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Preliminary observations

**made by the delegation of the European Committee
for the Prevention of Torture and Inhuman or
Degrading Treatment or Punishment (CPT)
which visited Turkey
in December 2000 and January 2001**

The Turkish authorities have requested the publication of these preliminary observations.

Strasbourg, 16 March 2001

Press Release

Hunger strikes and prison interventions in Turkey: Publication of observations by Council of Europe Anti-Torture Committee delegation

STRASBOURG, 16.03.2001 - The Turkish authorities have requested the publication of preliminary observations made by the delegation of the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) which visited Turkey in December 2000 and January 2001.

Under Article 11 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the information gathered by the CPT in relation to a visit, its report and its consultations with the State concerned are confidential. However, the State may decide to lift the rule of confidentiality provided for in the Convention.

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A considerable number of prisoners in Turkey have recently been on hunger strike, in a campaign of protest centred on the F-type prison project. That project forms part of the Turkish authorities' plans to introduce smaller living units for prisoners, in the framework of Turkish prison reform. Following a request from the Turkish authorities, a delegation of the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) arrived in Turkey on 10 December 2000, in order to contribute to efforts under way aimed at finding a solution capable of bringing the hunger strikes to an end. The CPT's delegation interrupted its visit on 16 December 2000, as it was not able at that juncture to identify a means of ending the hunger strikes.

On 19 December 2000, security forces intervened simultaneously in twenty prisons where hunger strikes were taking place. In the course of that operation, which ended on 22 December 2000, 32 persons died and a large number of persons were injured. More than 1000 prisoners were transferred to other establishments and, in particular, to three F-type prisons brought into service ahead of schedule. Notwithstanding the interventions, many of the prisoners concerned remained on hunger strike. In the light of these developments, and having regard also to the wish expressed by the Turkish authorities that the CPT resume the visit, the CPT's delegation returned to Turkey and continued its visit from 10 to 15 January 2001.

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

In accordance with usual CPT practice, the delegation forwarded preliminary observations to the Turkish authorities shortly after its visit. It is those observations which are now being published; they are set out in a 5 page letter, dated 29 January 2001, appended to this press release. The CPT will in due course draw up a full report on the facts found during the visit.

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The CPT was set up under the 1987 European Convention for the prevention of torture and inhuman or degrading treatment or punishment. 41 of the 43 member States of the Council of Europe are bound by the Convention: Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, "the Former Yugoslav Republic of Macedonia", Turkey, Ukraine and the United Kingdom.

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

APPENDIX

**Letter from the President of the CPT to Mr H. Kemal Gür,
Deputy Director General for the Council of Europe and Human Rights,
Ministry of Foreign Affairs, Ankara, Turkey**

Strasbourg, 29 January 2001

Dear Deputy Director General,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

^(*) In accordance with Article 11, paragraph 3, of the Convention, the prisoners' names have been deleted from the published version of the preliminary observations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

Yours faithfully,

Silvia CASALE
President of the CPT