



CPT/Inf (2001) 1 part 2

**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 19 to 23 August 1996**

The Turkish Government has agreed to the publication of this response. The report of the CPT on its August 1996 visit to Turkey is set out in document CPT/Inf (2001) 1 part 1.

Strasbourg, 1 March 2001

MINISTRY OF FOREIGN AFFAIRS

Ankara, 30 September 1997

Dear President,

A delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment visited Turkey from 19 to 23 August 1996, at the invitation of my government, in connection with the hunger strikes held last year in some Turkish prisons. The report on this visit, adopted by the Committee on 11 March 1997, has been examined by the Turkish authorities concerned and the requisite investigations have been conducted and measures taken with regard to the observations and recommendations made in the report.

I have the honour to submit herewith the Turkish Government's report in reply. The report demonstrates the government's determination to protect and strengthen human rights in keeping with the conventions to which it is party. I likewise believe that the visit carried out in August 1996 at our invitation proves our desire to maintain an atmosphere of constructive co-operation and dialogue with the Committee in improving the situation of persons deprived of their liberty. As you observed in your statement to the Deputies on 10 September 1996, in inviting a delegation of the Committee on its own initiative, Turkey has set a precedent which could serve as an example to other countries.

In the delegation's report we have taken note of the on-the-spot findings concerning the positive aspects of conditions in Eskişehir Prison and the realistic observations to the effect that the dormitory system reinforces criminal organisations' internal solidarity.

My government is aware of the problems and shortcomings in prisons, which are rooted in complex and deep-seated economic, sociological, cultural and psychological factors; in order to overcome them, as will be clear from the appended report, it is mustering Turkey's resources, however limited these may be, and taking the necessary administrative steps to revitalise the prison system.

I take this opportunity of reiterating once more the importance we attach to co-operation with the Committee.

Yours faithfully,

Turhan FIRAT
Ambassador
Director General for the Council of Europe,
Human Rights and the OSCE

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1. Remand and Sentenced Prisoners' Guide
2. Prison Officers' Handbook
3. Act on the Establishment and Administration of Prison Workshops
4. Table of educational activities carried out in prisons in the past year

(*) The Appendices can be obtained upon request to the CPT's Secretariat.

I. Introduction

Istanbul, which has a population of 12 million and is now a huge conurbation, has only 7 prisons.

In July 1996, when the prison incidents which prompted Turkey's invitation to the Committee began, the number of remand and sentenced prisoners held for terrorist offences stood at 8,982; at the time a large proportion of these were in Istanbul Bayrampaşa Closed Prison, where the number of occupants per dormitory had risen to between 40 and 60.

As also indicated in the Committee's report, this degree of overcrowding in prison dormitories has many drawbacks. In fact, we agree with the Committee's comment that there is very little to be said in favour of the dormitory system.

As the Committee accurately observed in its report, it is a fact that especially in prisons where people are held for terrorist offences, the dormitory system largely serves terrorist organisations' purpose of strengthening their cadres and developing their strategies.

II. Drawbacks of the dormitory system

In some instances terrorist organisations set up central committees in prisons, plan numerous acts of violence from prisons, send out their instructions for these operations through couriers and even engage in military training in their dormitories.

In prisons accommodating a majority of terrorist offenders, the leaders of terrorist organisations ruling the dormitories:

- i. refuse the educational activities provided by the prison administration, and object to or even prevent work in the workshops and vocational training. Instead, they try to give newly arrived prisoners a form of education consonant with their own aims;
- ii. object to searches, counts and controls, reject the prison rules, try to apply their own rules and have even been known to issue death threats to prison officers;
- iii. find excuses to stir up riots, vandalise the buildings and equipment and threaten prison officers;
- iv. brand as "traitors" those who wish to leave the dormitories over which they rule for a neutral dormitory, those who hire a lawyer without the leaders' consent, those who communicate with their families and the administration and those who wish to confess under the repentance law; they subject these persons to punishments such as refusing to let them have outdoor exercise, keeping them standing, confining them to bed, preventing them from seeing their families, preventing them from appearing in court, impeding their correspondence, preventing them from having free access to a doctor, extorting money from their families, threatening to kill them and strangling them or stabbing them to death.

It is clear that the dormitory system has a wide range of drawbacks which sometimes cause very serious problems. With a view to finding a remedy, it was decided, rather than dispersing the inmates from this type of prison to other prisons, not to admit new prisoners into these prisons in order to gradually reduce the number of prisoners.

III. The hunger strike at Bayrampaşa Prison in July 1996

Steps were accordingly taken to cease placing prisoners remanded on terrorist charges in Bayrampaşa Prison, which accommodates a large number of terrorist offenders and displays all the adverse features listed above. Instead it was decided to give preference to Kocaeli, Sakarya and Eskişehir prisons, which are in the vicinity of Istanbul and have the required capacity.

This was not done, as was claimed, to keep prisoners remanded on terrorist charges away from their trial court location and thus prevent them from attending hearings or restrict their right to defend themselves, but on the contrary to do away with the drawbacks observed in Bayrampaşa Prison so as to break the influence of criminal organisations and ensure the life safety of remand and sentenced prisoners.

Realising that the new arrangements would undermine the system they had set up in prison, the terrorist organisations ordered the start of a hunger strike in pursuit of their demand for remand prisoners to continue to be placed in Bayrampaşa Prison. It is also known that some remand prisoners were forced to go on hunger strike.

Twelve prisoners lost their lives as a result of the hunger strike. During the strike they were prevented by prisoners from seeing their families, the prison administration and the press. It has been established from court judgments, the families' statements and press interviews of some sentenced prisoners who witnessed the events of that period and were later released that a large proportion of the hunger strikers were chosen from among those branded "traitors" because they had made confessions concerning the terrorist organisations to which they belonged.

IV. Measures taken

At present prisoners remanded on terrorist charges are not being placed in Eskişehir and Kocaeli prisons. Remand prisoners charged with offences relating to terrorism who are on trial in Istanbul courts are being held in Gebze and Sakarya prisons. Gebze is 50 km and Sakarya 150 km from Istanbul. No problems are encountered in transporting prisoners to and from court hearings.

The 500-person capacity of Kartal Closed Prison, now under construction on the Asian side of the Bosphorus in Istanbul, will soon be brought into service.

It is also planned to build 11 more prisons based on small living units (1-3 persons) for prisoners remanded in custody or sentenced for terrorist offences.

These prisons will be in Ankara, Istanbul, Izmir, Diyarbakır, Denizli, Adana, Erzincan, Van, Yozgat, Edirne and Osmaniye. In addition, alterations have been made to Afyon, Samsun and Niğde closed prisons, parts of which have been converted to the small living unit system. The same alterations are being made to 30 other closed prisons, and work will start on converting 38 more prisons to the small living unit system when the funds become available. Alterations have started on Eskişehir Special Type Prison to convert it entirely to this system. Every effort is thus being made, to the extent permitted by Turkey's resources, both to place remand prisoners in prisons relatively near their trial courts and to remove the risks attendant on the dormitory system.

Alongside the widespread introduction of the system of rooms for 1-3 persons, the necessary efforts are being made to ensure that prisoners spend a reasonable part of the day performing useful activities outside their living units. In the prisons currently being built on the basis of small living units, multipurpose educational and sporting facilities are being provided and steps will be taken to ensure that prisoners engage in these activities at specified times outside their living units.

The allegations that remand and sentenced prisoners are ill-treated during transfers are untrue, but it is a fact that in cases where remand prisoners insult and swear at security officers or behave in a disruptive manner during transfers, undesirable incidents have very occasionally occurred between prisoners and officers. Incidents of this type are the subject of an inquiry under the relevant provisions of the Turkish Criminal Code with respect to both the prisoners' behaviour and the officers' misuse of authority.

As indicated in the circular of 9 July 1996, the utmost care is taken to observe the rule that measures taken during transfers must not exceed those taken to prevent escape. These generally involve taking delivery of the prisoners, handcuffing them, placing them in the transfer vehicle, ensuring that they sit down in the vehicle, supervising them, maintaining security, meeting their needs during transfer, preventing them from engaging in physical conflict among themselves, catching those who try to escape and restoring them to their previous position, handing them over to the receiving institution and/or bringing them back, and avoiding physical contact during transfer except where it is obligatory.

In order to speed up trials and ensure that remand prisoners are safely transported to the courts, 18 new vehicles have been bought and distributed to prisons. By the end of 1997 a total of 195 transfer vehicles and ambulances will have been purchased for remand and sentenced prisoners' transfers and journeys to and from hospital.

Steps are being taken to form mobile search teams which will conduct searches for the purpose of securing order and discipline in prisons, and also, for the same purpose, to set up teams of examining judges from the Ministry of Justice who will carry out prison inspections at frequent intervals.

In order to be able to suppress disturbances in prisons such as hunger strikes, hostage-taking, arson, sabotage, tunnelling, riots and rebellions without loss of life, the Ministry of Justice and the Ministry of the Interior are working on the question of setting up well-trained emergency intervention teams.

V. Eskişehir Special Type Prison

a. Allegations of torture and other forms of ill-treatment

We cannot agree with the assumption stated in the report that despite the lack of medical evidence in support of the allegations of ill-treatment, the volume and consistency of the allegations lend them credibility. Rather than making assumptions, it will be advisable to take account of the administrative and judicial steps taken when concrete incidents occur.

For example, a prison governor, two senior prison officers and four prison officers are alleged to have ill-treated prisoners; under indictment no 1996/1662 drawn up by the Eskişehir Chief Public Prosecutor on 18 June 1996, a public prosecution has been brought against them before the 2nd Criminal Court and is pending under no 1996/474.

It is a rule that all allegations of ill-treatment are the subject of an inquiry. The incident in which H. S., one of the prisoners in Block M of the prison, injured himself by striking his head against the washbasin has also been investigated; it emerged that he had no complaint to make against anyone in connection with this action of his. Given the statement in the Committee's report that the accounts of the incident diverged, we consider the phrase "much more force than was reasonably necessary might have been used against the prisoner" to be inappropriate with regard to this incident.

b. Tension among prisoners and between prisoners and prison staff

Given the drawbacks of the dormitory system as indicated above, criminal organisations are able to subject both prisoners and prison staff to pressure and violence. It is known that, as lawyers only go through metal detectors and that neither their briefcases are examined nor they are subjected to a pat-down search, prohibited objects and some documents used for indoctrination purposes are introduced into the prison by some lawyers who are sympathisers or even members of terrorist organisations. This in itself causes tension and disruption both in relations between prisoners and in relations between prison staff and prisoners.

Ordinary offenders are also able to introduce various forbidden objects into prisons by illegal means. It is quite difficult to overcome this problem under the dormitory system, and for this reason action plans to counter interprisoner violence sometimes fail.

Constant efforts are being made to reduce tension in prisons and improve relations between prison staff and prisoners, and the requisite administrative measures are being taken for the purpose.

- Prison governors and deputy governors attend courses at the Ministry of Justice at specified times each year, where they receive human rights training. Prison governors regularly inform their subordinates about human rights. This year all the staff of Eskişehir Prison have been requested by public prosecutors and judges to attend meetings where they were warned that ill-treatment was an offence under Turkish law, was unacceptable and would be resolutely suppressed. The handbook used by prison officers in the performance of their duties is appended.

Steps are also being taken to set up regional training centres for the initial and in-service training of prison staff.

- The necessary attention is taken to ensure that newly arrived prisoners and those placed in the prison's segregation units are not subjected to ill-treatment. On arrival, each prisoner is accordingly given a copy of the appended booklet setting out the prison rules and prisoners' rights.
- The prison governor is supported by the public prosecutor's office in his efforts to prevent ill-treatment. As ill-treatment is an offence requiring ex officio investigation under Turkish legislation, if the prison governor, the victim or a third party notifies the public prosecutor of an instance of ill-treatment, the latter immediately opens an inquiry.
- Pending the entry into service of prisons based on small living units, interprisoner violence is being dealt with by every available means. The arrangements made for the purpose involve ensuring that prisoners hostile to each other are not placed in the same dormitory or are transferred to other prisons where necessary, and that those who have committed offences which arouse indignation in the community are accommodated in separate areas.

c. Conditions of detention

Material conditions

Improving material conditions in some prisons and building prisons based on small living units for dangerous criminals and terrorist offenders requires a substantial financial outlay.

Act No 4301 on the Establishment and Administration of Prison Workshops, adopted by the Turkish Parliament on 6 August 1997, will go a long way towards solving the financial problem because it provides for 25 % of court and notaries' levy charges to be allocated to prisons. A copy of the Act, which has been published in the Official Gazette and come into force, is appended.

In line with the recommendations made in the report on material conditions at Eskişehir Prison, the windowless cells in the segregation units in Blocks H and M have been withdrawn from service.

Segregation cells normally have a window, bed, table and chair. However, the cells without a table or chair are used for prisoners likely to cause injury to themselves or others.

Prisons with a water supply problem have now been allocated sufficient funds for work to start on digging artesian wells. Now that the above-mentioned Act has come into force, the funds required to solve the water supply and related hygiene problems will be secured.

Activities for prisoners

Under our penal execution system, prisoners who maintain good behaviour throughout a specified part of their sentence in a closed prison are sent to an open prison. All open prisons have various workshops, while some of the closed prisons have workshops and others have small workshops. Closed prisons also offer vocational training courses, literacy and primary courses, sports activities and social and cultural events on a regular basis. However, in prisons accommodating terrorist offenders, these prisoners refuse to work and also destroy the machines and equipment. Some restrictions have therefore been placed on the number and nature of the workshops in those prisons. It has been decided to drop workshops containing sophisticated machinery that also serves to manufacture perforating and cutting instruments, and to opt for workshops where simpler tasks can be performed. As these prisoners also obstruct educational activities, educational programmes can only be arranged on request.

Under our penal execution system greater importance is attached to educating prisoners than to making them work. A third of remand and sentenced prisoners take part in these educational activities. Those who are good with their hands are supplied with the necessary materials by the prison administration. A table of the results of the educational activities provided over the past year is appended.

Work on converting Eskişehir Prison to the small living unit system is in progress, and new arrangements will be made to allow remand and sentenced prisoners to engage in useful activities. The prison administration has been advised that prisoners should be allowed to use the prison's football pitch. The Eskişehir Chief Public Prosecutor's Office is looking into the possibility of setting up a library in the prison.

The prisoners in Block F indicated in the Committee's report as having established a privileged living environment with the use of their wealth have been transferred to other prisons. The Eskişehir Chief Public Prosecutor has been notified of the matter in writing.

d. Health-care services

A doctor is on duty in each prison between 9 am and 5.30 pm, with two doctors on duty in crowded prisons. They are assisted by a health officer and two prison officers. At night and at weekends prison officers with first aid training are on duty.

The state hospitals in each province have a ward for prisoners.

There is no difficulty in obtaining medicine; an agreement is generally reached with the pharmacies closest to the prison and the need is met in this way. Some drugs are also available in limited quantities in prison infirmaries.

The methods used for health care provision in prison are determined by Articles 37, 38, 39, 40, 41, 98, 224, 227 and 228 of the Regulation on Administration of Penal Institutions and Detention Houses and Execution of Sentences.

Prisoners' visits to the doctor are subject to the prison administration's approval. This rule is not applied in emergencies. In principle the prison governor is not empowered to refuse requests to consult the doctor. The purpose of this procedure, which is based on experience, is to prevent prisoners from deliberately keeping the doctor occupied without good reason and thus reducing real patients' chances of seeing the doctor and receiving treatment.

With a view to remedying the medical shortcomings noted in the Committee's report on Eskişehir Prison and setting up infirmary archives with a new medical file for each prisoner, the Ministry of Justice has issued instructions and transferred the necessary funds to the Eskişehir Chief Public Prosecutor's Office.

e. Contact with the outside world

Under present arrangements there are no restrictions on lawyers' visits in terms of either frequency or duration. However, if the lawyers' visiting room is full, hitches may occur in this respect from time to time. The absence of restrictions on the duration of lawyers' visits is also one of the reasons why the visits facility is in constant use. The additional capacity provided by the new prisons now being built will alleviate these problems.

During lawyers' visits no members of the prison staff are in the room.

Under Section 13 of the Law on Combatting Terrorism (No 3713), prisoners remanded in custody or sentenced for terrorist offences are not entitled to open visits. Visiting arrangements in our prison are determined by Articles 152, 153, 154 and 155 of the Regulation on Administration of Penal Institutions and Detention Houses and Execution of Sentences, which provide that closed visits are the rule. Open visits are exceptional. In practice, however, prisoners remanded in custody or sentenced for offences under Law No 3713 have been given the right to one open visit a month from their spouses and children only.

As cabin-type closed visiting facilities are used for prisoners remanded in custody or sentenced for both terrorist and other offences, there are, on security grounds, no plans to alter their physical structure. They are designed for a prisoner to receive one visitor but do not in principle hamper prisoners' relations with their families. However, as people usually come on visits in large groups, 4 or 5 people enter the booth at the same time, at the insistence of the prisoners and their relatives, and this of course creates a seating problem.

As Eskişehir Prison is located outside the town, the frequency of municipal bus journeys from the town centre to the prison has been increased on visiting days.

It is naturally ideal, in the interests of their social rehabilitation, for prisoners to serve their sentences in the region where they have family and social ties. The decision-makers and executants in charge of the Turkish penal enforcement system are aware of this point. Attention is paid to it to the extent permitted by prison capacity.

f. Other issues

Despite the recommendation in the Committee's report that prisoners given the disciplinary sanction of solitary confinement be allowed at least one hour of outdoor exercise every day, this is not possible at present both because of the legislation and because of the physical structure of the cells. It is believed that a solution to this problem along the lines recommended will be found when the prisons currently being built on the basis of small living units, or being converted to that system, are brought into service. In those prisons, cells approximately 10 m² in area giving onto a special outdoor exercise area are being built for prisoners given the disciplinary sanction of solitary confinement. Prisoners will then be able to go out into the open air when they wish.

The keys of the complaint boxes placed in the prison are in the possession of the Chief Public Prosecutor, who opens the boxes. The letters are sent directly, unopened, to the Ministry of Justice; they are opened and assessed by a "Complaints Board Unit" set up in the Ministry's General Directorate of Prisons and Detention Houses, composed of a judge, a prison governor and two civil servants.

In the year since the system was introduced, the Ministry has received 1,467 letters. The great majority of these do not contain practical complaints calling for measures to deal with prison conditions, but are of a general nature and relate the prisoners' personal thoughts, their family problems and the persons or circumstances that caused them to be imprisoned. Some of the letters also contain insults and threats to the Ministry's senior officials and staff.

The Ministry of Justice considers that so far the complaints system has not yielded the result desired. The view is gaining ground that the letters should not be sent to the Ministry but opened by the local chief public prosecutors' offices, which would take the appropriate action. The matter is still under consideration.
