses carrying a maximum of three years' imprisonment, following the amendment, courts may decide that suspects/defendants be placed in judicial control, regardless of the nature of the offense. Moreover, "restriction on leaving the domicile", "restriction on leaving a certain city/region" and "restriction on travelling to the designated locations/regions" were added to the list of judicial control measures that can be decided.

By these legal amendments, it has been ensured that not only the scope and effectiveness of alternatives to imprisonment are broadened, but also many prisoners are able to be released from penitentiaries or are not placed in such establishments through the application of judicial control measures.

In addition to these arrangements, works are carried out to reduce the number of offenders placed in prisons. International law and best practices are being examined, projects are being prepared and efforts are made to achieve concrete and effective results by assessing possible alternatives.

Moreover, 194 new prison establishments are planned to be put in service within the four-year period ahead (2014-2017) and 163 district prisons which fall short of the modern prison regime will be closed down. It has been envisaged that by the end of 2017, the capacity will reach 254,161 and the problem of overcrowding will be overcome.

#### **comments**

**- It would be desirable, once the reduction in prison overcrowding allows, to return to the original design capacity of eight inmates in the duplex accommodation units at Izmir T-type Prison No. 2 and, where appropriate, in other T-type prisons in Turkey (paragraph 46).**

Holding no more inmates than the design capacity of penitentiary establishments is among the fundamental objectives of our sentence execution policy. Overcrowding is regarded as the greatest obstacle preventing the proper provision of rehabilitation activities. In line with these considerations, once the new legal arrangements and the prisons under construction are put in service by 2017, each establishment will hold no more number of inmates than its normal capacity.

#### **requests for information**

**- outcome of the criminal investigation into the fire which broke out in one of the accommodation units at Şanlıurfa E-type Prison on 16 June 2012 (paragraph 47).**

13 inmates died as a result of a fire caused by the inmates at Şanlıurfa E Type Closed Prison on 16 June 2012. As a result of the judicial investigation carried out by the Şanlıurfa Chief Public Prosecutor into the incident, a decision of non-prosecution was delivered on 6 June 2013 in respect of the former first and second directors of the establishment.

As to the disciplinary investigation into the matter, the former first director was imposed the penalty of “1/8 salary reduction”. It was deemed that no disciplinary penalties should be imposed on the remaining officials.

## **Ill-treatment**

### **recommendations**

**- a firm message to be delivered at regular intervals to management and staff at Sincan Juvenile Prison, Gaziantep and Şanlıurfa E-type Prisons, Izmir T-type Prison No. 2 and Tekirdağ F-type Prison No. 2 that ill-treatment of prisoners is not acceptable and will be punished accordingly. As part of this message, staff should be reminded in particular that no form of physical chastisement should ever be used against juveniles. Any prisoner who fails to comply with prison rules should be dealt with only in accordance with the prescribed disciplinary procedures (paragraph 51).**

Following the visit by the CPT on 21-28 June 2012, the administrators and staff of prison establishments have been duly warned to display the diligence and sensitivity on the matter at issue and accordingly, an instructive letter was sent on 13 February 2013 to all prisons holding juveniles.

The knowledge and awareness of the staff are constantly raised on the fact that all kinds of ill-treatment in prisons constitute criminal offences. To this end, the fact that ill-treatment constitutes an offence and that it can never be a solution is always stressed during seminars, conferences, meetings, pre-service and in-service trainings, prison visits and the newspaper *Sesleniş*, which is delivered regularly to all establishments.

**- steps to be taken in all the prison establishments where juveniles are held to ensure that no prisoner is put in a position to exercise power over other juveniles (paragraph 54).**

With a view to preventing juveniles from inflicting violence and fear on one another and to prevent use of force, a new system is being implemented, whereby rooms will be designed with toilet and shower facilities, where each juvenile will be able to spend the night alone and a trained official (group leader) will spend time with the juveniles in and out of rooms. In establishments where this new system has not yet been implemented, juveniles are held in the separate units of adult prisons. In the event that incidents of violence and intimidation occur among juveniles, the required decisions and measures are promptly taken by the board of administration and observation, and the juveniles concerned are transferred to another room or establishment, where necessary.

Within the framework of the “Justice for Children” project, plans are afoot to implement the Individualized Treatment System (“BİSİS”) in every separate juvenile prison and in 20 prisons where juvenile population is high (including Diyarbakır and Gaziantep). The application guidelines have been prepared for this system. Among the components of BİSİS

are the activities to be carried out by group leaders chosen from the custodial staff. Officials designated for the task are provided with group leadership training. Group leaders are expected to carry out a number of tasks such as: daily observations, identifying juveniles with eating and sleeping disorders, observing their behaviour and physical and mental states, monitoring visits, maintaining a room register, ensuring cleanliness and area control, organizing daily sports activities, spending the day with inmates, supervising meal service and organizing various in-room activities such as conversations.

Furthermore, within the framework of the *Ardıç* program, which has been developed to ensure an institutional environment maintaining quality in the services provided for juveniles, an Executive and Personnel Training Program has been prepared and put in effect for directors of establishments, custodial staff and other personnel. The topics of communication methods, teamwork, adolescence period, national and international law, crisis management, negligence and abuse and conflict management are being taught within the scope of the program. Trainings are provided continuously to raise the knowledge and qualification level of officials working with juveniles.

#### **requests for information**

**- updated information on criminal investigations into the complaints of ill-treatment which had been lodged by juveniles held at Izmir Juvenile Prison and had emerged in the media shortly before the CPT's visit (paragraph 49).**

No incidents such as sexual harassment, rape or preventing medical treatment occurred in İzmir Juvenile and Youth Closed Penitentiary Institution. The investigation carried out did not reveal any concrete findings which would corroborate the allegations.

As a result of the interviews with the inmates of the said establishment who were associated with allegations of sexual harassment, the inmates denied such allegations. Allegations of beatings which are raised by the media and a number of NGOs are followed with sensitivity.

The Aliğa Chief Public Prosecutor has instituted criminal proceedings before the Aliğa Magistrates' Court, charging the establishment's former director and one custody officer with simple injury. Another judicial investigation into the allegations has been initiated by the Aliğa prosecutor and the investigation is pending.

As a result of seven disciplinary investigations carried out by the said chief public prosecutor, it was ruled that "no disciplinary sanctions should be imposed" in respect of the former director of the İzmir Juvenile Prison, who had been appointed to Isparta Closed Prison.

Moreover, the director and one custody officer of the establishment were reprimanded as a result of a disciplinary investigation carried out by the chief public prosecutor.

Furthermore, as a result of the administrative investigation by the disciplinary board of the said establishment, it was concluded that "no disciplinary sanctions should be imposed" in respect of the second director, administrative officer, two chief custody officers and seven custody officers.

**- information on criminal and disciplinary inquiries into allegations of ill-treatment by prison staff covering the period up to the end of 2013 (paragraph 52)**

As a result of disciplinary investigations carried out in 2013 into allegations of ill-treatment in prisons; no penalties were imposed on 394 officials while 10 officials received various disciplinary penalties. As to criminal investigations for the same period, decisions of non-prosecution were delivered in respect of 371 officials while criminal proceedings were instituted in respect of 69 officials, where cases are pending. As to delivered court judgments, 10 officials received fines, while four officials were acquitted.

**Conditions of detention of the general prison population**

**recommendations**

**- the Turkish authorities to take resolute action to address the problem of overcrowding at Gaziantep and Şanlıurfa E-type Prisons; the objective should be to ensure that accommodation units offer at least 4 m<sup>2</sup> of living space per prisoner (paragraph 58).**

To address the problem of overcrowding at the prisons specified, works are underway to put in service one 1,000-person capacity L-type closed and one 400-capacity open prison in Gaziantep by the beginning of 2016; and two 1,000-capacity L-type closed and one 400-capacity open prison in Şanlıurfa by the beginning of 2015. It has been envisaged that the problem of overcrowding will be overcome once these new facilities are in place.

**- steps to be taken at Gaziantep and Şanlıurfa E-type Prisons to ensure that all accommodation units are kept in a satisfactory state of repair (paragraph 58).**

The inconvenient accommodation units of Gaziantep and Şanlıurfa E-type Prisons are planned to be repaired in 2014 to raise the quality of life for prisoners held at these establishments.

**- immediate steps to be taken at İzmir T-type Prison No. 2 and Gaziantep and Şanlıurfa E-type Prisons to ensure that :**

- **all prisoners have their own bed, equipped with a clean mattress and clean bedding (paragraph 58);**

The goods required at prisons (such as mattresses, beddings, pillows, blankets, cabinets and bunk beds) are procured by the General Directorate of Prisons and Detention Centers, subject to budgetary capabilities. The items dispatched to prisons are delivered by prison managements to the inmates who need and have requested them. Old items are replaced by new ones. Moreover, sheets and beddings are sold at the canteens of establishments to allow prisoners to obtain these items alternatively.

In this context, in 2013, 100 beds to İzmir T-type Prison no. 2, 680 beds and 600 beddings to Gaziantep E-type Prison, and 995 beds to Şanlıurfa E-type Prison have been allocated, which meets such needs of the inmates.

- **the units are suitably equipped with tables/chairs for the number of prisoners they accommodate (paragraph 58).**

Due care is displayed to obtain tables and chairs sufficient for the number of inmates held at the units and the physical conditions and suitability of the unit.

- **steps to be taken to ensure that all prisoners have adequate quantities of essential personal hygiene items and products to clean their accommodation units (paragraph 59).**

In order to ensure a state of hygiene in the toilets and showers of the establishments, adequate quantities of cleaning products are supplied for the units. Alternatively, prisoners can purchase the cleaning products they need from canteens located in the establishments. Moreover, personal hygiene items are provided for indigent prisoners from the general budget.

- **measures to be taken to ensure that all prisoner accommodation (and staff premises) at Diyarbakır D-type Prison is adequately heated (paragraph 60);**

The heating system of Diyarbakır D-type Prison generally has no problems. However, occasional technical failures may arise and these are solved without delay.

- **the prison building programme to be reviewed so as to ensure that all new establishments will have the necessary facilities capable of providing a range of purposeful out-of-unit activities (including work) to prisoners (paragraph 62).**

Facilities that allow out-of-unit activities such as work, training, sports and social activities have been considerably expanded in the prisons built recently. These considerations are taken into account in new construction projects.

- **the Turkish authorities to take steps at Diyarbakır, Gaziantep and Şanlıurfa E-type Prisons, Diyarbakır D-type Prison and İzmir T-type Prison No. 2 to improve facilities for organised activities (such as work, education, and sport) and to significantly increase the number of prisoners who benefit from such activities on a regular basis (paragraph 66).**

Work, training and sports and various social activities are organized in all establishments, including the prisons at issue, where all inmates are encouraged to participate in these activities. Moreover, all prisoners are taken out for organized sports activities at least twice a month and attend sports tournaments. Training and course activities are organized in prisons in various fields by the training unit, with the assistance of Public Training Centers. Utmost efforts are shown to include as many inmates as possible in these activities, as the physical conditions and the security of the establishment permit. Attempts are being made continuously to raise the number of courses and trainees. Moreover, group works are organized by the psychosocial service for inmates. Efforts are shown to achieve fairness in all prisoners' attendance to events such as movies, concerts and panels.

## comments

- **obliging sentenced prisoners to work without any remuneration would be contrary to Rule 26.10 of the European Prison Rules (which provides that “[i]n all instances there shall be equitable remuneration of the work of prisoners”). Obliging remand prisoners to work is equally contrary to the European Prison Rules (paragraph 67).**

With a view to helping remand and sentenced prisoners maintain and improve their profession and crafts within the period they are held in the establishments or to ensure that they learn other professions and crafts, prison workshops have been established by the Law on the Establishment and Administration of Penitentiary Establishments and Detention Centers Workshops Institution (the “Law on Prison Workshops”).

As per the said Law, unprofessional sentenced prisoners and professional sentenced prisoners **who wish to work** and who have been deemed physically and mentally fit by the doctor of the establishment may be employed in the ateliers or workshops of the establishment **with remuneration**, the amount of which shall be determined by the means of the establishment.

A large number of remand and sentenced prisoners currently work in workshops, ateliers and similar units operated by Workshops Institution within prisons in different professions and the prisoners are paid wages for their work. The daily wage to be paid to these prisoners is determined annually by the Higher Board of the Workshops Institution. In 2014, the daily wages of 8 liras for masters, 7.5 liras for workmen and 7 liras for apprentices shall be paid to the inmates working in the workshops.

Article 18 of the Constitution (titled “Prohibition of Forced Labour”) provides:

“No one shall be forced to work. Forced labour is prohibited.

Work required of an individual while serving a prison sentence or under detention, services required from citizens during a state of emergency, and physical or intellectual work necessitated by the requirements of the country as a civic obligation do not come under the description of forced labour, provided that the form and conditions of such labour are prescribed by law.”

Prisoners are employed pursuant to the Constitutional provisions above, the LESSM, the Law on Prison Workshops, the Regulation on Penitentiary Establishments and Detention Centers Workshops Institution and the Administration and Tender Procedures of Prison Workshops and the Circular no. 137/3. No remand or sentenced prisoner is forced to work.

## **Conditions of detention of juvenile prisoners**

### recommendations

- **steps to be taken at Izmir and Sincan Juvenile Prisons to enhance the schooling programme for inmates, the objective being to align it, as far as possible, with schooling programmes generally available in the outside community (paragraph 70).**

- the recommendations made in paragraph 58 concerning material conditions of detention at Gaziantep and Şanlıurfa E-type Prisons to apply equally to the juvenile units in these establishments (paragraph 72).

- immediate steps to be taken to provide structured out-of-unit activities for juveniles at Şanlıurfa E-type Prison (paragraph 74).

In establishments holding juveniles, importance is attached to the education of prisoners and their integration to the society while they serve their sentences. To this end, intensive courses of first level literacy, second level education, preparation to and support for formal and non-formal education and vocational training are provided. Remand and sentenced inmates are able to continue their education through open primary, open secondary and open university programs. In addition to these programs, formal education is available in juvenile reformatories.

Social and cultural activities such as conferences and seminars, drama, concerts, movies, painting, caricature drawing, folk dance, music, handicrafts, exhibitions, quiz shows, debates, board games and celebration of certain days and weeks and sports activities are conducted, taking into account the juveniles' areas of interest, their demands and needs.

In addition, with a view to extending the scope and effectiveness of the training and rehabilitation activities for juveniles, official, private and voluntary persons, bodies and institutions are cooperated with.

In accordance with the recommendations cited above, works will be carried out to extend training and other activities for juveniles at the institutions mentioned.

#### **comments**

- the Turkish authorities are encouraged to pursue their efforts to ensure the effective implementation of the “group leader” system in all existing and future detention facilities specifically designed for juveniles. In particular, “group leaders” assigned to juvenile units must be carefully chosen and, more specifically, be people capable of guiding and motivating juveniles. It is also essential that they receive appropriate training and ongoing support (with the involvement of the prisons' psychosocial services) (paragraph 71).

- The CPT trusts that the entering into service of new juvenile prisons will enable the Turkish authorities to put a definitive end to the practice of accommodating juveniles in prisons for adults and that the new prisons will offer both a suitable material environment and activities adapted to the specific needs of juveniles (education, sports and other recreational activities) (paragraph 74).

Within the framework of the 2012-2017 fiscal investment program, plans are underway to put in service Juvenile and Youth Prisons in Diyarbakır (2014), Hatay (2015), Kayseri and Tarsus (2016). In January 2014, a juvenile reformatory has opened in Ümraniye, İstanbul. Once these

new facilities are put in service, most of the juvenile convicts held in the juvenile units of other prisons will be transferred to these new penitentiaries built exclusively for them.

The “group leader” system has been implemented in separate juvenile prisons whereby a custody officer who has received pedagogic training spends all his/her time with the juveniles he/she is responsible for. In addition to educational and rehabilitation tasks such as helping juveniles attain daily skills and ensuring attendance to education sports and social-cultural activities, individual and group psychosocial support programs, the officer is charged with tasks to avoid abusive conduct that may be observed among juveniles such as peer violence. In these establishments physical arrangements have been made to allow every juvenile spend time and sleep alone in his/her own room except for the time spent in educational, training and social activities.

Within the framework of the “Justice for Children” project, which is currently under implementation from 2012 to 2014 with technical assistance from UNICEF and financial assistance from the European Union, the group leader system is planned to be extended to all penitentiary institutions accommodating juveniles.

#### **requests for information**

**- confirmation that the food budget for the prisoner population as a whole has been increased by 25 per cent (paragraph 75).**

Pursuant to Articles 4 and 5 of the Regulation on the Boarding of Prisoners and Prison Staff (promulgated 26 May 2005), the daily food budget has been increased from 4 TL to 5 TL for adult prisoners and the staff on duty, from 5 TL to 6 TL for juvenile prisoners, and from 6 TL to 7.5 TL for pregnant prisoners, in effect after 1 July 2013, as per the letter of approval dated 31 May 2013.

#### **Prisoners sentenced to aggravated life imprisonment**

##### **recommendations**

**- the shortcomings described in the second subparagraph of paragraph 77 concerning material conditions of detention at Tekirdağ F-type Prison No. 2 to be remedied (paragraph 77).**

Article 9 of the Regulation on the Goods and Materials That Can Be Possessed in Prisons provides that “electricity expenses other than those incurred for lighting shall be paid by the prisoner”. Accordingly, all prisoners pay the electricity fees consumed by their personal devices such as TV sets, refrigerators and electric heaters. Regardless of the sentence, all prisoners held in single rooms are subject to the same practice. Such expenses by indigent prisoners are sometimes paid by NGOs.



The heating system of Tekirdağ F-type Prison No. 2 generally has no problems. However, occasional technical failures may arise and these are solved without delay. In addition, works are carried out to mitigate the problem of high humidity that may arise in some rooms.

**- steps to be taken at Izmir T-type Prison No. 2 and Tekirdağ F-type Prison No. 2 and, where appropriate, in other high-security prisons, to develop communal activity programmes (including workshop and educational activities) for prisoners sentenced to aggravated life imprisonment. As a first step, conversation sessions should be organised and the possibilities for sports activities increased (the goal being to reach the maximum duration of conversation periods provided for in the Ministry of Justice Circular No. 45/1) (paragraph 81).**

**- the Turkish authorities to carry out a complete overhaul of the detention regime applied to prisoners sentenced to aggravated life imprisonment, in the light of the precepts set out in paragraphs 82 to 84. To this end, the relevant legislation should be amended accordingly (paragraph 85).**

The detention regime applied to prisoners sentenced to aggravated life imprisonment is governed by Article 25 of the LESSM. As per the relevant provisions, prisoners in this category are held in single rooms, are able to take outdoor exercise for one hour per day. Having regard to the risks and security requirements and depending on the efforts and good conduct displayed during rehabilitation and training activities, the period that can be spent outdoors can be extended and the prisoner may be allowed to have limited contact with other inmates from the same row. The convict may engage in an artistic or professional activity which is possible by the physical conditions and deemed appropriate by the board of administration of the establishment. Efforts continue to extend the number and scope of these activities.

Moreover, Article 2 § (a), titled “Principles relating to the education-training, social-cultural and sportive activities in high security prisons” of the Circular no. 46/1 on the Education and Rehabilitation Procedures of Young and Adult Prisoners reads:

“Prisoners sentenced to aggravated life imprisonment shall primarily benefit from individualized education-training, social-cultural and sports programs. Depending on the efforts and good conduct during the course of the programs, they may be allowed to take part in communal education-training, social-cultural and sports programs with other inmates from the same cellblock, by the decision of the board of administration and observation”.

In line with the provisions stated above, the procedure and principles relating to how prisoners in this category can take part in communal activities are set out in detail.

Moreover, based on Article 51 of the LESSM, which was amended on 24 January 2013, the regulation on Rewarding Prisoners came into force on 30 March 2013, which lays down the procedure and principles relating to the rewarding of all remand and sentenced prisoners and the scope and conditions of how these rewards shall be used.

Several new rewards, which did not previously exist in the prison system are introduced, such as spouse and family visits, accumulation of unused visit entitlements, extension of the number or length of phone conversations, increase in weekly allowances, and open visits instead of closed visits. All inmates who meet the criteria laid down in Article 8 of the said Regulation are rewarded by the board of administration and observation, regardless of the type of their conviction (judicial, terror, etc.).

There are no provisions which would prevent prisoners sentenced to aggravated life imprisonment from having the benefit of these rewards. On the condition that they meet the criteria specified, they may also enjoy the rewards.

### **comments**

**- steps should be taken to address the situation of prisoners sentenced to aggravated life imprisonment who are not able to use refrigerators or television sets due to a lack of financial means (paragraph 77).**

The relevant provisions of Article 9 of the Regulation on the Goods and Materials That Can Be Possessed in Prisons is as follows:

“The possession of one TV set (37 cm diagonal), one electric water heater, one hair dryer, one compact refrigerator and, taking into account the climate conditions, one electric fan may be allowed per dormitory, room or annex, provided that these are obtained from the canteen of the establishment. Moreover, every sentenced prisoner may possess a handheld radio with headphones, provided that it is purchased from the canteen.

In prisons which have not yet been converted to the room system, one large screen TV set and one refrigerator may be allowed, taking into account the conditions of dormitories.

Electricity expenses other than those incurred for lighting shall be paid by the prisoner.”

As per the provisions above, prisoners are able to obtain and use devices such as TV sets and refrigerators.

As for indigent prisoners sentenced to aggravated life imprisonment, such goods and devices are provided by contacting NGOs, official and private institutions, and put to the use of these prisoners. In addition, goods such as TV sets and refrigerators left behind by previously released inmates are allocated to the remaining indigent prisoners.

In this context, TV sets have recently been provided to nine indigent prisoners sentenced to aggravated life imprisonment at Tekirdağ F-type Prison No. 2.

### **Health-care services**

#### **recommendations**

**- the Ministry of Health to develop a coherent health-care service for prisons and provide prison health-care staff with appropriate training and support (paragraph 87).**

With a view to providing healthcare services in a more effective and comprehensive manner and to overcoming the obstacles in obtaining healthcare staff for penitentiary establishments, a protocol was signed on 30 April 2009 between the Ministries of Justice and Health. Despite considerable improvements in the provision of health services thanks to the protocol, there are still shortcomings in a number of fields. Works continue to remedy the shortcomings and provide the services in a more qualified manner.

Cooperation between the two ministries includes “Basic First Aid” courses in the pre-service and in-service training seminars for prison and detention center staff. Moreover, with a view to providing healthcare services in prisons in a more effective and efficient way, ensuring that the healthcare staff are capable of performing treatment and follow-up of prisoner patients in an effective and mindful way, and ensuring right and prompt intervention in emergency cases, in-service training programs are provided. In Kahramanmaraş Training Center and Ord. Prof. Sulhi Dönmezer Training Center, custody officers, chief custody officers and especially health-care officers are given “First Aid Certificate Program and Follow-up of the Treatment of Prisoners” and “Basic First Aid Information and Applications” seminars. At the end of the training program, trainees who are successful in the written and applied examination are granted the “First Aid Certificate”.

**- (recommendation): the connection of prison health-care services to the Ministry of Health database to be established without further delay (paragraph 87);**

**- (request for information): confirmation that, once this connection is established, all medical information on prisoners stored in the UYAP system will be removed and that non-medical prison staff will not have access to the Ministry of Health database (paragraph 87).**

Work is underway to realize integration between the databases of the UYAP information system of the Ministry of Justice and the Family Medicine Information System of the Ministry of Health, which will soon enable the provision of effective health services by storing all health information of prisoners in a single resource.

Agreement has been reached to establish an intermediary module between the Sağlık-Net (Health) and UYAP (Justice) databases as a step for the development of a coherent health-care service for prisons. The project is already at the technical stage. A training module for prison health-care staff is also planned within 2014.

**- urgent steps to be taken to increase the health-care staffing levels in all the establishments visited, in the light of the remarks in paragraphs 89 to 91. It is also essential that all major prison campuses benefit from the permanent presence – on a 24-hour, seven-days-per-week, basis – of health-care staff (paragraph 92).**

Cooperation between the Ministries of Justice and Health is underway to raise health-care staffing levels and their qualifications. The General Directorate of Prisons and Detention Centers has taken important steps in the recruitment of auxiliary health-care staff, recruiting 12 new health-care officers in 2012 and 374 in 2013. Significant improvement has been

achieved on the permanent presence of health-care officers in prisons since these new officers took up their positions.

Four prison campuses in Turkey house 30 person capacity campus hospitals, which actively provide services on behalf of the Public Hospitals Institution. First stage healthcare services are also provided in these campuses.

In other establishments, healthcare services are dependent on the population criteria. In establishments which house 1,000 or more inmates, family medicine units are established, whereas in smaller establishments healthcare services are provided by family physicians on-site.

An amendment has been made to the Family Medicine Implementation Regulation on 25 January 2013, according to which the following provisions are now in force:

“In establishments such as prisons, juvenile reformatories, rest homes for seniors, juveniles in need of protection and orphanages, where a doctor is not employed and residents are unable to apply to their family physicians by themselves or unable to choose their family physician freely, one or more family physicians can be obliged to provide on-site healthcare services upon the request of the relevant establishment. Family physicians who provide on-site healthcare services shall register the persons accommodated in the establishments. The establishments declared as areas of on-site healthcare services are obliged to meet the minimum conditions required for family physicians to provide healthcare services. In these establishments, on-site healthcare services shall be provided once per week for registered populations of up to 750 persons and twice per week for populations of 750 and more persons, not being shorter than three hours per month per every 100 inhabitants. This length of time shall be applied twice for prisons and juvenile reformatories.”

Although the number of medical personnel in Turkey is only one third of those of other European countries, prisons and juvenile reformatories have been given privileged status. Although, a family medicine unit serves an average of 3,563 people countrywide, legal arrangements have been made to allow the establishment of family medicine units in establishments which house at least 1,000 inhabitants.

Family medicine units have been established in 62 prisons in Turkey. In the remaining establishments, on-site healthcare services are provided by one or more family medicine unit, pursuant to the provisions above.

Establishment	Beds	Specialist doctors	Doctors	Dentists	Auxiliary health-care staff	Pharmacists	Laboratory / Radiology Technicians	Total employed
Ankara Sincan Prison Campus Hospital	30	13	4	2	23	1	12	54
İzmir Aliğa Prison Campus Hospital	30	8	5	1	6	-	4	24
İstanbul Maltepe	30	11	9	-	21	1	-	42

Prison Campus Hospital								
İstanbul Silivri Prison Campus Hospital	30	13	4	3	17	-	-	37
TOTAL	120	45	22	6	67	2	16	157

In addition, 112 Emergency Hotline provides continuous emergency services for prisons on a 24/7 basis.

**- steps to be taken to ensure that the medical unit at Şanlıurfa E-type Prison is properly equipped (paragraph 93).**

Construction of an annex to Şanlıurfa E-type Prison began on 12 August 2013 and temporary acceptance began on 5 December 2013. The new infirmary opened on 3 March 2014. The infirmary and dentist unit in the annex have been designed to cover three rooms each and their shortcomings in terms of physical setting and medical equipment have mostly been eliminated. Moreover, by a letter of 4 March 2014, the relevant chief public prosecutor has been instructed to cooperate with the provincial health directorate to identify and rectify any shortcomings in respect of the establishment's infirmary.

**- steps to be taken at Izmir T-type Prison No. 2 to put a stop to any practice of handcuffing prisoners during dental interventions (paragraph 94).**

Article 50, titled "Use of constraining devices" of the LESSM provides:

"(1) In no case shall chaining or shackling be implemented as a measure. Handcuffs and other body restraints may be used:

a) To prevent escape during referral or transfer, on condition that they are removed when the prisoner is brought before the competent authority;

b) for medical reasons, under the doctor's instructions and supervision;

c) By order of the highest authority of the establishment, where other methods of control fail, in order to prevent the prisoner from injuring himself or others or causing damage to property."

Similar provisions are contained in Article 155 of the relevant Rule on the Administration of Prisons, Execution of Sentences and Security Measures.

Handcuffing or removing handcuffs during medical interventions are made as upon the doctor's request, assessing the risks posed by the prisoner, in particular to himself/herself or others. There have been many instances where medical professionals were injured by unhandcuffed prisoners. Keeping in mind these negative experiences, this issue is left to the discretion of doctors and dentists.

This matter is however placed on the agenda of the joint working group between the Ministries of Justice and Health.

**- urgent steps to be taken to arrange for regular visits by a psychiatrist to Diyarbakır D-type Prison, Gaziantep and Şanlıurfa E-type Prisons and Tekirdağ F-type Prison No. 2 (paragraph 95).**

In Şanlıurfa E-type Prison, two psychiatrists and one social worker, and in Diyarbakır D-type Prison one family physician and two psychiatrists provide permanent services, regularly interview the inmates. The interviews are incorporated in a report. If deemed necessary by the establishment's doctor, the prisoners concerned are referred to the psychiatry departments of hospitals.

This matter is also placed on the agenda of the joint working group between the Ministries of Justice and Health.

**- the relevant Turkish authorities to take the necessary steps to ensure that all newly-arrived prisoners are subject to a comprehensive medical examination, including screening for transmissible diseases, by a doctor (or a fully qualified nurse reporting to a doctor) as soon as possible after their admission and that prisoners are provided with information regarding the prevention of transmissible diseases (paragraph 100)."**

Newly-arrived sentenced and remand prisoners are subject to a comprehensive medical examination. Article 6 § (d) of the Protocol signed between the Ministries of Health and Justice provides:

"Prison polyclinics, family physicians and other healthcare staff appointed to establishments shall provide healthcare services within of establishments where prisoners are accommodated, in places which are found by the provincial health directorates to be compatible with the standards. Healthcare services shall be carried out in accordance with the legal provisions which the staff in charge of providing these services is subject to. Family physicians shall also conduct medical examinations of prisoners at admission to and release from establishments within working hours."

Moreover, Article 7 § (c) (titled "Mutual Obligations") of the Protocol reads:

"With a view to ensuring that healthcare services in establishments are provided in line with the current and changing national and international law and standards, in-service trainings, conferences, seminars and group works for healthcare staff shall be planned and implemented jointly by the two Ministries."

Thereby, it has been envisaged that prison staff and inmates be provided with information on not only transmissible diseases but also on other health issues.

**- calls upon the relevant Turkish authorities to take the necessary steps to ensure that the record drawn up after the medical examination of a prisoner contains: i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), ii) a full account of objective medical findings based on a thorough examination, and iii) the health-care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical**

**findings. The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed (paragraph 100).**

**- (recommendation): recording of the medical examination of a prisoner in cases of traumatic lesions to be made on a special form provided for this purpose, with “body charts” for marking traumatic lesions that will be kept in the medical file of the prisoner. In addition, a special trauma register should be kept in which all types of injury observed should be recorded (paragraph 100); (comment): it would be desirable for photographs to be taken of traumatic lesions displayed by prisoners; these photographs should also be placed in the medical file (paragraph 100),**

**- whenever injuries are recorded by a health-care professional which are consistent with allegations of ill-treatment made by the prisoner (or which, even in the absence of the allegations, are indicative of ill-treatment), the record to be systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. Further, the results of every medical examination, including the statements made by the prisoner which are relevant to the examination and the doctor’s conclusions, should be made available to the prisoner and his/her lawyer (paragraph 100).**

After the medical examination of a prisoner a detailed record is drawn up, indicating the findings relevant to his/her allegations and the link between the allegations and findings. A copy of the report form to be filled by the doctor following examination of a prisoner is enclosed (Annex). The report form includes an account of statements made by the person which are relevant to the medical examination, a full account of objective medical findings based on a thorough examination, the health-care professional’s observations indicating the consistency between any allegations made and the objective medical findings, the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and any further procedures performed. Moreover, the report form includes a “body chart” for marking traumatic lesions. These forms are kept in the medical file of prisoners and a trauma register is kept where all types of injuries observed are recorded.

In the event that injuries are recorded by a health-care professional which are consistent with allegations of ill-treatment made by the prisoner (or which, even in the absence of the allegations, are indicative of ill-treatment), the procedure in Article 9 (“Health Checks”) of the Regulation on Apprehension, Custody and Taking of Statements, which reads insofar as relevant:

“...In the event that the doctor observes any findings indicating the offense of torture under Article 94, aggravated torture on account of its consequences under Article 95 or of torment under Article 96 of the Criminal Code, the public prosecutor shall be promptly informed of the matter.”

Thus, the record drawn up pursuant to the provisions above is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned.

Pursuant to the provision “the defence lawyer may also be present during the medical examination upon the request of the person taken into custody, provided that no delay is caused” which is also contained in the Regulation mentioned above, the prisoner’s account during the examination and the doctor’s conclusions are available to the prisoner’s lawyer.

**- calls upon the Ministry of Justice to take immediate steps – in co-operation with the Ministry of Health – to ensure that the principle of medical confidentiality is fully respected in the establishments visited, as well as in all other prisons in Turkey. More specifically, steps should be taken to ensure that:**

- **all medical examinations of prisoners (whether upon arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers (paragraph 102);**
- **medical data are, as a rule, not accessible to non-medical staff (paragraph 102).**

As to medical examinations of prisoners, Article 117 of the Rule on the Administration of Prisons, Execution of Sentences and Security Measures provides: “(2) Unless requested otherwise by the doctor of the establishment, no personnel other than healthcare staff can be present in the examination room during the medical examination or treatment of a prisoner. However, for reasons of security, the management of the establishment shall take the necessary measures without allowing hearing of the conversation [held in the examination room]”.

Moreover, Article 38 of the Protocol signed on 19 August 2011 between the Ministries of Justice, Interior and Health reads, insofar as relevant:

“(1) Protected examination rooms with restraints to prevent escape shall be set up in hospitals which are located in regions where a prison establishment exists.

(2) Medical examinations of remand and sentenced prisoners shall be carried out in protected rooms with restraints to prevent escape. Gendarmerie officials shall stay out of the room and take the necessary security precautions during examination. If requested in writing by the doctor, the gendarmerie official shall wait in the examination room.

(3) Any unlawful demands by the prisoner during the examination shall be immediately reported to the gendarmerie patrol commander by the relevant medical professional.

(4) In hospitals where protected rooms for examining prisoners have not yet set up, the gendarmerie official shall wait inside the examination room and take protective precautions in a distance where the conversation between the doctor and the patient cannot be heard.”

As per the provisions stated above, the question of how medical confidentiality should be implemented during examinations and other procedures are explained clearly and in detail. These provisions are in line with the recommendations above and their implementation continues in this context.



As a general rule, medical data relating to prisoners are inaccessible to non-medical staff. With 386 newly-recruited health-care officers in service, all health procedures are carried out by these officers and the remaining staff has no access to the information.

Within the framework of the project for the development of an organized healthcare services system and the establishment of an intermediary module between the Sağlık-Net database of the Ministry of Health and the UYAP database of the Ministry of Justice, agreement has been reached to ensure that medical data of prisoners which are stored in the UYAP database will be erased and non-medical staff will not be able to access the database of the Ministry of Health.

### **comments**

**- The CPT trusts that the recruitment of additional qualified nurses will make it possible to abolish the practice of employing health-care officers (paragraph 92).**

The General Directorate of Prisons and Detention Centers has accelerated the recruitment of qualified healthcare staff (such as health-care officers and nurses) and such works will continue in the future. Moreover, although in institutions affiliated to the Ministry of Health, health-care officer and nurse are identical or very close positions, they are not alternative occupational groups to each other. Health-care officers serving in the establishments are provided with in-service training from time to time to raise their knowledge and qualifications.

**- someone competent to provide first aid should always be present on the premises of all prison establishments (paragraph 92).**

Article 16 (titled “Employment of a First Aid Officer and Compulsory First Aid Officer”, as amended on 18 March 2004) of the First Aid Regulation provides:

“One first aid officer per every twenty personnel and for works of heavy and dangerous nature, one first aid officer per every ten personnel, who have duly received ‘Basic First Aid’ certificates from the institution empowered as per this regulation, shall be maintained in every establishment and institution.”

As per the provisions above, it has been ensured that public and private sector workforce receives first aid training. Particularly health-care officers, custody officers and chief custody officers are given “First Aid Certificate Training”. Plans are underway to extend this training to an adequate number of staff in all establishments.

### **requests for information**

**- detailed information on Metris R-type Prison (capacity, categories of inmates, staff complement, etc.) (paragraph 96).**

As regards mentally deranged prisoners, Article 18 § 1 of the LESSM provides:

“The sentences of convicts who have been diagnosed with mental disorders other than insanity, resulting from imprisonment or other reasons and whose confinement in mental hospitals was

deemed unnecessary shall serve their sentences in the exclusive sections of designated establishments.”

Five rehabilitation centers are operating pursuant to the provisions cited above, namely Elazığ, Samsun, Manisa, Adana and Metris Rehabilitation Centers. Remand and sentenced prisoners who are deemed to fall within these provisions by a valid medical board report are treated in these centers under the custody of specialized staff.

Among these centers, Metris R-type Prison, which has been put in service to accommodate sick prisoners who are awaiting report from the Forensic Medicine Institute and those who are unable to care for themselves and to carry out the rehabilitation and treatment of convicts who have been diagnosed with mental disorders other than insanity and whose confinement in mental hospitals was deemed unnecessary and were sent back to prisons pursuant to the provisions stated above. Treatment and rehabilitation activities at the institution for prisoners with mental issues continued to improve since its establishment to the present day.

Metris R-type Prison has a capacity to hold 150 inmates, 48 of which has been allocated for convicts who have been diagnosed with mental disorders other than insanity and whose confinement in mental hospitals was deemed unnecessary and were sent back to prisons pursuant to the provisions above. The remaining 102-person capacity is reserved for prisoners who need special care due to severe and permanent illness.

One specialist psychiatrist, one physiotherapist, three general practitioners and four healthcare officers currently serve in the rehabilitation section of the prison. A total of 24 caregivers are in charge of the care and cleaning of prisoners round the clock who are unable to care for themselves. Moreover, two psychologists, one social worker and two healthcare officers also serve in the rehabilitation section. The custodial staff who serve in the section are only responsible for security, while healthcare and special care services are provided by specialist and qualified staff.

Moreover, various training and social projects have been implemented in respect of the staff serving at the section. A recreational garden has been created for the use of the staff, where they are able to rest and engage in sports activities. The staff is also trained on “Suicide and Crisis Management” and “Method of approach toward prisoners with psychotic disorders those who are unable to care for themselves”.

The treatment and rehabilitation activities for the prisoners in the rehabilitation section of the prison are continuing with supplementary new projects and further improvements.

**- detailed information about the implementation of the new legal provision referred to in paragraph 97 concerning postponement of the execution of a prison sentence on the grounds of serious illness or disability (paragraph 97).**

As previous legal provisions concerning suspension of the execution of sentences of prisoners who need special care due to severe and permanent illness were regarded to be insufficient, the Code of Criminal Procedure and the LESSM were amended on 31 January 2013. A new paragraph was added to Article 16 of the LESSM, which reads:

“(6) The execution of the sentence of a convict, who is unable to maintain his/her life alone in prison conditions due to a severe illness or disability he/she has suffered, and who is deemed to pose no risks for public safety, may be postponed until recovery, in accordance with the provisions of paragraph 3.”

Thanks to the new provisions, the procedure and principles relating to how execution of sentences can be suspended on the grounds of the prisoner’s inability to maintain daily activities due to serious illness or disability have been facilitated in favour of the prisoner.

From the date when the new provision took effect to 5 March 2014, requests by 188 remand and sentenced inmates were accepted. The execution of their sentences was suspended and they were released. Requests by 784 prisoners were rejected as they were regarded ineligible. Applications by 261 prisoners are under consideration.

### **Other issues**

#### **recommendations**

**- the Turkish authorities to amend the existing legislation concerning sentenced prisoners’ visits and telephone calls so as to ensure that prisoners sentenced to aggravated life imprisonment benefit from the same entitlements regarding contact with the outside world as other sentenced prisoners (paragraph 107).**

Visits and phone calls are regulated by the following legal provisions. Article 25 § 1 of the LESSM reads:

“e) In circumstances where it is considered appropriate by the administrative committee of the establishment and once every fifteen days, the prisoner [serving an aggravated life sentence] may make a telephone call to the persons specified in paragraph (f) below for up to ten minutes.

f) The prisoner [serving an aggravated life sentence] may be visited by his spouse, descendants and ascendants, siblings and legal guardian for up to one hour per fifteen days, on the days and times and under the conditions determined in advance.”

The following provisions are contained in the Regulation on Visiting Prisoners, insofar as relevant:

#### “Visiting days and hours

Article 10. Visiting days and hours and the number of visitors received by a prisoner shall be determined by the management, taking into account the physical conditions and capacity of the establishment.

The duration of the visit shall not be set to be less than half an hour and more than one hour. The duration shall be counted from the time when the meeting has actually started.

Article 11. A prisoner serving an aggravated life sentence may only receive visits from his/her spouse, children, grandchildren, great-grandchildren, mother, father, grandmother, grandfather, great-grandfather, great-grandmother, siblings and legal guardian.

Article 12. Convicts serving aggravated life sentences shall be visited by the persons specified in Article 11 separately, on the days determined by the director of the establishment, in fifteen-day intervals and during a maximum period of one hour per day.”

The following provisions were contained in the CoE Committee of Ministers’ Recommendation Rec(2006)2 to member states on the European Prison Rules:

“24.1 Prisoners shall be allowed to communicate as often as possible by letter, telephone or other forms of communication with their families, other persons and representatives of outside organizations and to receive visits from these persons.

...

24.4 The arrangements for visits shall be such as to allow prisoners to maintain and develop family relationships in as normal a manner as possible.”

The regime relating to visits and phone conversations of prisoners sentenced to aggravated life imprisonment are organized in accordance with the recommendations quoted above.

Therefore, like other convicts, prisoners sentenced to aggravated life imprisonment are able to contact the outside world sufficiently, the only difference being a smaller number of eligible visitors and less frequent visit and phone conversation entitlements.

**- all prisoners to be able, as a rule, to receive short-term visits from their family members without physical separation; visits with a partition should be the exception and applied in individual cases where there is a clear security concern (paragraph 108).**

The legal provisions relating to how open and closed visits shall be made are laid down in Articles 7 to 13 of the Regulation on Visiting Prisoners. Accordingly, while physical contact is allowed between the prisoners and their visitors during open visits, closed visits are held in a specifically designated room, where every physical contact between prisoners and visitors is prevented and conversations are overseen by an official who is present in the room.

In practice, three closed visits and one open visit are allowed. Although more open visits are aimed, the physical capacity of prisons, the problem of overcrowding and insufficient staffing levels pose difficulties in achieving this goal. Moreover, owing to the amendments relating to rewarding prisoners, prisoners with good conduct are rewarded with open visits and the open visit practice is generalized this way.

**- the relevant provisions of the Law on the Execution of Sentences and Security Measures regarding solitary/room confinement be revised, in the light of the remarks in paragraph 110 (paragraph 110).**

Provisions relating to solitary confinement as a disciplinary sanction are laid down in Article 44 of the LESSM, including which acts will result in such a penalty. The sanction can be imposed for a maximum period of 20 days, during which the convict is not prevented from meeting official and competent authorities and his/her lawyer. Prisoners in solitary confinement cannot participate in group activities. They are allowed to take part in all such activities once the sanction ends.

**- steps to be taken to ensure that disciplinary punishment of prisoners does not include a total prohibition on family contacts and that any restrictions on family contacts as a form of punishment are applied only when the offence relates to such contacts (paragraph 111).**

The provisions of the LESSM relating to restriction of communications are cited below:

“Deprivation or restriction of access to communication means

Article 42.

(1) The penalty of deprivation or restriction of access to communication means is completely or partly depriving the convict, for one month to three months, of receiving and sending letters, fax messages and telegrams, watching television, listening to the radio, making telephone calls and using other communication means.

...

(4) The provisions of this Article shall not apply to relations with the lawyer and to the necessary correspondence in the event of the death or grave illness of the mother, father, spouse, child or sibling or in cases of natural disaster.

Deprivation of receiving visitors

Article 43.

(1) The penalty of deprivation of accepting visitors is not allowing the convict to receive visits for one month to three months.

...

(3) The provisions of this Article shall not apply to meetings with official and competent authorities or with lawyers and legal representatives.”

The practice in question is in accordance with the applicable provisions. These penalties do not ban communications completely. No restrictions are imposed on communication in compelling circumstances or with legal representatives. Nevertheless, the recommendation will be taken into account during future legislative works.

**- the Turkish authorities to review the procedure for placement in disciplinary confinement in order to ensure that the prisoners concerned are accorded the right to be heard by the disciplinary board. They should also have the right to call witnesses on their own behalf and to cross-examine evidence given against them (paragraph 112).**

The procedure and principles relating to disciplinary investigations are laid down in Article 47 of the LESSM, according to which the prisoner concerned can submit his/her defense orally or in writing and the defense submitted is recorded. The assistance of a translator is provided for those who cannot speak Turkish and for the deaf and mute. Disciplinary penalties are not imposed without taking defense statements.

As per Article 48 § 3 (a) of the LESSM, placement in solitary confinement as a disciplinary sanction begins with the approval of the prison enforcement judge. This circumstance constitutes an important safeguard for prisoners. There are cases when these penalties are not approved by the judge and therefore not executed. Nevertheless, the recommendation will be taken into account during future legislative works.

**- the role of health-care staff in relation to disciplinary matters to be reviewed, in the light of the remarks in paragraph 113. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the CPT in its 21st General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28) (paragraph 113).**

The composition of disciplinary boards is laid down in Article 36 of the Rule on the Administration of Prisons, Execution of Sentences and Security Measures:

“1. The disciplinary board shall be presided by the director of the establishment and include the administrative officer, one representative to be chosen by the director from each profession serving in the psychosocial assistance service, the teacher, the chief of the workshop and the chief custody officer in charge.

2. In case all officials specified in paragraph (1) are not present in the establishment, the board shall be composed of those present.”

As stated above, health-care staff are not in charge or power in the disciplinary board.

**- the material conditions of the disciplinary/observation cells at Gaziantep and Şanhurfa E-type Prisons to be reviewed, in the light of the remarks in the third subparagraph of paragraph 114 (paragraph 114).**

Maintenance works of the disciplinary/observation rooms are carried out regularly and any shortcomings are rectified. The recommendation will be taken into consideration in taking further steps. Moreover, a fire suppression system was installed to protect the facility from fires.

**- the existing arrangements to be reviewed in all prisons in order to ensure that inmates are able to contact competent outside bodies on a confidential basis (paragraph 120).**

As per Article 68 § 4 of the LESSM, letters, faxes and telegrams sent by prisoners to competent bodies or to defense lawyers are not subject to monitoring. Moreover, monitoring boards which are composed of civilian members visit inmates regularly, and the inmates are able to speak with board members and convey their problems. Complaints boxes are another way by which inmates are able to communicate their complaints.

**- complaints boxes to be installed in every prison establishment, with access restricted to authorised personnel (paragraph 121).**

Article 3 of “Other Provisions” of the Circular no. 45/1 on the Allocation of Penitentiary Institutions, Transfer Procedures and Other Provisions dated 22 January 2007 by the Ministry

of Justice, General Directorate of Prisons and Detention Centers reads: “Complaints boxes shall be set up in the appropriate spots of the establishment to enable convicts and detainees to submit their requests and complaints to the relevant authorities. The boxes shall be opened by the chief custody officer and the petitions or envelopes shall be delivered to the highest-ranking officer without prior examination”.

Adequate number of complaints boxes have been installed in prison establishments in accordance with the above provisions.

#### **comments**

**- the register for recording placements in observation rooms at Sincan Juvenile Prison should contain more details, in particular the reasons for the measure, the precise location where the prisoner subject to segregation is being accommodated and the time of the daily checks by health-care staff (paragraph 117).**

The register for placements in observation rooms at Sincan Juvenile Prison; particularly reason for the measure, the room in which the prisoner has been placed and reports of daily checks by the healthcare staff, are kept in separate files and stored close to the observation rooms.

#### **requests for information**

**- detailed information on the in-service training received by prison officers (paragraph 103).**

In-service training is provided for staff serving at all levels in prison establishments. Training programs include the following topics: Human Rights, Turkish Sentence Execution System, European Prison Rules and International Law, Crime and Culpability, Communication, Code of Ethics, Being a Positive Social Model, Prison Management, Personnel Laws, Negative Effects of Emotions and Fighting Stress, Prison Security, Prisoner Psychology, Anger and Anger Management, Problem Solving Skills and Teamwork, etc.

In-service trainings are provided in the form of courses and seminars aimed at raising the knowledge and skills of the staff serving at all levels in the establishments and preparing them to higher positions.

In 2013, a total of 9943 prison officers attended in-service training seminars at the training centers for prison staff. Moreover, a total of 1042 officers attended the in-service training seminar on human rights delivered by Justice Commissions.

For 2014, in-service training seminars are planned for 11,902 officers serving in prisons at all levels.

Furthermore, within the framework of training programs for the staff of military prisons and detention centers and in accordance with the protocol signed between the Ministry of National Defence and the Ministry of Justice in 2007, in-service trainings are provided at the Ankara

Training Center of the Ministry of Justice. In this context, a total of 406 officials serving in military prisons and detention centers have attended the trainings and courses.

**- detailed information about any written policy on the functioning of rapid intervention teams and any specific training received by members of these teams (paragraph 104).**

Rapid intervention teams in prisons are composed of the chief custody officer and other custody officers. These officers are in charge of taking the inmates to hospitals, courts, their visitors (relatives or lawyer), the infirmary, and to the areas for training, social or cultural activities and back to their accommodation units. Moreover, they intervene in cases such as natural disasters, fires, riots, revolts, dormitory fights.

The staff who are in charge of these duties are specially trained in training centers or receive subsequent in-service seminars relevant to their duties. As a latest example, the rapid intervention team of İzmir Juvenile and Youth Closed Prison received fire intervention training from İzmir Greater Municipality fire department.

The staff mentioned above serve these duties pursuant to the relevant provisions of the LESSM and the Rule on the Administration of Prisons, Execution of Sentences and Security Measures.

**- confirmation that all prisoners placed in disciplinary/observation cells at Gaziantep and Şanlıurfa E-type Prisons are now able to benefit from at least one hour of outdoor exercise every day (paragraph 116).**

All prisoners placed in disciplinary/observation cells at Gaziantep and Şanlıurfa E-type Prisons are taken to outdoor exercise for at least one hour per day, failing of which constitutes an offense on the part of the staff concerned.

**- the observations of the Turkish authorities on the fact that visits by the relevant prison monitoring boards to several of the prisons visited by the CPT's delegation (such as those in Gaziantep, Sincan and Şanlıurfa) were not carried out as frequently as is required by law (paragraph 122).**

Article 7 § 5 of the Law on Prison and Detention Center Monitoring Boards provides:

“The monitoring board may visit the relevant prison or detention center whenever it deems necessary, which shall not be less frequent than once every two months.”

As per the provisions above, it is monitoring boards' legal obligation to visit the establishments at least once every two months. In case any shortcomings are identified on this matter, the relevant board is warned via the chief public prosecutor's office.

### **Other establishments**

#### **recommendations**

**- immediate steps to be taken to ensure that the waiting cells of the Diyarbakır Court House are maintained in a satisfactory state of repair and hygiene (paragraph 123).**



Immediate steps have been taken to bring the waiting cells at the Diyarbakır Court House to a healthy state. Repair works are to be completed shortly.