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## **Report**

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

**from 10 to 23 May 2017**

The Turkish Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2020) 23.

Strasbourg, 5 August 2020

**CONTENTS**

<b>Executive summary.....</b>	<b>4</b>
<b>I. INTRODUCTION .....</b>	<b>8</b>
<b>A. The visit, the report and follow-up.....</b>	<b>8</b>
<b>B. Consultations held by the delegation and co-operation .....</b>	<b>9</b>
<b>C. Monitoring of places of deprivation of liberty .....</b>	<b>10</b>
<b>II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED.....</b>	<b>11</b>
<b>A. Police custody.....</b>	<b>11</b>
1. Preliminary remarks .....	11
2. Ill-treatment.....	11
3. Fundamental safeguards against ill-treatment.....	15
4. Conditions of detention .....	18
<b>B. Foreign nationals detained under aliens legislation .....</b>	<b>21</b>
1. General remarks .....	21
2. Ill-treatment.....	26
3. Conditions of detention in removal centres .....	27
a. material conditions.....	27
b. regime .....	29
4. Detention of minors.....	31
5. Holding facilities for foreign nationals in the transit zone of Istanbul Atatürk Airport .	32
6. Health care .....	34
7. Other issues .....	37
a. legal safeguards .....	37
b. contact with the outside world.....	40
c. security-related issues .....	41
<b>C. Prisons.....</b>	<b>43</b>
1. Preliminary remarks .....	43
2. Ill-treatment.....	47
3. Conditions of detention of adult prisoners .....	47

a.	material conditions.....	47
b.	regime .....	50
4.	Conditions of detention of juvenile remand prisoners .....	51
5.	Situation of prisoners held in R-type prisons .....	52
6.	Health-care services in the other prisons visited.....	56
7.	Other issues .....	61
a.	contact with the outside world.....	61
b.	discipline.....	63
c.	complaints procedures .....	65

**APPENDIX I:**

<b>List of the establishments visited by the CPT's delegation.....</b>	<b>67</b>
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**APPENDIX II:**

<b>List of the national authorities and organisations     with which the CPT's delegation held consultations .....</b>	<b>68</b>
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## EXECUTIVE SUMMARY

The main objective of the visit was to review the measures taken by the Turkish authorities to implement the recommendations made by the Committee after previous visits. In this context, particular attention was paid to the treatment and conditions of detention of persons in police custody and foreign nationals detained under aliens legislation, as well as to the situation in various prisons in different parts of the country. In addition, the delegation visited for the first time two specialised (R-type) prisons for prisoners suffering from chronic somatic and/or mental illnesses.

The co-operation received by the delegation throughout the visit was generally very good at all levels.

### *Police custody*

The delegation received a considerable number of allegations from detained persons (including women and juveniles) of recent physical ill-treatment by police and gendarmerie officers, in particular in the Istanbul area and in south-eastern Turkey. Most of these allegations concerned excessive use of force at the time of apprehension. In addition, many detained persons claimed that they had been physically ill-treated inside law enforcement establishments, with a view to extracting a confession or obtaining information or as a punishment. Some detained persons alleged that electric shocks had been inflicted upon them by police officers with body-contact shock devices. In the CPT's view, in a number of cases, the alleged ill-treatment was of such severity that it could be considered as amounting to torture. Further, many accounts were received, in particular from detained women, that they had been subjected to psychological ill-treatment (such as threats of beatings, rape or death) and/or severe verbal abuse (often of an explicit sexual nature). The CPT recommends that a clear and firm message that all forms of ill-treatment of detained persons are illegal and will be punished accordingly be delivered to all law enforcement officials from the highest political level, namely the President of the Republic.

As regards the fundamental safeguards against ill-treatment (i.e. the right of notification of custody and the rights of access to a lawyer and doctor), most detained persons interviewed by the delegation indicated that a relative or another trusted person was notified shortly after their apprehension and that they had access to a lawyer whilst in police custody. That said, the CPT expresses its concern about the existence of legal restrictions regarding access to a lawyer during the initial phase of police custody (up to 24 hours). Many detained persons claimed that they had been subjected to informal questioning by law enforcement officials about the suspected offence without the presence of a lawyer, prior to the taking of a formal statement (in the presence of a lawyer). Further, the entire system of routine medical controls at the beginning and at the end of police custody appeared to be fundamentally flawed, since law enforcement officials were usually present during such controls and these controls were often carried out without any physical examination. Regrettably, the specific recommendations repeatedly made in this regard by the Committee after previous visits have not been implemented.

In most of the law enforcement establishments visited, material conditions of detention were on the whole adequate for short stays. However, nearly all of them suffered from major structural deficiencies and were thus not suitable for periods of detention lasting longer than 24 hours. With a few exceptions, there was either no or only limited access to natural light in the cells of the detention facilities visited. Further, hardly any of the establishments visited were equipped with facilities to enable detained persons to take outdoor exercise. In some of the establishments visited, the situation was further exacerbated by the fact that detained persons were being held in severely overcrowded cells (e.g. up to four persons in a cell of 7 m<sup>2</sup>).

The CPT expresses concern that persons detained under the emergency legislation can be held under the above-mentioned conditions for up to 14 days, and the Committee recommends that the maximum period of police custody of 96 hours be re-introduced.

*Foreign nationals detained under aliens legislation*

The CPT acknowledges the particular challenges faced by the Turkish authorities and places on record their very considerable efforts to host the largest number of refugees worldwide. Further, the Committee welcomes the fact that, following the 2015 visit, several sub-standard detention facilities for immigration detainees have been withdrawn from service (in particular, the one at Ankara Police Headquarters as well as Istanbul-Kumkapı Removal Centre).

Most of the foreign nationals interviewed by the delegation spoke positively about the manner in which they were treated by staff. That said, the delegation received some allegations of physical ill-treatment and verbal abuse by custodial staff in several of the establishments visited.

Material conditions of detention were generally of a high standard at Izmir-Harmandalı Removal Centre and good at Istanbul-Binkılıç Removal Centre. However, they remained poor at Izmir-Işıkkent Removal Centre, and the CPT welcomes the fact that this establishment was closed down in July 2017.

The CPT expresses serious concern that the regime offered to immigration detainees has not improved since the 2015 visit. In fact, in all the establishments visited, most foreign nationals were subjected to a regime which was far more restrictive than that offered to prisoners in Turkish prisons. Most of the foreign nationals were locked in their rooms for most of the day and without being provided with any recreative activities. Moreover, despite the assurances given by the Turkish authorities in their response to the report on the 2015 visit, access to outdoor exercise appeared to be problematic at Izmir-Harmandalı and Işıkkent Removal Centres.

The CPT welcomes the policy decision of the DGMM to no longer hold unaccompanied minors in removal centres. However, at Izmir-Harmandalı and Izmir-Işıkkent Removal Centres, accompanied minors were being held with their mothers/parents for 23 hours or more per day inside the detention rooms, without being provided with reading material, toys or games. In the CPT's view, the conditions under which children were being held in the two above-mentioned removal centres for weeks or even months on end may have serious negative psychological consequences on their mental health and development and could be considered as inhuman and degrading treatment. The Committee recommends that the Turkish authorities carry out a thorough review of the situation of children in all removal centres, with a view to ensuring appropriate (health-) care and the provision of psychosocial and educational activities for children. To this end, specialised staff should be employed in every removal centre which accommodates families with children.

Material conditions in the two rooms of the holding facility for passengers declared inadmissible in the transit zone of Istanbul Atatürk Airport remained unchanged since the 2015 visit. Given their structural deficiencies (i.e. total lack of access to natural light and no possibility for outdoor exercise), the CPT recalls that these rooms are not suitable for holding persons for prolonged periods.

The CPT acknowledges the significant investments made by Turkish authorities to create within the transit zone of Istanbul Atatürk Airport a new holding facility for asylum-seekers, which is equipped with furnishings of a high standard. That said, it is highly regrettable that this facility does not provide for any access to natural light and that foreign nationals still do not have any access to outdoor exercise, despite the specific recommendations made by the CPT after previous visits. It is particularly worrying that foreign nationals – including families with children – continue to be held under such conditions sometimes for weeks or even months on end.

In all the removal centres visited, the delegation observed improvements since the 2015 visit in terms of health-care staffing levels, with a nurse being on duty around the clock and a doctor usually being present on workdays. However, the CPT is very concerned by the fact that hardly any of the specific recommendations made by the Committee in the report on the 2015 visit regarding the provision of health care in removal centres have been implemented in practice. In particular, it remained the case that no medical screening was usually carried out of newly-admitted foreign nationals, that no personal medical files were kept and that there was still a total lack of medical confidentiality. In addition, the provision of mental health care appeared to be insufficient.

The CPT also makes several specific recommendations regarding foreign nationals' contact with the outside world – in particular for those who have been classified as foreign terrorist fighters – and the use of security rooms (“padded rooms”) in removal centres.

### *Prisons*

The delegation carried out full visits to Siirt and Trabzon E-type Prisons and Istanbul-Metris and Izmir-Menemen R-type Prisons, as well as targeted visits to Batman M-type Prison, Diyarbakır D-type Prison and Diyarbakır E-type Prison where it mainly focused on the general conditions of detention and issues related to health care. It also went to Istanbul-Bakırköy Women's Prison and Istanbul-Metris T-type Prison No. 1, in order to interview persons who had recently been in police custody.

The CPT expresses concern not only about the exponential increase in the size of the country's prison population in recent years (approximately 221,000 compared to some 132,000 at the time of the CPT's last periodic visit in 2013 and some 56,000 in 2005) but also about its further increase in the coming years as predicted by the Turkish authorities. During consultations with the delegation, the Turkish authorities indicated a series of measures taken to tackle the problem of prison overcrowding, such as greater use of conditional release and judicial supervision and the introduction of community work as an alternative to imprisonment, as well as the further expansion of the country's prison estate (with 228 additional prisons being constructed by 2021).

Whilst acknowledging the above-mentioned measures, the CPT emphasises that constructing new prisons is not likely, in itself, to provide a lasting solution to the problem of overcrowding. The Committee calls upon the Turkish authorities to take concerted action to curb prison population inflation and to intensify their efforts to eradicate prison overcrowding, in the light of relevant recommendations of the Committee of Ministers of the Council of Europe and the detailed remarks made by the Committee in its visit report. Further, appropriate action should be taken vis-à-vis the prosecutorial and judicial authorities, including through training, to ensure their full understanding of – and support for – the policies being pursued, thereby avoiding unnecessary pre-trial custody and sentencing practices.

In the prisons visited, the delegation received hardly any allegations of recent physical ill-treatment of prisoners by staff. Most of the inmates interviewed by the delegation stated that they were treated by staff in a correct manner. Further, inter-prisoner violence did not appear to constitute a major problem in any of the establishments visited. That said, in several of the prisons visited, a number of accounts were heard of verbal abuse of prisoners by custodial officers.

At Batman M-type Prison and Diyarbakır, Siirt and Trabzon E-type Prisons in particular, many prisoners were being held under conditions of detention which could easily be considered as inhuman and degrading. These establishments were severely overcrowded (e.g. at Batman, dormitories measuring some 75 m<sup>2</sup> were accommodating up to 34 prisoners, and, at Trabzon, dormitories measuring some 40 m<sup>2</sup> were holding up to 32 inmates), and many dormitories were holding more prisoners than the number of beds available. As a result, prisoners often had to sleep on mattresses placed on the concrete floor, and some were even compelled to sleep in shifts, due to the lack of space for individual mattresses. Another negative consequence of overcrowding in the prisons visited was reduced communal activities provided to inmates. With the exception of a small number of prisoners working in the establishments' general services (kitchen, food distribution, etc.), as well as in workshops available in some of the prisons, hardly any purposeful out-of-cell activities were offered to inmates, apart from one-hour sports sessions which took place at best three times a month and a limited range of vocational courses. The CPT recommends that the Turkish authorities take urgent measures to address the problem of overcrowding, with a view to ensuring that dormitories offer at least 4 m<sup>2</sup> of living space per prisoner, and to improve substantially the regime of activities for all inmates, regardless of their legal status and criminal charges.

The CPT has gained a favourable impression of the very concept of R-type prisons, since they are likely to be effective in preventing inhuman detention conditions for inmates with special needs in ordinary prisons, as well as of the material conditions and the somatic care provided to inmates at Istanbul-Metris and Izmir-Menemen R-type Prisons. That said, the delegation observed significant delays in transferring seriously ill prisoners from ordinary prisons to an R-type prison, which resulted in a deterioration of the state of health of the persons concerned (e.g. bed sores, malnutrition, etc.). Further, the presence of psychiatrists was clearly insufficient in both R-type prisons visited.

As regards the health-care services in the other prisons visited, the CPT is very concerned by the severe shortage of doctors and nurses. This problem has become even more acute with the dramatic rise in the prison population over recent years. Further, the delegation once again observed major shortcomings regarding the medical screening of newly-arrived prisoners and the recording and reporting of injuries and the continued lack of respect for medical confidentiality, despite the specific recommendations repeatedly made by the Committee in previous visit reports.

In the report, remarks and recommendations are also made regarding various other issues, notably prisoners' contact with the outside world, discipline and complaints procedures.

## I. INTRODUCTION

### A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a periodic visit to Turkey from 10 to 23 May 2017.<sup>1</sup>

2. The main objective of the visit was to review the measures taken by the Turkish authorities to implement the recommendations made by the Committee after previous visits. In this context, particular attention was paid to the treatment and conditions of detention of persons in police custody and foreign nationals detained under aliens legislation, as well as to the situation in various prisons in different parts of the country. In addition, the delegation visited for the first time two specialised (R-type) prisons for inmates suffering from chronic somatic and/or mental illnesses.

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

- Wolfgang Heinz (Head of Delegation)
- Djordje Alempijević
- Julia Kozma
- Philippe Mary
- Therese Maria Rytter
- Hans Wolff.

They were supported by Michael Neurauter (Head of Division) and Elvin Aliyev of the CPT’s Secretariat and assisted by one expert, Timothy Harding, psychiatrist and former Director of the University Institute of Forensic Medicine in Geneva (Switzerland).

4. The visit report was adopted by the CPT at its 94<sup>th</sup> meeting, held from 6 to 10 November 2017, and transmitted to the Turkish authorities on 1 December 2017.

The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Turkish authorities to provide within six months a response containing a full account of action taken by them to implement the Committee’s recommendations and replies to the comments and requests for information formulated in this report.

As regards the recommendations in paragraph 93 of the report, the CPT requests that an account of action taken to implement them be provided within three months.

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<sup>1</sup> With the exception of the reports on the April and August/September 2016 visits, the reports on all previous visits to Turkey and related Government responses are available on the Committee’s website: <http://www.coe.int/en/web/cpt/turkey>

**B. Consultations held by the delegation and co-operation**

5. In the course of the visit, the delegation held consultations with Süleyman Soylu, Minister of the Interior, Bilal Uçar, Deputy Minister of Justice, Enis Yavuz Yıldırım, Director General of Prisons and Detention Centres, and Atilla Toros, Director General of Migration Management, as well as with senior officials from the Ministries of the Interior (including the General Command of the Gendarmerie), Justice and Foreign Affairs.

Further, the delegation met Yüksel Kocaman, Chief Public Prosecutor of Ankara, on the investigations into cases of possible ill-treatment of persons detained in connection with the July 2016 military coup attempt.

In addition, meetings were held with Şeref Malkoç, Chief Ombudsman, as well as with representatives of the Ankara Office of the United Nations High Commissioner for Refugees (UNHCR) and non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities and organisations with whom the delegation held consultations is set out in Appendix II.

6. The co-operation received by the delegation throughout the visit was generally very good at all levels. The delegation enjoyed rapid access to all the establishments visited (including those which had not been notified in advance). Further, with a few exceptions, it was promptly provided with all the information necessary for carrying out its task (in particular, names and location of detained persons, etc.) and was able to speak in private with all the persons it wished to interview.

The main exception concerned Binkılıç Removal Centre where the Director and the doctor initially categorically denied the occurrence of any violent incident involving staff, despite the fact that one such incident had happened just a few days before the delegation's visit. Subsequently, it became apparent that the incident had been recorded on CCTV cameras, that the foreign national concerned had been transferred to a hospital for medical treatment and that a preliminary criminal inquiry had been initiated on the day before the delegation's visit (for further details, see paragraph 38).

**The CPT trusts that the Turkish authorities will take appropriate measures to prevent any repetition of such occurrences in the future.**

7. The CPT wishes to express its appreciation for the assistance provided before and during the visit by its liaison officer, Yonca Gündüz Özçeri, Deputy Director General for the Council of Europe and Human Rights, from the Ministry of Foreign Affairs.

**C. Monitoring of places of deprivation of liberty**

8. With the entry into force on 20 April 2016 of Law No. 6701, the Human Rights Institution of Turkey, as designated National Preventive Mechanism (NPM) under the Optional Protocol to the United Nations Convention against Torture (OPCAT), was transformed into the Human Rights and Equality Institution of Turkey.

In this regard, it is highly regrettable that, following this re-structuring, the functions of the NPM had been suspended and that, at the time of the visit, the new body was still not operational. The delegation was informed that the members of the Board of the Human Rights and Equality Institution had been appointed but that, among other things, a further ancillary legal framework was needed in order to allow the new NPM to start carrying out visits to places of deprivation of liberty.

**The CPT recommends that the Turkish authorities take without further delay all necessary measures to render the new NPM fully operational. The Committee also trusts that care will be taken to ensure that the new NPM will meet, under any circumstances, the key requirements as laid down in the OPCAT and subsequently elaborated upon by the Subcommittee on the Prevention of Torture (SPT) in its Guidelines on national preventive mechanisms (independence, expertise and experience, resourcing issues, etc.).<sup>2</sup>**

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<sup>2</sup> See CAT/OP/12/5 dated 9 December 2010.

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

### A. Police custody

#### 1. Preliminary remarks

9. One of the main objectives of the visit was to review the treatment of persons deprived of their liberty by law enforcement agencies. For this purpose, the delegation visited many police and gendarmerie establishments in different parts of the country and interviewed a large number of remand prisoners who had been in police custody shortly before the visit (mainly in the Istanbul and Trabzon areas and in south-eastern Turkey).

10. The general legal framework governing the detention of persons who are suspected of having committed a criminal offence remains largely unchanged since the CPT's 2013 periodic visit. The maximum authorised period of police/gendarmerie custody is generally 24 hours, excluding the time required to bring the suspect before the nearest judge (which shall not exceed twelve hours).<sup>3</sup> The custody period can be extended to a maximum of 48 hours in the cases of certain offences specified by law (e.g. premeditated murder, theft, drug trafficking, terrorism-related offences, etc.), and to a maximum of four days as regards "collective" offences.<sup>4</sup>

The 24-hour time limit also applies to persons who have been deprived of their liberty for identification purposes.<sup>5</sup>

11. Following the military coup attempt of 15 July 2016, the Council of Ministers of Turkey declared a nationwide state of emergency as from 21 July 2016. On the same day, the Secretary General of the Council of Europe was notified in pursuance of Article 15 of the European Convention on Human Rights that measures taken may involve derogation from Turkey's obligations under the Convention. A series of executive decrees having the force of law (decree-laws) have since been issued. The state of emergency has been prolonged by Parliament on a three-monthly basis, most recently on 17 October 2017.

Decree-Law No. 667 (22 July 2016) extended the maximum duration of police custody for certain offences related to national security as well as for terrorism-related and "collective" offences to 30 days, during the period of the state of emergency. Decree-Law No. 684 (23 January 2017) has reduced the maximum duration of police custody for the aforementioned offences from 30 to 14 days. It provides that suspects can be detained by the police for a maximum of seven days as from the moment of apprehension; however, this period can be extended for up to seven days by the public prosecutor due to the difficulty in collecting evidence or the high number of suspects.<sup>6</sup>

Whilst acknowledging this reduction, **the CPT reiterates its recommendation that the Turkish authorities amend the existing emergency legislation, with a view to re-introducing the previous maximum period of police custody of 96 hours (for collective offences).**

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<sup>3</sup> Section 91 (1) of the Code of Criminal Procedure (CCP) and Section 13 of the 2005 Regulation on Apprehension, Detention and the Taking of Statements (hereinafter: "Detention Regulation").

<sup>4</sup> Section 91 (3) and (4) of the CCP and Section 14 of the Detention Regulation.

<sup>5</sup> Section 5 of the Detention Regulation.

<sup>6</sup> Section 10.

## 2. Ill-treatment

12. The CPT's delegation received a considerable number of allegations from detained persons (including women and juveniles) of recent physical ill-treatment by police and gendarmerie officers, in particular in the Istanbul area and in south-eastern Turkey. Most of these allegations concerned excessive use of force at the time of or immediately following apprehension (e.g. punches, kicks and blows with a truncheon or butt of a gun after the person concerned had been handcuffed or otherwise brought under control), as well as beatings during transportation to a law enforcement establishment. In addition, many detained persons claimed that they had been physically ill-treated inside law enforcement establishments (in locations which were apparently not covered by CCTV cameras), with a view to extracting a confession or obtaining information or as a punishment. The latter allegations concerned mainly slaps and punches (including to the head and face), as well as blows with a truncheon, hose pipe or other hard object. Some detained persons alleged that electric shocks had been inflicted upon them by police officers with body-contact shock devices. In the CPT's view, in a number of cases, the alleged ill-treatment was of such severity that it could be considered as amounting to torture.

In Istanbul, the delegation received detailed and consistent accounts from detained persons (including women), interviewed independently of each other, that they had been taken by police officers to a partly derelict building in the city centre, where they were subjected to heavy beatings and severe sexual humiliation, in particular by officers of a mobile intervention unit (so-called "Yunus").

Further, many accounts were received, in particular from detained women, that they had been subjected to psychological ill-treatment (such as threats of beatings, rape or death) and/or severe verbal abuse (often of an explicit sexual nature).

13. It is noteworthy that only a limited number of allegations of physical ill-treatment by law enforcement officials were received from detained persons who had recently been detained on suspicion of terrorism-related offences, in particular in connection with the military coup attempt of 15 July 2016, which constitutes a stark contrast to the findings of the August/September 2016 visit.<sup>7</sup>

14. In a number of cases, the delegation found medical evidence which was consistent with the allegations made, in the form of lesions directly observed by the delegation's doctors or injuries documented in medical records. Descriptions are given below of some cases, by way of illustration:

- i) a woman, who was apprehended on 17 May 2017 in the street in central Istanbul and taken to a police station, alleged that, inside the police station, she had been taken to a room with no CCTV coverage, where two to three police officers had yanked off her necklace, dragged her by the hair over the floor and dispersed pepper spray into her right eye and nose. She further claimed that, at a later stage, while in a police vehicle on the way to Bakırköy Women's Prison, after she had lit a cigarette, one of the officers who had assaulted her in the police station had punched her on the left side of the face.

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<sup>7</sup> See paragraphs 14 to 18 of the report on the August/September 2016 visit (CPT (2016) 65).

A medical report drawn up on the same day at a local hospital contained the following information: “complains of two assaults: right side of neck: 3-4 ecchymoses, each 1 x 1 cm; left side of face over cheek bone: reddish ecchymosis, 3-4 cm; left upper arm: two linear crusts, 1 cm”. Upon examination by the delegation’s forensic medical expert, the person concerned was found to display: left side of face, 1.5 cm below the eye: area of swelling and bright red bruising over maxillary prominence: 3 cm x 5 cm x 2 cm, with two extensions on lower edge, each 1 cm x 0.5 cm. Small excoriation in centre of lesion. On right side of neck: diffuse reddish purple bruising 5 cm x 2 cm. Left upper arm on external surface: two linear excoriations 1 cm and 1.5 cm respectively. Back of neck under hair: line painful swelling, round, 1.5 cm in diameter.

ii) a man apprehended on 16 May 2017 in Istanbul by a group of police officers alleged that, after having been handcuffed, he had been thrown to the ground, pepper spray had been sprayed into his face and some officers had stepped on his head with their boots. In addition, he had allegedly received electric shocks to his neck and kidney area from a hand-held electroshock device. He further claimed that, following his transfer to a police station, he had been taken to a room with no video surveillance, where he had again received several electric shocks to his neck and stomach.

On examination by the delegation’s forensic medical doctor, the person concerned was found to bear the following lesions: several abrasions on the elbows; swelling and abrasions on the right knee; bruising of about 3 x 1 cm on the posterior aspect of the right brachial region; two discrete abrasions on the left side of the frontal region; discrete punctiform marks on the lateral abdominal wall (which were consistent with his allegation of the infliction of electric shocks).

iii) a woman met by the delegation stated that she had been taken to a police station in Istanbul on 12 May 2017 and questioned by several plain-clothed police officers. In the course of the questioning, one of them had reportedly punched her on the back of the head and kicked her on the upper leg. She was then allegedly hit on the back by a hose pipe.

At the time of the interview, she was found to display an oval-shaped resolving haematoma, yellowish in colour, 4 x 4.5 cm, adjacent to the medial border of the right scapula on her back and a round, diffuse haematoma, yellowish-brown in colour, tender, about 3 cm in diameter, on the outer surface of her right thigh.

iv) another woman, who was arrested in the street in Istanbul on 8 March 2017, claimed that she had initially been taken to a derelict building in the city centre. In a room on the third floor of the building, she was allegedly forced to undress, pushed violently with her face against the wall, slapped on the face, kicked in the legs and punched on the breast by several officers of the “Yunus” team.

During her end-of-custody examination at a local hospital, she was seen by a doctor who found “no marks of ill-treatment” on her body. However, upon admission to Bakırköy Women’s Prison, the prison doctor noted the following in her medical file: “bruises on the left breast (2 x 5 cm ecchymosis), a 3-cm long scratch on the left nipple and multiple 1 x 1 cm lesions on the left leg”.

v) one detained person claimed that, following his apprehension on the street in Istanbul by a group of eight “Yunus” police officers two days before the visit, he had received multiple punches and kicks by several officers and that, during his transportation to a police station, an officer wearing heavy-duty motorcycle gloves had punched him hard on the back.

At the time of the interview, the person concerned displayed extensive ecchymoses on the back, in interscapular and subscapular regions over an area measuring approximately 17 x 14 cm, as well as bruising of some 1 x 1 cm on the right temple.

15. The delegation’s findings during the 2017 visit underscore the need to reiterate the message of zero tolerance of ill-treatment of detained persons and reinforce it with a strong statement at the political level. It is essential to ensure that all law enforcement officials at all levels are made aware, through concrete action, that the government is resolved to stamp out ill-treatment of persons deprived of their liberty.

**The CPT recommends that the Turkish authorities deliver to all law enforcement officials a clear and firm message, emanating from the highest political level, namely the President of the Republic, that all forms of ill-treatment of detained persons (including threats and verbal abuse), as well as any tolerance of ill-treatment by superiors, are illegal and will be punished accordingly.**

**Further, law enforcement officials must be trained in preventing an excessive use of force in the context of an apprehension. In particular, they should be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for their being struck.**

16. In order to obtain a comprehensive and up-to-date picture of the situation regarding the treatment of persons detained by law enforcement agencies, **the CPT would like to be provided with the following information, in respect of the period from 1 January 2015 to the present time:**

- (a) the number of complaints about ill-treatment by law enforcement officials and the number of criminal and/or disciplinary proceedings which have been instituted as a result;**
- (b) the number of criminal and/or disciplinary proceedings which have been instituted *ex officio* (i.e. without a formal complaint) into possible ill-treatment by law enforcement officials;**
- (c) the outcome of the proceedings referred to in (a) and (b), including an account of criminal and/or disciplinary sanctions imposed on the law enforcement officials concerned.**

**Further, the Committee would like to receive an update on the information referred to in a) – c) regarding cases of possible ill-treatment by law enforcement officials of persons detained in connection with the military coup attempt of 15 July 2016.**

### 3. Fundamental safeguards against ill-treatment

17. As regards the right of notification of custody, the relevant legal provisions remained unchanged since the 2013 visit.<sup>8</sup> It is recalled that whenever a criminal suspect is apprehended or arrested, or the detention period is extended, a relative or another trusted person shall be informed “without delay” upon the order of the prosecutor.<sup>9</sup> The right of notification also applies to persons who have been apprehended for other reasons than being suspected of having committed a criminal offence.

The great majority of detained persons interviewed by the delegation confirmed that they had been able to exercise their right of notification of custody to a relative or another trusted person shortly after their apprehension.

However, once again, a number of allegations were received that notification of custody had been delayed by law enforcement officials for several hours (e.g. until the first meeting with an *ex officio* lawyer on police/gendarmerie premises). Further, several persons claimed that their family had only been informed at the time of the first court hearing which had taken place a few days after apprehension.

**The CPT calls upon the Turkish authorities to ensure that law enforcement officials throughout Turkey fulfil their legal obligations regarding the implementation of the right of notification of custody.**

18. Most detained persons interviewed by the delegation indicated that they had access to a lawyer whilst in police custody (either a private lawyer or an *ex officio* lawyer appointed by the Bar Association).

However, similar to the situation observed during previous visits to Turkey, many detained persons (including persons suspected of terrorism-related offences) claimed that they had been subjected to informal questioning by law enforcement officials about the suspected offence without the presence of a lawyer, prior to the taking of a formal statement (in the presence of a lawyer); as already indicated in paragraphs 12 and 14, some of them alleged that they had been physically ill-treated or threatened with physical violence during such periods of initial questioning. Further, several detained persons stated that they had not been allowed to meet their contracted lawyer in private before the first questioning by the police. Moreover, it was apparently not uncommon for detained persons, in respect of whom an *ex officio* lawyer had been appointed, to have only met their lawyer for the first time at the courthouse (during the statement-taking in front of a prosecutor and/or at the remand hearing by the judge), often with no possibility to speak to the lawyer in private.

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<sup>8</sup> Section 95 (1) of the CCP and Section 8 of the Detention Regulation.

<sup>9</sup> According to Section 90 (5) of the CCP, the prosecutor shall be immediately informed of every apprehension.

Already in previous visit reports, the CPT criticised the fact that, under certain circumstances, persons detained by law enforcement agencies may be denied access to a lawyer during the initial 24 hours of police custody (by order of a public prosecutor) and that, at the request of the prosecutor and following a decision by a judge, an officer may be present during meetings between the detained person and his/her lawyer. Further, in the report on the August/September 2016 visit, the CPT expressed its serious concern that, in accordance with Decree-Law No. 668, a ban on access to a lawyer could be imposed for a period of up to five days (by order of a public prosecutor) on persons in police custody who were suspected of having committed certain offences related to national security, terrorism and organised drug trafficking; during such a ban it was not allowed to take a statement from the person concerned.

It is a positive development that, with the adoption of Decree-Law No. 684 on 23 January 2017,<sup>10</sup> the maximum period for imposing a ban (at the request of the prosecutor and by decision of a judge) on detained persons to have access to a lawyer has been reduced to 24 hours.<sup>11</sup> Nevertheless, the CPT remains concerned about the existence of such a legal restriction, and it must stress once again the importance of guaranteeing an effective right of access to a lawyer – from the outset of police custody – for the prevention of ill-treatment. In the CPT's experience, it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is at its greatest.

**The CPT reiterates its recommendation that the Turkish authorities take all necessary steps – including of a legislative nature – to ensure that every person detained by law enforcement agencies, also during the state of emergency, effectively 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 serious doubts about the professional integrity of the lawyer chosen by the detained person, another lawyer should be appointed (if necessary, *ex officio*). If necessary, detained persons should also be able to benefit from the services of a qualified interpreter.**

**Further, steps should 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 timely manner.**

19. In accordance with the relevant legal provisions, persons detained by law enforcement agencies usually underwent a medical control (*sağlık kontrolü*) at the beginning and at the end of police custody, as well as after every prolongation of police custody.<sup>12</sup> In addition, arrangements had been made for persons suspected of terrorism-related offences to be checked by a health-care professional every 24 hours (often on the premises of anti-terror departments).

In principle, such medical controls – if carried out properly – may indeed serve as an important safeguard to prevent torture and ill-treatment by law enforcement officials by ensuring that injuries inflicted by police/gendarmerie officers are detected, documented and investigated in a timely manner.

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<sup>10</sup> This decree-law has repealed Decree-Law No. 668 (27 July 2016), according to which a ban on access to a lawyer could be imposed on persons in police custody for a period of five days, by decision of the public prosecutor.

<sup>11</sup> See, in this connection, Section 154 of the CCP, as amended by Decree-Law 676 (29 October 2016).

<sup>12</sup> For this purpose, detained persons were usually taken to a State hospital.

However, the information gathered during the visit suggests that the entire system of medical controls suffers from fundamental flaws which are likely to seriously undermine its effectiveness. First and foremost, despite the specific recommendation made by the Committee since its very first visit to Turkey in 1990 and despite the repeated assurances given by the Turkish authorities, it remained the case that medical controls of persons in police custody were usually carried out in the presence of law enforcement officials. Obviously, the relevant provision of the Detention Regulation (Section 9) and the instructions of the Ministry of the Interior remained by and large a dead letter. It does not come as a surprise that a number of persons who indicated to the delegation that they had been subjected to police ill-treatment stated that they had been afraid to speak to a doctor about the ill-treatment. Moreover, several detained persons alleged that they had been threatened by police officers and told not to show their injuries and, in one case, the person concerned claimed that he had been physically assaulted in the police vehicle in retaliation for having complained to the doctor about the ill-treatment. Several allegations were also heard that police officers had exerted pressure on doctors not to record detected injuries.

In addition, as was the case during previous visits, medical controls in the context of police custody were often limited to the posing of questions about possible ill-treatment, without any proper physical examination. In this regard, in a number of cases of alleged police ill-treatment where supporting medical evidence was found in prison medical records or was directly observed by the delegation's doctors, the medical reports obtained by the police indicated an absence of injuries.<sup>13</sup> Moreover, several detained persons alleged that police officers had obtained a medical report carrying the signature of a hospital doctor without them even being presented to the doctor.

**The CPT once again calls upon the Ministry of the Interior to take immediate and vigorous steps – in co-operation with the Ministry of Health – to ensure that medical controls of detained persons (both in law enforcement establishments and hospitals) are carried out in full compliance with the requirements set out in Section 9 of the Detention Regulation. In particular, steps should be taken to ensure that the persons concerned are systematically subjected to a physical examination and that medical examinations are always conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of law enforcement officials; as regards the recording of injuries, the recommendations made in paragraph 129 equally apply to medical examinations of persons held in police custody.**

**Further, the Committee recommends that the Turkish authorities reiterate to law enforcement officials that any form of reprisals or threats thereof, as well as any other discouragement vis-à-vis detained persons to report injuries inflicted upon them by law enforcement officials are unacceptable and will be punished accordingly.**

20. As was the case during previous visits, many detained persons claimed that they had received information on their rights only verbally and this not at the outset of their deprivation of liberty but only several hours after their arrival at a police establishment (often in the context of the first formal questioning by the police). Further, although the Suspects' Rights Form (SRF) was as a rule signed by detained persons, a copy of it was usually provided only when requested by them.

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<sup>13</sup> For example, a remand prisoners met by the delegation at Diyarbakır E-type Prison displayed a haematoma on the right flank area (5 x 4 cm), which he claimed had been inflicted by the police. His prison entry medical examination report indicated that he had "haematoma on the right flank and pain on palpation of the rib region 7 to 11". However, the medical report issued by the hospital where the person concerned had been taken by the police before being brought to the prison stated that he had "no injuries".

**The CPT reiterates its recommendation that the Turkish authorities 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 the 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. The latter form should be available in an appropriate range of languages. 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 actually understand their rights; it is incumbent on police/gendarmerie officers to ascertain that this is the case.**

21. In all the police/gendarmerie establishments visited, custody registers were generally well kept (in the format laid down in the Detention Regulation<sup>14</sup>).

That said, it is a matter of concern that, in various law enforcement establishments visited, no custody register was kept for the detention of foreign nationals under aliens legislation in law enforcement establishments. **The CPT recommends that the Turkish authorities take appropriate steps to remedy this deficiency.**

#### **4. Conditions of detention**

22. In most of the law enforcement establishments visited, material conditions of detention were on the whole adequate for short stays. However, nearly all of them suffered from major structural deficiencies and were thus not suitable for periods of detention lasting longer than 24 hours.

With a few exceptions (e.g. Ankara Anti-Terror Department, Trabzon-Gülbahar Hatun Police Station), there was either no or only limited access to natural light in the cells of the detention facilities visited. Further, with the notable exception of Batman Central Gendarmerie Commandership, none of the establishments visited was equipped with facilities to enable detained persons to take outdoor exercise.

In some of the establishments visited, the situation was further exacerbated by the fact that detained persons were being held in severely overcrowded cells. For example, at the detention facility of Diyarbakır Anti-Terror Department, a cell measuring some 7 m<sup>2</sup> was holding four persons, already for several days.<sup>15</sup> Similarly, in the detention facility of the Istanbul Anti-Terror Department, cells measuring some 8 m<sup>2</sup> were accommodating up to four persons.

It is of all the more concern that persons detained under the emergency legislation could be held under the above-mentioned conditions for up to 14 days. Moreover, the visit revealed that some of the police establishments visited (e.g. Istanbul-Fatih District Police Station) were often used to hold foreign nationals detained under aliens legislation for prolonged periods (see, in this regard, paragraph 32).

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<sup>14</sup> See Section 12 and Annexe B to the Detention Regulation.

<sup>15</sup> At Batman Anti-Terror Department, it transpired that cells measuring some 9 m<sup>2</sup> could on occasion hold up to five persons.

**The CPT reiterates its recommendation that the Turkish authorities 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. Steps should also be taken to ensure that all custody cells where persons may be held overnight offer sufficient living space to detained persons; cells measuring between 7 and 9 m<sup>2</sup> should not be used for accommodating more than two persons at a time.**

**Further, the Committee reiterates its recommendation that the Turkish authorities 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.**

23. Specific reference should be made to the particularly poor conditions of detention at Istanbul-Fatih District Police Station. In the basement area, there were two custody cells (measuring some 10 m<sup>2</sup> and separated from the corridor with metal bars) which had no access to natural light and only limited artificial lighting and which were dirty and poorly ventilated. It is of particular concern that, at the time of the visit, six (male) foreign nationals had been placed for several days in one of the two cells<sup>16</sup> and that without being provided with mattresses. There were just two narrow wooden benches and most of the persons concerned had to lie on the floor with blankets. One of the foreign nationals claimed that during a previous stay in the police station at the beginning of the year up to 16 persons had at some point been crammed into the same cell. Unfortunately, the delegation was not in a position to verify this allegation, since no register was being kept in the police station on the detention of foreign nationals under aliens legislation (see, in this regard, the remarks and recommendation made in paragraph 21).

Moreover, at the time of the visit, two female foreign nationals had already been accommodated for three days in a basement room which measured a mere 3.5 m<sup>2</sup> and which had no source of light whatsoever. Whilst acknowledging that the two women were allowed to spend a few hours per day in the visitors' yard of the police station, the CPT must stress that it is not acceptable to accommodate a person in this room for any period of time.<sup>17</sup> During the end-of-visit talks with the Turkish authorities, the delegation requested that the basement room be immediately withdrawn from service as detainee accommodation.

By letter of 25 September 2017, the Turkish authorities informed the CPT that the two above-mentioned custody cells had been refurbished and artificial lighting had been improved. Regrettably, no information was provided on the withdrawal from service of the small basement room.

**The CPT recommends that the Turkish authorities take immediate steps to ensure that all detained persons who are held overnight at Istanbul-Fatih District Police Station – as well as in other law enforcement establishments – are provided with a clean mattress and clean blankets. Steps should also be taken to significantly reduce the number of persons placed in either of the two detention cells at Fatih District Police Station.**

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<sup>16</sup> The second cell was used exclusively for accommodating criminal suspects.

<sup>17</sup> It was an identification room with a one-way mirror and was equipped with narrow benches.

Further, **the Committee would like to receive confirmation that the small basement room at Fatih District Police Station is no longer used for detention purposes.**

24. Following the destruction of the detention facility of the Anti-Terror-Department of Ankara Police Headquarters during the military coup attempt, a new detention facility has been set up in another location outside the premises of the Headquarters. This facility comprises five double cells and two three-bed cells, the material conditions of which do not call for any particular comment. At the time of the visit, five persons were being held there in police custody.

In addition, the Anti-Terror-Department was using a large adjacent sports hall as additional temporary detention facility. At the time of the visit, 15 detained persons had spent up to one week in this sports hall, and the delegation was informed by police officers that, on 27 April 2017, a total of 189 detained persons had been held there. The sports hall had a large surface covered with a carpet, and it had very good access to natural light and ventilation. That said, detained persons were obliged to remain on blankets placed on the floor, and they were allowed to leave the location assigned to them in different parts of the sports field only for the purpose of using the sanitary facilities. Further, the delegation received allegations that in the case of larger numbers of detained persons not every person had been provided with a mattress at night.

**The CPT wishes to stress that the above-mentioned sports hall is not suitable for accommodating detained persons for prolonged periods (i.e. more than a few days), and the Committee urges the Turkish authorities to withdraw it from service as temporary detention facility as soon as possible.**

## **B. Foreign nationals detained under aliens legislation**

### **1. General remarks**

25. One of the main objectives of the visit was to examine the measures taken by the Turkish authorities in the light of the recommendations made by the CPT in the report on the June 2015 ad hoc visit which focussed on the situation of foreign nationals detained under aliens legislation.

26. At the outset, the CPT wishes to acknowledge the particular challenges faced by the Turkish authorities and place on record their very considerable efforts to host the largest number of refugees worldwide, with more than three million Syrians and hundreds of thousands of nationals of other countries (in particular Afghanistan and Iraq).

27. At the time of the June 2015 ad hoc visit, the responsibility for immigration detention was still in the process of being transferred from the National Police to the Directorate General of Migration Management (DGMM), a civilian agency under the Ministry of the Interior. This process was completed in November 2015 with the replacement of all custodial police officers with DGMM officials and private security staff in removal centres and the closure of all remaining immigration detention facilities on police premises.

In this regard, the CPT welcomes the fact that several sub-standard detention facilities for immigration detainees have been withdrawn from service and in particular the one at Ankara Police Headquarters (in November 2015) as well as Istanbul-Kumkapı Removal Centre (in November 2016), both of which had repeatedly been criticised by the Committee in previous visit reports, due to their particularly poor detention conditions.<sup>18</sup> Further, new holding facilities for foreign nationals have been set up in the transit zone of Istanbul Atatürk Airport (see, however, the remarks made in paragraph 53). It is also positive that a policy decision has been taken by the DGMM to no longer hold unaccompanied minors in removal centres. The delegation was informed that apprehended foreign unaccompanied minors would always be promptly transferred to the Ministry of Family and Social Policy and accommodated in an open juvenile institution.

It is a particularly welcome development that, shortly after the 2017 visit, the Turkish authorities decided to close down the removal centre in Izmir-Işikkent (see paragraphs 42 and 45).

28. The general legal framework governing the deprivation of liberty of foreign nationals under aliens legislation is set out in Sections 57 to 59 of the 2013 Law No. 6458 on Foreigners and International Protection (LFIP). These provisions have remained unchanged since the 2015 visit.<sup>19</sup>

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<sup>18</sup> See also paragraph 32.

<sup>19</sup> The law fully entered into force in April 2014; see also Regulation No. 28980 on the establishment, management, functioning and inspection of reception and removal centres which was issued by the Minister of the Interior on 22 April 2014.

Section 57 of the LFIP stipulates that, whenever a foreign national is apprehended by the police or gendarmerie on immigration-related grounds, the case must be immediately reported to the relevant provincial governorate which must decide, within 48 hours, whether to issue an expulsion order. In the affirmative, the provincial governorate must also take a decision as to whether to impose administrative detention pending removal.<sup>20</sup> Within 48 hours of the issuance of a detention order, the foreign national concerned must be placed in a removal centre. Thus, the maximum period of police custody under aliens legislation is 96 hours.

The duration of detention pending removal must not exceed six months; this period may however be extended to a maximum of twelve months if the removal proceedings cannot be completed due to the foreigner's failure to co-operate or to provide correct information or documents about his/her country of origin. Further, the duration of administrative detention of asylum-seekers shall not exceed thirty days (Section 68, paragraph 5, of the LFIP).<sup>21</sup>

29. Since the 2015 visit, an Implementing Regulation (No. 29656, dated 17 March 2016) on the LFIP has been issued by the Minister of the Interior, and several circulars have been issued by the Director General of the DGMM, namely the Circular setting out guidelines on the operation of removal centres (dated 18 February 2016) and two subsequent Circulars issued on 12 and 13 October 2016 on subsistence and visits to reception and removal centres.

30. The LFIP and the Implementing Regulation No. 29656 also contain a wide range of important safeguards for asylum-seekers and irregular migrants, including as regards immigration detention (for further details, see paragraph 70).

31. At the time of the visit, 22 removal centres (with an overall capacity of 8,136 places) were in operation, accommodating a total of 5,030 foreign nationals (including 473 accompanied minors), and 16 removal centres (with an additional official capacity of 7,200 places) were under construction in different parts of the country. Further, the Turkish authorities indicated that there were plans to close down all removal centres with an official capacity of less than 100 places.<sup>22</sup> **The CPT would like to receive updated information on the implementation of these plans.**

32. Before setting out in more detail the delegation's findings, the CPT would like to raise some issues of a more general nature.

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<sup>20</sup> Administrative detention pending removal shall be imposed on a foreign national who: (a) may abscond or disappear; (b) has violated rules for entry into and exit from Turkey; (c) has used false or fabricated documents; (d) did not leave Turkey within the granted period without justified reasons; (e) poses a threat to public order, public safety or public health (Section 57, paragraph 2).

<sup>21</sup> Administrative detention of asylum-seekers shall be an exceptional measure and may only be applied on the following grounds: (a) to determine the identity or nationality of the foreign national when there are serious doubts as to the accuracy of the information provided by him/her; (b) to prevent illegal entry to the country; (c) when administrative detention is necessary for the proper assessment of an asylum application; (d) when the foreign national poses a serious threat to public order or public safety (Section 68, paragraph 2).

<sup>22</sup> At the time of the visit, there were five removal centres of this size, namely in Antalya, Bursa, Izmir-Işıkkent, Kocaeli and Tekirdağ.

As indicated in paragraph 28, foreign nationals may be held in a law enforcement establishment for up to a maximum of 96 hours, pending their transfer to a removal centre. That said, at Istanbul-Fatih Police Station, the delegation found a number of instances in which foreign nationals had been held in police custody for up to 15 days,<sup>23</sup> and the delegation also received a number of allegations of prolonged stays of immigration detainees in police custody in other law enforcement establishments in different parts of the country.<sup>24</sup> Regrettably, there was no custody register at Istanbul-Fatih Police Station and several other police establishments in which the time and duration of police custody of foreign nationals held under aliens legislation was recorded (see, in this regard, paragraph 21).

What is more, a number of immigration detainees interviewed by the delegation claimed that, prior to their admission to a removal centre, they had been held in an office of a police establishment for several days on end, without being provided with a proper means of rest, let alone a mattress. A senior police officer met by the delegation in Ankara acknowledged that such situations did occasionally occur and explained this by the lack of an immigration detention facility in Ankara and the slowness of the procedures to organise transportation to a removal centre in another province.<sup>25</sup>

**The CPT recommends that the Turkish authorities take immediate steps to ensure that foreign nationals who have been detained under aliens legislation and are held in a law enforcement establishment overnight are accommodated in designated holding facilities. Further, the Committee recommends that foreign nationals in police custody against whom an administrative detention order pending removal has been issued are always promptly transferred to a removal centre, in accordance with the relevant legislation.**

33. In 2016, several open reception centres for asylum-seekers, which had been constructed in recent years with the financial support of the European Union, had been transformed into closed removal centres. One might expect that such facilities generally offer even more favourable detention conditions than removal centres which had been designed as closed institutions. However, the visit to one of the “transformed” removal centres (i.e. Izmir-Harmandalı) brought to light that this was far from being the case. As a matter of fact, many foreign nationals, including most families and children, were held in the centre’s “high-security unit” (in Block 4B) and were subjected to a regime which was far more restrictive than the one which is normally offered to prisoners in Turkish prisons (for further details, see paragraphs 44 to 49). This paradoxical state of affairs was explained by representatives of the DGMM with the fact that Izmir-Harmandalı and other establishments of the same design suffered from major deficiencies in terms of perimeter security and that, following a number of recent escapes, severe restrictions in terms of outdoor exercise and movement within the establishment had been imposed on all detainees.

**In the light of the above, the CPT recommends that the Turkish authorities review as a matter of priority the existing arrangements at Izmir-Harmandalı Removal Centre as well as in other removal centres of the same design, in order to provide all immigration detainees with a range of out-of-cell activities and outdoor exercise during the day, as was observed by the CPT in several removal centres visited in 2015 (i.e. Aydın, Edirne, Tekirdağ and Van).<sup>26</sup>**

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<sup>23</sup> See also paragraph 23 regarding the poor conditions under which foreign nationals were being held at Istanbul-Fatih Police Station.

<sup>24</sup> For instance, it was alleged that a mother with young children had been held for about two weeks in military and gendarmerie establishments in Kilis before being transferred to a removal centre.

<sup>25</sup> At the time of the visit, the nearest removal centre from Ankara was located in Kayseri (some 300 km away).

<sup>26</sup> See also the recommendation made in paragraph 49.

34. According to the relevant legislation,<sup>27</sup> foreign nationals may be subjected to an expulsion order and hence be removed from the country if they are considered to pose a threat *inter alia* to public health (unless they would not be able to receive treatment in the country to which they are to be returned while undergoing treatment for a life threatening health condition).

As indicated in paragraph 63, in all the removal centres visited, foreign nationals were usually subjected to screening for various transmissible diseases (such as HIV, hepatitis A, B and C and syphilis, but not tuberculosis) in the context of a medical control at a hospital, prior to their admission to the removal centre. In this regard, the CPT is puzzled by the fact that a foreign national met by the delegation in one of the removal centres visited had been subjected to an expulsion order *inter alia* on account of his (inactive) hepatitis B infection. In the CPT's view, such a health condition can scarcely be considered to constitute a threat to public health.<sup>28</sup>

**The CPT would like to receive further clarification regarding the Turkish authorities' policy and administrative practice in handling foreign nationals who are diagnosed with any of the above-mentioned diseases.**

35. The delegation was informed by the DGMM that, in recent years, an increasing number of foreign nationals classified as "foreign terrorist fighters" (FTF) had been detained under aliens legislation,<sup>29</sup> and that the management of this category of immigration detainees was posing particular challenges. Foreign nationals were usually classified as FTF by the apprehending law enforcement agency prior to their admission to a removal centre. As a matter of policy, they were accommodated in separate parts of removal centres; on the basis of a risk assessment, some were also allowed to associate or share accommodation with other immigration detainees. At the time of the visit, a number of such detainees were being held at Izmir-Harmandalı and Işıkkent Removal Centres. Representatives of the DGMM affirmed to the delegation that, in terms of activities and contacts with the outside world, FTF would benefit from the same opportunities as other immigration detainees, although their contacts with the outside would normally be monitored. However, the information gathered during the visit suggests that there was a striking difference between theory and practice in the two above-mentioned establishments visited. For further details, see paragraphs 45 and 78.

36. The delegation was also informed that the DGMM had recently concluded co-operation agreements (Protocols) with the Turkish Red Crescent Society with a view to entrusting the latter with an oversight function (including by carrying out unannounced visits to removal centres) and with the Ministry of Justice regarding the provision of training for security staff working in removal centres. Further, co-operation agreements were in process of being concluded with the Ministry of National Education to provide education to children in removal centres and the Ministry of Health to reinforce the provision of health care in removal centres. **The CPT would like to receive updated information on the implementation of the above-mentioned co-operation agreements.**

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<sup>27</sup> See Sections 54, paragraph 1 (d), and 55, paragraph 1 (c), of the LFIP.

<sup>28</sup> See also the judgment *Novruk and Others v. Russia* (15 March 2016, applications nos. 31039/11, 48511/11, 76810/12, 14618/13 and 13817/14) in which the European Court of Human Rights ruled that, in the light of the overwhelming European and international consensus geared towards abolishing the outstanding restrictions on entry, stay and residence of HIV-positive non-nationals, the denial of a residence permit on account of an HIV infection constituted a violation of Article 14 in conjunction with Article 8 of the European Convention on Human Rights (ECHR).

<sup>29</sup> Since 2011, 1,797 foreign terrorist fighters (from 99 different countries) have been detained.

37. In the course of the visit, the delegation visited three removal centres in Istanbul and Izmir Provinces, as well as the two existing holding facilities for foreign nationals in the transit zone of Istanbul Atatürk Airport (as regards the latter facilities, see paragraphs 52 to 56).

*Binkılıç Removal Centre* is located in a rural area some 80 km north-west of Istanbul on former gendarmerie premises which have been converted into a detention facility (with an official capacity of 120 places). The centre was opened in February 2017, and, at the time of the visit, it was accommodating 31 male adult foreign nationals. According to the Turkish authorities, women and families are never held in this establishment, and, in the case of prolonged detention, male immigration detainees would be transferred to other removal centres.<sup>30</sup>

*Izmir-Harmandalı Removal Centre* was opened in June 2016 and has an official capacity of 750 places. As already mentioned in paragraph 33, the establishment had initially been designed as an open reception centre. At the time of the visit, it was accommodating a total of 117 foreign nationals, including 76 male adults, 23 women and 18 children; about two-thirds of the foreign nationals had spent more than four weeks in the Removal Centre at the time of the visit, the longest periods of detention being eight months for one and six months for four others.<sup>31</sup>

*Izmir-Işıkkent Removal Centre* is located on the premises of a former factory building and was already visited by the CPT in 2015.<sup>32</sup> Since then, the official capacity has been reduced from 260 to 50 places, and, at the time of the visit, the Centre was primarily used for holding foreign nationals considered to be FTF. At the time of the visit, it was accommodating a total of 45 immigration detainees, including 25 male adults, eight women, and twelve children with their mothers.<sup>33</sup> Four foreign nationals had been held in the establishment for six to seven months, and nine children had been present in the Centre for two months and had already been detained with their mothers for periods of several weeks prior to their transfer to Işıkkent.

The *holding facility for passengers declared inadmissible in the transit zone of Istanbul Atatürk Airport* has already been visited by the CPT twice (in 2009 and 2015). The facility comprises two holding rooms (one for male and one for female foreign nationals) and continues to be managed by a private security company under the supervision of the Passport Police. At the time of the visit, it was holding seven male and six female foreign nationals (all adults).

The new *holding facility for asylum-seekers in the transit zone of Istanbul Atatürk Airport* (“Istanbul Provincial Immigration Directorate’s Atatürk Airport Guesthouse”) was opened in April 2016. The facility is administered by the DGMM and is used to accommodate foreign nationals who have applied for international protection. The facility has an official capacity of 48 places (22 for men and 26 for women and children). At the time of the visit, it was accommodating one male foreign national; this person had arrived five days earlier.

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<sup>30</sup> At the time of the visit, the majority of inmates had been held in the centre for less than a month, while five had been held there for approximately ten weeks.

<sup>31</sup> It is noteworthy that, shortly before the delegation’s visit, some 300 foreign nationals had been released.

<sup>32</sup> See paragraph 14 of CPT/Inf (2017) 32.

<sup>33</sup> At the time of the 2015 visit, the centre was holding 188 foreign nationals (including 40 accompanied and 21 unaccompanied minors).

## 2. Ill-treatment

38. Most of the foreign nationals interviewed by the delegation spoke positively about the manner in which they were treated by staff. That said, the delegation received some allegations of physical ill-treatment and verbal abuse by custodial staff in several of the establishments visited. The main findings can be summarised as follows:

- Several foreign nationals interviewed independently of each other gave consistent accounts of a violent episode which had allegedly occurred approximately one month before the visit at Izmir-Işikkent Removal Centre. Following a collective protest of detainees in the cells at the basement level, police officers were allegedly called in and calmed down the situation without the use of force. However, after the police officers had left the premises, security guards allegedly stormed into one of the cells in the basement and beat the detainees with truncheons, punches and kicks. It is alleged that the detainees were then placed in plastic cuffs on their hands and feet and were compelled to spend the night on the floor of their cell.
- As already indicated in paragraph 6, on 11 May 2017 (i.e. a few days before the delegation's visit), a violent incident had occurred at Istanbul-Binkılıç Removal Centre, during which an Afghan national (Mr I. E.) had apparently been physically assaulted by a member of the security staff.<sup>34</sup> Despite the explicit and unambiguous assurances given by the Director and the doctor that they had no recollection of any violent incident involving staff, CCTV recordings were eventually presented to the delegation which showed sequences of the incident of 11 May, in the course of which the foreign national concerned was trying to cover his face but was then punched in the face by a security guard, before being thrown across the room and against a bunk bed and being hit twice again by the same guard. The detainee was seen by a doctor on 12 May, and, according to his medical file, he had sustained a lacerated wound on the eyebrow which was sutured and dressed at the hospital.<sup>35</sup> The delegation was informed that, on 15 May, the Istanbul Governor's Office had been notified, that the security guard concerned had been provisionally suspended and that the gendarmerie had initiated a preliminary criminal inquiry.
- In particular at Izmir-Harmandalı and Işikkent Removal Centres, several allegations were also received of instances of verbal abuse and disrespectful behaviour by custodial staff.
- One foreign national met by the delegation was allegedly physically assaulted by a police officer in the holding facility for inadmissible passengers in the transit zone of Istanbul Atatürk Airport. The person concerned was allegedly placed in the facility's search room (apparently the only place in the facility not covered by CCTV) where he was allegedly slapped several times in the face while being searched and questioned about his passport which the border police considered to be false.

**The CPT recommends that the Turkish authorities reiterate to all staff dealing with immigration detainees at Istanbul-Binkılıç and Izmir-Harmandalı Removal Centres as well as at Istanbul Atatürk Airport, that all forms of ill-treatment of foreign nationals (including verbal abuse) are not acceptable and will be punished accordingly. Further, the Committee would like to receive detailed information on the training provided to private security staff in removal centres in Turkey (in particular as regards the use of force and de-escalation techniques).**

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<sup>34</sup> The person concerned was released prior to the delegation's visit.

<sup>35</sup> A report from the hospital also indicated that the detainee had undergone a CT scan of the head on the evening of 11 May and that no fracture and no traumatic intracranial lesions had been detected.

39. The above-mentioned incident at Istanbul-Binkılıç Removal Centre was raised by the delegation during the end-of-visit talks with the Minister of the Interior. By letter of 25 September 2017, the Turkish authorities provided the following additional information:

“On 16 May 2017, the Istanbul Migration Management Directorate appointed a lawyer as an inspector to investigate into any negligence or wrongdoing by the staff. On 17 May 2017, the statements of the two security officials were taken and the video footage of the incident was obtained. A criminal complaint was filed with the Çatalca Public Prosecutor’s Office by the Istanbul Migration Management Directorate on the same date. On 22 May 2017, the administrative investigation report was completed, according to which the two security officials’ employment contracts were terminated for just reasons under Article 25 of the Labour Code. Their posts in the removal centre were terminated on 24 May 2017. The relevant judicial proceedings are pending and are followed by the General Directorate for Migration Management.”

The CPT welcomes the prompt action taken by the Turkish authorities in this case. **The Committee would like to be informed of the outcome of the criminal proceedings against the former staff members concerned and the action taken as a result of it.**

40. The delegation was informed by the Turkish authorities that plans were afoot to establish a new unit within the DGMM, under the direct authority of the Director General, with the mandate to investigate human rights violations in removal centres. **The CPT would like to receive updated and more detailed information on this matter.**

### **3. Conditions of detention in removal centres**

#### **a. material conditions**

41. Material conditions of detention were generally of a high standard at Izmir-Harmandalı Removal Centre in terms of state of repair, living space,<sup>36</sup> access to natural light and ventilation. Further, at Istanbul-Binkılıç Removal Centre, detention areas were also in a good state of repair and were well lit and well ventilated.<sup>37</sup>

That said, despite the fact that detention rooms had no lockable doors, the living space in the accommodation areas of Istanbul-Binkılıç Removal Centre was insufficient, with one dormitory measuring some 130 m<sup>2</sup> with 24 bunk beds (for 48 persons) and 24 detention rooms measuring some 14 m<sup>2</sup> with three or four bunk beds (for six or eight persons respectively) and the communal area being limited to a small and narrow corridor, with no space for additional furniture (such as tables and chairs).

Further, at Izmir-Harmandalı Removal Centre, the basic equipment in several detention rooms was rudimentary (in particular, in the “high-security” unit in Block 4B), with no furnishings other than beds and mattresses,<sup>38</sup> the result being that foreign nationals, including children, had to eat their meals on the floor or by balancing plastic containers on their beds. Moreover, a number of complaints were received from foreign nationals about the lack of cleaning materials.

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<sup>36</sup> Detention rooms were usually equipped with three bunk beds and comprised a fully-partitioned sanitary annexe (toilet, shower and sink); rooms for families with children were significantly larger.

<sup>37</sup> See, however, paragraph 79.

<sup>38</sup> It is noteworthy that detention rooms outside the “high-security” unit were usually equipped with beds, mattresses, bed linen, tables, chairs and cupboards.

**The CPT recommends that the Turkish authorities take steps to ensure that:**

- **the official capacity of Istanbul-Binkılıç Removal Centre is significantly reduced and that number of beds is adjusted accordingly;**
- **detention areas at Istanbul-Binkılıç and Izmir-Harmandalı Removal Centres are equipped with tables and chairs and that foreign nationals are provided with personal lockable space;**
- **immigration detainees at Izmir-Harmandalı Removal Centres are provided with sufficient quantities of cleaning materials.**

42. Since the 2015 visit, conditions had remained generally poor at Izmir-Işıkkent Removal Centre.<sup>39</sup> Although the official capacity and occupancy levels had been drastically reduced, the delegation was concerned to note that the cells in the basement (including the sanitary facilities), used for holding male adult foreign nationals, were in a deplorable state of repair (with water trickling down from the ceiling in one cell, thus causing widespread mould) and with hardly any access to natural light. It was particularly worrying that the foreign nationals concerned had been locked in these cells for several months with very limited outdoor exercise (see below). Conditions were more favourable on the upper floor (in terms of state of repair and access to natural light), but nevertheless the entire establishment was not suitable for accommodating mothers with young children.

During the end-of-visit talks, the delegation called upon the Turkish authorities to take immediate steps to ensure that the foreign nationals held in basement cells were transferred to more suitable detention facilities and that the aforementioned cells were no longer used for prolonged detention.

In their letter dated 25 September 2017, the Turkish authorities indicated that the basement cells at Izmir-Işıkkent had been withdrawn from service on 23 May 2017 and that the entire removal centre had been closed down on 7 July 2017. This is a particularly welcome development.

43. On a positive note, it should be added that, in contrast to 2015, hardly any complaints were heard in any of the removal centres visited regarding the provision of personal hygiene products.

That said, a number of complaints were received in all the removal centres visited about the lack of cleanliness (cells, blankets and clothes).<sup>40</sup> **Steps should be taken to remedy this shortcoming.**

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<sup>39</sup> For further details, see paragraph 21 of CPT/Inf (2017) 32.

<sup>40</sup> According to several foreign nationals interviewed by the delegation at Izmir-Harmandalı Removal Centre, new bed sheets and towels had been provided to all inmates a few days before the delegation's visit.

b. regime

44. Overall, the CPT must express its serious concern that the regime offered to immigration detainees has not improved since the 2015 visit, quite the contrary. As already indicated in paragraph 33, in all the establishments visited, most foreign nationals were subjected to a regime which was far more restrictive than that offered to prisoners in Turkish prisons.

45. First and foremost, despite the assurances given by the Turkish authorities in their response to the report on the 2015 visit,<sup>41</sup> access to outdoor exercise appeared to be problematic at Izmir-Harmandalı and Işıkkent Removal Centres. The majority of foreign nationals interviewed at Harmandalı (i.e. those held in the “high-security” unit)<sup>42</sup> and virtually all the foreign nationals interviewed at Işıkkent claimed that they could usually spend only some 15 minutes twice a day in the open air.<sup>43</sup>

Further, at Izmir-Harmandalı, the two courtyards were spacious (one being equipped with football goal posts and the other comprising a small playground for children), but it is regrettable that they were surrounded by high walls and appeared bleak and prison-like with no horizontal view, decoration or vegetation.

46. The situation was more favourable at Istanbul-Binkiliç Removal Centre, where foreign nationals were usually offered one hour of outdoor exercise per day (and two hours per day at weekends). That said, the “exercise” yard was actually the centre’s car park which was totally bereft of any basic equipment on which to sit or shelter from inclement weather. There was no sports equipment of any kind, and the foreign nationals were seen lying and sitting on the asphalt.

47. In their letter of 25 September 2017, the Turkish authorities indicate that “[c]onditions have been fulfilled to allow at least an hour of outdoor exercise for foreigners held, by duly taking security precautions. Currently foreigners in all removal centres are offered at least one hour of outdoor exercise, with many centres offering over two hours”.

The CPT takes note of this positive development; **it would like to receive more detailed information on the measures taken by the Turkish authorities regarding the provision of outdoor exercise at Izmir-Harmandalı Removal Centre as well as in other removal centres which accommodate families and (young) children, in the light of the remarks and recommendation made in paragraphs 33, 45 and 46.**

Further, **the Committee recommends that the design and equipment of the outdoor facilities at Istanbul-Binkiliç and Izmir-Harmandalı Removal Centres be reviewed, in the light of the remarks made in paragraphs 45 and 46.**

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<sup>41</sup> See pages 7 and 8 of CPT/Inf (2017) 33.

<sup>42</sup> Foreign nationals accommodated in ordinary detention rooms stated that they could usually go outside into the open air for some 30 minutes three times a day.

<sup>43</sup> Several foreign nationals interviewed by the delegation stated that they had been able to spend a total of one hour per day in the open air during the days preceding the visit.

48. As regards activities, the delegation was impressed by the existing indoor communal facilities at Izmir-Harmandalı Removal Centre, which included *inter alia* a large sports hall (volleyball, basketball, table tennis, billiards), a small library,<sup>44</sup> a prayer room and a playroom for children.

That said, most of the foreign nationals interviewed by the delegation claimed that, with the exception of the days preceding the CPT's visit, the above-mentioned indoor facilities had usually not been accessible to detainees.

Further, neither Istanbul-Binkiliç nor Izmir-Işıkkent Removal Centres were equipped with any recreational facilities worthy of the name. Moreover, in all three removal centres visited, there was no television, no radio and no newspapers, and many foreign nationals complained that they were not even allowed to have a pen and paper or to keep basic personal belongings (such as a wrist watch).

49. To sum up, in all the removal centres visited, most of the foreign nationals – including families with children – were locked in their rooms for most of the day,<sup>45</sup> with very limited access to outdoor exercise (see above) and without being provided with any recreative activities. Such a state of affairs is not acceptable.

The CPT wishes to recall that all immigration detainees should be provided with at least a basic regime of activities, such as access to a television and other means of recreation (e.g. board games, table tennis, etc.) as well as to reading material in the most frequently spoken foreign languages.

**The Committee reiterates its recommendation that the Turkish authorities take steps at Istanbul-Binkiliç and Izmir-Harmandalı Removal Centres, as well as in all other removal centres in Turkey, to develop regime activities for foreign nationals, in the light of the preceding remarks; the longer the period for which persons are detained, the more activities should be offered to them.**

**Further, there can be no justification for preventing immigration detainees from having writing materials and wrist watches in their detention rooms.**

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<sup>44</sup> Most of the books were in Turkish and some were also available in English and Russian.

<sup>45</sup> As already indicated earlier, detention rooms at Istanbul-Binkiliç Removal Centre had no lockable doors, but detainees only had access to a small and narrow corridor where some of them were sitting on the floor most of the time.

#### 4. Detention of minors

50. As already indicated in paragraph 27, it is a particularly welcome development that no unaccompanied minors were being held in any of the removal centres visited, in accordance with the Government's new policy to no longer keep apprehended unaccompanied foreign minors in detention.

51. However, the Committee is very concerned by the situation of the accompanied minors (some under the age of one year) who were being held with their mother/parents in Izmir-Harmandalı and Izmir-Işıkkent Removal Centres. Most of the children spent 23 hours or more per day in the detention rooms, without being provided with reading material, toys or games (with the exception of a few plastic toys at Işıkkent donated by security guards). The situation of the children may have serious negative psychological consequences on their mental health and development. In the CPT's view, the conditions under which children were being held in the two above-mentioned removal centres for weeks or even months on end can be considered as inhuman and degrading treatment. They are also in contradiction with the Convention on the Rights of the Child<sup>46</sup> and the relevant provisions of the LFIP.<sup>47</sup>

In this connection, it is noteworthy that, on the occasion of its targeted visit to Istanbul-Bakırköy Prison for Women,<sup>48</sup> the delegation saw a very well-equipped kindergarten for children of prisoners, run by specialised staff. Comparing the arrangements for children in this facility with those in the two above-mentioned removal centres is like comparing day and night.

In their letter of 25 September 2017, the Turkish authorities indicate that “[w]ork has been underway to improve standards of playground and play materials for children. Families with children are not placed in centres with limited facilities and the necessary means are offered to families to spend more time with their children”.

**Whilst acknowledging the measures taken so far, the CPT recommends that the Turkish authorities carry out a thorough review of the situation of children in all removal centres, with a view to ensuring appropriate (health-)care<sup>49</sup> and the provision of psychosocial and educational activities for children. To this end, specialised staff should be employed in every removal centre which accommodates families with children.**

**Further, the Committee recommends that the Turkish authorities redouble their efforts to avoid detaining families with children in removal centres and to ensure that when, exceptionally, children are held in a removal centre, the deprivation of liberty is for the shortest possible period of time.**

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<sup>46</sup> See Articles 3 (1) and 37 (c) of the Convention on the Rights of the Child.

<sup>47</sup> Section 59, paragraph 1, of the LFIP stipulates that in removal centres “the best interest of the child shall be considered” (sub-paragraph ç) and “the Ministry of National Education shall take the necessary measures to ensure that children have access to education” (sub-paragraph d).

<sup>48</sup> See paragraph 82.

<sup>49</sup> See also the remarks and recommendation in paragraph 67.

## 5. Holding facilities for foreign nationals in the transit zone of Istanbul Atatürk Airport

52. Material conditions in the two rooms of the holding facility for passengers declared inadmissible in the transit zone of Istanbul Atatürk Airport remained unchanged since the 2015 visit. Given their structural deficiencies (i.e. total lack of access to natural light and no possibility for outdoor exercise), the CPT wishes to stress that these rooms are not suitable for holding persons for more than three days, as stated by the European Court of Human Rights.<sup>50</sup>

From an examination of the holding records, it transpired that, during the preceding twelve months, foreign nationals had been held in the facility usually only for very short periods, ranging from several hours to two days (i.e. until the next possible flight). The delegation was informed that in case of prolonged stays in the transit zone, foreign nationals would be accommodated in the new holding facility for asylum-seekers (see below). Notwithstanding that, the delegation met one foreign national in the latter facility who had previously been held for nine days in the facility for inadmissible passengers.

**The CPT trusts that the Turkish authorities will take the necessary steps to ensure that foreign nationals are no longer held for prolonged periods in the holding facility for passengers declared inadmissible in the transit zone of Istanbul Atatürk Airport.**

53. The CPT acknowledges the significant investments made by Turkish authorities to create a new holding facility for asylum-seekers in the transit zone of Istanbul Atatürk Airport, which is equipped with furnishings of a high standard. The dormitory-type rooms offered sufficient living space,<sup>51</sup> and were equipped with bunk beds, tables, chairs and lockers. In addition, there were separate sanitary facilities (which were also equipped with a washing machine), a television room and a well-equipped play room for children. Moreover, all rooms were air conditioned.

That said, it is highly regrettable that this facility does not provide for any access to natural light and that foreign nationals still do not have any access to outdoor exercise, despite the specific recommendations made by the CPT after previous visits. It is particularly worrying that foreign nationals – including families with children – continue to be held under such conditions sometimes for weeks or even months on end.<sup>52</sup>

In their letter of 25 September 2017, the Turkish authorities indicated that “efforts are made to meet the applicants’ demands for access to open air within available means under the supervision of the operator’s private security team”.

**The CPT would like to receive confirmation that henceforth all foreign nationals who are held in either of the two holding facilities within the transit zone of Istanbul Atatürk Airport for 24 hours or more are offered at least one hour of outdoor exercise per day in the open air and that the persons concerned are informed of the existence of such a possibility.**

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<sup>50</sup> See paragraph 96 of the judgment dated 21 October 2014 in the case of *T. and A. v. Turkey* (application no. 47146/11).

<sup>51</sup> There were a smaller room for male foreign nationals and a larger room with 13 bunk beds for women and children (measuring some 90 m<sup>2</sup>).

<sup>52</sup> In 2016, five foreign nationals (including one juvenile) were accommodated in the holding facility for more than five months, and, in 2017, one family with ten children was held there for approximately four months.

54. Further, the only foreign national who was being held in the holding facility at the time of the visit claimed that he had not received any personal hygiene products. **The CPT trusts that the Turkish authorities will take the necessary steps to ensure that foreign nationals accommodated in the holding facility for asylum-seekers at Istanbul Atatürk Airport are henceforth provided with basic personal hygiene products.**

55. Admissions of foreign nationals who had applied for international protection were recorded in an electronic register (42 in 2016 and 21 during the first five months of 2017). That said, the accommodation in the holding facility of foreign nationals who had not applied for international protection was usually not recorded. **The CPT recommends that this deficiency be remedied.**

56. As regards the provision of information on rights and access to lawyer, see the remarks and recommendations made in paragraphs 76 and 77.

57. The delegation was informed that the new international airport (“Istanbul New Airport”), which was being constructed in Istanbul-Arnavutköy and was planned to become operational in late 2018, would comprise a holding facility for inadmissible passengers and a holding facility for asylum-seekers within the transit zone.

Given the long-standing lack of arrangements for outdoor exercise for foreign nationals held in the transit zone at Istanbul Atatürk Airport, **the CPT would like to be informed of the concrete measures taken by the Turkish authorities to provide in the future daily outdoor exercise for foreign nationals held in the transit zone of Istanbul New Airport. The Committee also wishes to receive further details about the new holding facilities for foreign nationals at Istanbul New Airport (such as their layout, capacity, infrastructure in terms of access to natural light, etc.).**

58. Further, **the Committee requests the Turkish authorities to provide information on the arrangements made to provide outdoor exercise to foreign nationals who are being held in the transit zone of other international airports in Turkey.**

## 6. Health care

59. The delegation observed some improvements since the 2015 visit in terms of health-care staff. In all the removal centres visited, a nurse was on duty around the clock (including at weekends), and a doctor was present on a full-time basis on workdays at Istanbul-Binkılıç and on a part-time basis at Izmir-Harmandalı Removal Centre (for approximately one hour per day) at Izmir-Işıkkent Removal Centre (one day per week).

Given the establishment's capacity (750 places), the presence of the doctor at Izmir-Harmandalı Removal Centre was clearly insufficient. **The CPT recommends that the doctor's presence at Harmandalı be increased to the equivalent of at least one full-time post.**

60. It is also noteworthy that, in the removal centres visited, the health-care facilities were generally of a good standard and the supply of medication satisfactory.

61. However, the CPT is very concerned by the fact that hardly any of the specific recommendations made by the Committee in the report on the 2015 visit regarding the provision of health care in removal centres have been implemented in practice.

62. In particular, it remained the case that no medical screening was usually carried out of newly-admitted foreign nationals and no personal medical files were kept in any of the removal centres visited. Such a state of affairs is not acceptable. The CPT wishes to stress once again the importance of such screening *inter alia* for the timely provision of medical and psychosocial care, the recording of injuries and the prevention of the spread of transmissible diseases (such as tuberculosis). As regards the latter, prompt screening is essential not only for the protection of the health of foreign nationals but also of staff and the community at large.

The Committee notes that especially in larger removal centres sometimes 50 or more foreign nationals may arrive on a single day. Thus, it is important that medical entry examinations be carried out on the basis of a standardised form. In addition, a system should be in place whereby additional health-care staff can be called in to cope with the extra workload, in order to carry out these consultations and examinations in a prompt manner.

63. Prior to their admission to a removal centre, foreign nationals usually underwent a medical control at a hospital, as is required for any detained person at the end of police custody (see also paragraph 19). Notwithstanding that, the CPT wishes to stress that such controls cannot be a substitute for a proper medical entry examination in removal centres.

In all three removal centres visited, the delegation noted the routine practice of foreign nationals undergoing screening for HIV, hepatitis A, B and C and syphilis in the context of the above-mentioned medical control at the hospital prior to their admission to the removal centre. It would appear that these screenings were primarily carried out for administrative reasons,<sup>53</sup> as the persons concerned and the doctors of the removal centres were usually not informed of their results (even if positive) and the records formed part of the administrative files only. Moreover, several foreign nationals interviewed by the delegation claimed that they had been required to undergo a blood test at the hospital without having received any information about its purpose.

The CPT is particularly concerned by the total absence of tuberculosis screening (even in its simplest form of enquiry about key symptoms such as a productive cough, night fevers and weight loss) of foreign nationals who were placed in a removal centre.

64. Regrettably, some doctors met by the delegation in the removal centres visited appeared to be unaware of the need to record carefully any traumatic lesions, whether they have been caused by accidents, self-harm, fights between detainees or the use of force by security staff. Moreover, in particular at Izmir-Harmandalı and Işıkent Removal Centres, the quality of the records of medical consultations left much to be desired.

65. In the light of the remarks made in paragraphs 61 to 64, **the CPT calls upon the Turkish authorities to take urgent steps to ensure that, at Istanbul-Binkılıç and Izmir-Harmandalı Removal Centres, as well as in all other removal centres in Turkey:**

- **all newly-admitted foreign nationals benefit from a prompt and comprehensive medical screening carried out by a doctor or by a nurse reporting to a doctor. The screening should include a physical examination and screening for transmissible diseases (such as tuberculosis, hepatitis, etc.); in this connection, particular attention should also be paid to the possible existence of traumatic disorders and signs of victimisation;**
- **the record drawn up after the medical examination of a foreign national (on admission or during his/her stay in a removal centre) contains: i) a full account of objective medical findings based on a thorough examination, ii) 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), and iii) the health-care professional's observations in the light of i) and ii), indicating the consistency between any allegations of ill-treatment made and the objective medical findings;**
- **whenever injuries are recorded which are consistent with allegations of ill-treatment made by a foreign national (or which, even in the absence of the allegations, are indicative of ill-treatment), the information is systematically brought to the attention of the competent prosecutor, regardless of the wishes of the person concerned;**
- **an individual medical file is opened without delay – and properly kept – for every newly-arrived foreign national.**

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<sup>53</sup> See also paragraph 34.

66. Further, as in 2015, there was a total lack of medical confidentiality in all the removal centres visited. Custodial staff were usually present during medical consultations/examinations, and it appeared to be common practice for custodial staff to have access to medical records, which often formed part of administrative files.

**The CPT reiterates its recommendation that the Ministry of the Interior take steps – in co-operation with the Ministry of Health – to ensure that the principle of medical confidentiality is fully respected in all removal centres in Turkey. More specifically, steps should be taken to ensure that:**

- **all medical examinations of foreign nationals (whether upon arrival or at a later stage) are conducted out of the hearing and – unless the doctor or nurse concerned requests otherwise in a particular case – out of the sight of custodial staff;**
- **medical data are, as a rule, not accessible to non-medical staff (it being understood that custodial staff may have access to the medical information necessary to carry out their duties). Medical files and records should always be kept locked by a member of the health-care staff.**

67. The CPT is also concerned by the fact that all too often no attention was being paid in the removal centres visited to the specific health-care needs of children, in terms of screening, vaccination and adequate medical and psychosocial care. The Committee also wishes to recall that the presence of children in removal centres increases the risk of transmission of contagious diseases common in children (such as measles, chicken pox, scabies and conjunctivitis).

It is noteworthy that, at Izmir-Işıkkent Removal Centre, a doctor made a special visit to the centre shortly before the CPT's visit to vaccinate all the children present in the centre. The vaccination was carried out with parents' consent and included diphtheria, haemophilus influenza, pertussis, tetanus and hepatitis B. Regrettably, no such initiatives had been taken at Izmir-Harmandalı Removal Centre.

**The Committee recommends that the Turkish authorities take the necessary steps to ensure that, at Izmir-Harmandalı Removal Centre and, where appropriate, in other removal centres the provision of health care for children is reviewed, in the light of the preceding remarks.**

68. As regards the provision of general health care, the delegation received a number of complaints from foreign nationals at Izmir-Harmandalı Removal Centre about long waiting periods to see a doctor (no complaints of this kind were heard at Istanbul-Binkılıç Removal Centre).<sup>54</sup> **The CPT would like to receive the Turkish authorities' comments on this matter.**

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<sup>54</sup> At Izmir-Işıkkent Removal Centre, several foreign nationals complained about the lack of attention by health-care staff regarding health problems they had communicated to the latter.

69. In all the removal centres visited, the delegation was informed that foreign nationals in need of specialist care were usually transferred to a State Hospital (including, if necessary, for psychiatric consultations).

Notwithstanding that, the provision of mental health care appeared to be insufficient and, on occasion, foreign nationals suffering from a severe mental disorder did not benefit from adequate health care; some did not receive any medical attention at all. Moreover, psychologists employed in removal centres formed part of the administrative staff and were usually not involved in any therapeutic work.

By way of illustration, at Izmir-Harmandalı Removal Centre, the delegation met a foreign national (Mr S. M.), who was placed alone in a cell which was only equipped with a mattress on the floor. He was barefoot, was wearing dirty clothes, and appeared to be delusional and confused. As far as the delegation could ascertain, he had not been seen by a doctor. This case indicates a flagrant neglect and inappropriate management of a person suffering from a serious psychiatric disorder. Clearly, the person concerned was in urgent need of psychiatric assessment and treatment, in a specialist psychiatric setting, and his case was raised by the delegation with the management of the Centre.

**The CPT encourages the Turkish authorities to reinforce the provision of psychiatric and psychological care to immigration detainees by arranging the regular presence in all removal centres of a psychiatrist and a clinical psychologist who is affiliated to the health-care staff. Further, the Committee would like to receive information on the action taken by the management of Izmir-Harmandalı Removal Centre in respect of the above-mentioned foreign national.**

## 7. Other issues

### a. legal safeguards

70. In the report on the 2015 visit,<sup>55</sup> the CPT outlined the legal safeguards set out in the LFIP regarding the imposition of administrative detention on foreign nationals, the granting of international protection and the implementation of the principle of *non-refoulement*, and, more specifically, the legal remedies to challenge before the competent court<sup>56</sup> an administration detention order and an expulsion (removal) order.<sup>57</sup> The relevant legal provisions remained unchanged since the 2015 visit.

71. As was the case in 2015, in all the removal centres visited, notification forms regarding the imposition of detention and expulsion orders with information on rights (including legal remedies) were available in various languages, and these forms were usually presented to foreign nationals upon their admission.

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<sup>55</sup> See paragraph 46 of CPT/Inf (2017) 32.

<sup>56</sup> I.e. the criminal court of peace and the administrative court respectively.

<sup>57</sup> It is recalled that foreign nationals are entitled to free legal aid in the context of an appeal against the administrative detention order, but not against the issuance of an expulsion order.

That said, in all the removal centres visited, the overwhelming majority of detainees interviewed by the delegation claimed that they had not been given time to read the forms before signing them and were thus not aware of their contents.<sup>58</sup> In addition, several allegations were heard that foreign nationals had to sign the form in a language they did not understand. Moreover, many foreign nationals stated that they had not received a copy of the above-mentioned forms or that they had received only a copy of the notification form regarding the expulsion order, but not the one on administrative detention. The delegation was not in a position to verify these allegations, since no paper trail was kept in the administrative files of the handover of a copy of the forms to the persons concerned.

In this regard, the CPT welcomes the fact that, shortly before the visit, new personalised<sup>59</sup> bilingual (Turkish/foreign language) notification forms were introduced in ten different languages in all the removal centres visited. Among other things, these new forms contain a final clause according to which DGMM officials are required to hand over a copy of the form to the foreign national and the latter is requested to confirm by signature that they have received a copy of it.

**The Committee trusts that the Turkish authorities will take the necessary steps to ensure that, in all removal centres in Turkey, all newly-admitted foreign nationals are henceforth informed of their rights and receive a copy of the above-mentioned notification forms in a language they understand and that, in the event that foreign nationals are illiterate or the form does not exist in the relevant language, the persons concerned are informed of their rights with the assistance of an interpreter.**

72. In all the removal centres visited, the delegation received a number of complaints from foreign nationals that they had not been given an opportunity to notify their family of their detention. In addition, a few complaints were heard that foreign nationals were not allowed to contact the consulate of their country of origin.

**The CPT recommends that steps be taken in all the removal centres visited, as well as in other removal centres in Turkey, to ensure that all newly-admitted foreign nationals effectively benefit, if they so wish, from their rights to inform a relative or another person of their choice of their detention as well as to seek consular assistance.**

73. Regrettably, the situation has not improved since the 2015 visit regarding the implementation of the right of access to a lawyer. Once again, many of the foreign nationals interviewed in the removal centres visited appeared to be unaware of their right to benefit from the services of a lawyer, let alone an *ex officio* lawyer. Further, a number of foreign nationals stated that they had been informed of the right to consult a lawyer, but not of the possibility to benefit from legal aid. Several foreign nationals claimed that they had requested an *ex officio* lawyer several weeks or even months earlier, but that they had never been contacted by any such lawyer. Moreover, several allegations were heard from foreign nationals that they had been told that they were not allowed to have a lawyer.

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<sup>58</sup> One foreign national claimed that he had been threatened with immediate deportation if he refused to sign the notification form.

<sup>59</sup> The forms were designed as templates in which DGMM officials entered relevant personal data and indicated the legal grounds for the administrative detention/expulsion by ticking relevant boxes which were applicable in the given case.

**The CPT reiterates its recommendation that the Turkish authorities take appropriate steps – in consultation with the relevant Bar Associations – to ensure that, in all removal centres in Turkey, immigration detainees can effectively benefit from the services of a lawyer (including through the provision of legal aid for foreign nationals who are not able to pay for a lawyer).**

74. Several foreign nationals interviewed by the delegation claimed that they had contacted a lawyer and had paid to him/her an advance fee of some 2,000 Turkish Lira (or even more) but that the lawyer had neither shown up nor provided any services whatsoever. Members of staff confirmed to the delegation that this did occasionally happen.

**The CPT recommends that the Turkish authorities take appropriate steps – in consultation with the relevant Bar Associations – to prevent a recurrence of such unethical and illegal practices.**

75. From the examination of a number of individual administrative files, it transpired that the need for continued administrative detention was reviewed *ex officio* by a migration specialist of the DGMM on a monthly basis. Further, in accordance with the relevant legislation, foreign nationals were entitled during the entire period of detention to request a judicial review of their detention by the competent criminal court of peace.

76. During its visit to the holding facility for asylum-seekers in the transit zone of Istanbul Atatürk Airport, the delegation was informed by DGMM staff that foreign nationals who had applied for international protection would be subjected to an accelerated asylum procedure and that, during that procedure, the persons concerned were required to remain in the holding facility. In the event that the asylum procedure lasted a long time, they would be granted access to the territory and transferred to a holding centre, pending the outcome of that procedure.

Notwithstanding that, foreign nationals (including minors) who had applied for international protection were on occasion held in the transit zone of Istanbul Atatürk Airport for several months.<sup>60</sup>

In this connection, the CPT notes that the relevant legislation does not set any maximum time limit for the placement of foreign nationals in holding facilities within the transit zone of international airports and that the law does not provide for any procedure by which the lawfulness of this type of deprivation of liberty could be challenged before a court in accordance with Article 5, paragraph 4, of the European Convention on Human Rights (ECHR).<sup>61</sup> **The CPT recommends that the Turkish authorities take the necessary steps to fill this lacuna.**

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<sup>60</sup> See paragraph 53.

<sup>61</sup> See, in this regard, the judgment dated 21 October 2014 of the European Court of Human Rights in the case of *T. and A. v. Turkey* (application no. 47146/11), in which the Court qualified the placement of foreign nationals in the holding facility within the transit zone of Istanbul Atatürk Airport as a form of deprivation of liberty within the meaning of Article 5, paragraph 1, of the ECHR.

77. Upon arrival at the airport, foreign nationals who had applied for international protection were given a personalised notification form in which they were informed of the decision to impose an entry ban (under Section 9 of the LFIP). This form also explicitly refers to the right of access to a lawyer as well as to right of indigent foreign nationals to benefit from the services of an *ex officio* lawyer appointed by the Bar Association. Further, in the context of the first interview with a DGMM official, asylum-seekers were provided with a detailed information sheet on the rights of asylum-seekers (including free-of-charge interpretation, legal aid and legal remedies). The latter information sheet was available in a number of foreign languages.

That said, it is a matter of serious concern that, since 15 August 2016, all requests from asylum-seekers to meet a lawyer had apparently been denied.<sup>62</sup> The delegation was informed that, whenever a foreign national made such a request, the Istanbul Governorship was contacted via the telephone, and each time an instruction was given verbally not to allow the foreign national concerned to receive a visit from a lawyer. No record was kept of such decisions.

**In this regard, the recommendation made in paragraph 73 equally applies to foreign nationals held in the transit zone of Istanbul Atatürk Airport, as well as in the transit zones of other international airports in Turkey.**

b. contact with the outside world

78. According to Section 59, paragraph 1 (b), of the LFIP, immigration detainees have the right to receive visits from relatives and to make telephone calls, in addition to the right to send and receive letters.

Further, in all the removal centres visited, the delegation was told by the management that foreign nationals were in principle allowed to receive visits under open conditions (“table visits”), that they could make telephone calls by means of a payphone every day and that indigent detainees would be given phone cards free of charge by the establishment’s social service. Moreover, representatives of the DGMM affirmed to the delegation that foreign nationals considered to be foreign terrorist fighters (FTF) would benefit from the same opportunities as other immigration detainees, although their contacts with the outside would normally be “monitored”.

That said, there appeared to be a striking contrast between theory and practice in the removal centres visited. At Izmir-Harmandalı and Izmir-Işıkkent Removal Centres, the vast majority of the foreign nationals classified as FTF complained that they were not allowed to make phone calls and that they were also denied visits (including in some cases from lawyers). As far as the delegation could ascertain, there was no legal basis for imposing any such restrictions. In addition, a number of foreign nationals in the two above-mentioned removal centres who were not considered to be FTF complained about restrictions regarding access to the telephone and visits; no such complaints were heard at Istanbul-Binkılıç Removal Centre. Moreover, in all three removal centres visited, not a single foreign national interviewed by the delegation appeared to be aware of the possibility of receiving assistance from the establishment’s social service to make telephone calls.

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<sup>62</sup> According to the logbook of lawyers’ visits, a total of 13 visits had taken place between April and 15 August 2016.

In the CPT's view, all immigration detainees – including FTF – should in principle have the right to communicate with their family by way of visits and telephone calls (in addition to correspondence), it being understood that, in the case of a genuine security risk, such contacts may be monitored and the number of outside persons contacted be limited and that, under exceptional circumstances, access to the telephone may be denied for a specified period of time, provided that any such restrictions do have a legal basis and are subject to independent review. Under no circumstances should restrictions be imposed on immigration detainees' access to a lawyer (see also paragraph 73).

**The CPT recommends that the Turkish authorities take the necessary steps to ensure that these precepts are effectively implemented in practice in all removal centres in Turkey and that the relevant legislation is amended accordingly.**

Further, **the Committee recommends that steps be taken by the management of all removal centres to ensure that indigent immigration detainees can effectively benefit from the right to contact their family.**

c. security-related issues

79. At Izmir-Harmandalı Removal Centre, four security rooms (“padded rooms”) of an identical design (with padding on the walls, one mattress on the floor, a squatting toilet with a cold water tap at floor level and a small window) and equipped with a CCTV camera were located on the ground floor of the “high-security” unit in Block 4B. According to staff, these rooms were on occasion used as a security measure for short periods to segregate from other detainees violent foreign nationals as well as foreign nationals who were at risk of self-harm or who suffered from a psychiatric disorder (prior to their transfer to Manisa Psychiatric Hospital).

The CPT is concerned that the above-mentioned cells did not offer a safe environment for disturbed, agitated persons. In each room, the padding was torn from the walls in several places, and the window handle presented a manifest risk of suicide by hanging; in one room, padding had been torn to such an extent that an electric wire had been exposed.

Further, there was no register concerning the use of these rooms and no protocol describing the procedure, the frequency of observations or visits by a member of the health-care staff, and it remained somewhat unclear who had taken a decision on such placements.

**The CPT recommends that the Turkish authorities take the necessary steps to ensure that, at Harmandalı Removal Centre, and, where appropriate, in other removal centres:**

- **every placement in a security room (padded room) is decided by a member of the management, is immediately brought to the attention of a doctor and is subject to regular checks by a member of the health-care staff;**
- **foreign nationals are accommodated in such a room for the shortest possible duration;**

- **a special register is kept of every placement in a security room (padded room), recording the name of the foreign national concerned, the reasons for the measure, the date and time of the beginning and end of the measure, the name of the person who decided on the placement, the precise location where the foreign national subject to segregation is accommodated and the time of the checks by health-care staff.**

Further, **the material conditions in the security rooms at Izmir-Harmandalı Removal Centre should be improved, in the light of the above remarks.**

80. At Istanbul-Binkılıç Removal Centre, the delegation observed that not only corridors and other communal areas but also all detention rooms (except sanitary facilities) were under constant video-surveillance (CCTV). The CPT acknowledges that CCTV cameras in detention rooms of removal centres can be a useful safeguard in particular cases, for example when a person is considered to be at risk of self-harm or suicide (see also paragraph 79).

However, given the extreme infringement upon the privacy of foreign nationals, the Committee has serious misgivings about the routine installation of CCTV cameras inside detention rooms. The best way of reducing the risk of inter-detainee violence and intimidation is the active presence of custodial staff within detention areas.

**The Committee recommends that the Turkish authorities review their policy of video-surveillance at Istanbul-Binkılıç Removal Centre and, where appropriate, in other removal centres in Turkey, in the light of the above remarks.**

81. Finally, the CPT has misgivings about the practice observed in all the removal centres visited of custodial staff openly wearing batons and handcuffs within detention areas. In the interests of promoting positive relations between staff and detainees, **the Committee considers that custodial staff in removal centres should not carry such devices as a matter of routine in detention areas.**

## C. Prisons

### 1. Preliminary remarks

82. The CPT's delegation carried out full visits to Siirt and Trabzon E-type Prisons and Istanbul-Metris and Izmir-Menemen R-type Prisons (all four establishments being visited by the Committee for the first time). Further, the delegation paid targeted visits to Batman M-type Prison, Diyarbakır D-type Prison and Diyarbakır E-type Prison where it mainly focused on the general conditions of detention and issues related to health care. It also went to Istanbul-Bakırköy Women's Prison and Istanbul-Metris T-type Prison No. 1, in order to interview persons who had recently been in police custody.

83. *Batman M-type Prison* was built in 1992 and has an official capacity of 363 places spread among three accommodation blocks. At the time of the visit, it was holding 659 prisoners, including 14 adult women and 15 male juveniles. Of them, 435 were on remand.

*Diyarbakır D-type High-Security Prison* was last visited by the CPT in 2013 and its official capacity had remained unchanged since that visit (680 places). At the time of the 2017 visit, the establishment was accommodating 1,177 prisoners<sup>63</sup> (including 22 male juveniles), of whom 764 were on remand. As in 2013, the prisoner population was primarily composed of male prisoners accused or convicted of offences related to terrorism or organised crime.

*Diyarbakır E-type Prison* had previously been visited by the CPT on several occasions, most recently in 2013. As in Diyarbakır D-type Prison, the establishment's official capacity had been considerably exceeded at the time of the visit; for a capacity of 1,035 places, it was accommodating 1,558 prisoners<sup>64</sup> (including 71 adult women and 38 male juveniles). Of these, 935 were on remand.

*Siirt E-type Prison*, opened in 1996, occupies five three-storey accommodation blocks. With an official capacity of 510 places, it was holding 808 inmates (including 31 adult women and six male juveniles) at the time of the visit, of whom 652 were on remand.

*Trabzon E-type Prison* was built in 1976 and has an official capacity of 586 places in four prisoner accommodation blocks. At the time of the visit, the establishment was holding 1,140 prisoners (including 45 adult women and four male juveniles), which was nearly double its official capacity. Approximately two-thirds of the prisoners were on remand. The inmate population included nine prisoners sentenced to aggravated life imprisonment.

*Menemen R-type Prison*, which is located in the vicinity of Izmir, was opened in February 2016 as a specialised institution for prisoners in need of chronic somatic care. With an official capacity of 166 places, the prison was accommodating at the time of the visit a total of 52 inmates (47 male and five female); 45 prisoners were sentenced (including three who had been sentenced to aggravated life imprisonment) and seven on remand.

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<sup>63</sup> At the time of the 2013 visit, the prison was accommodating 698 prisoners.

<sup>64</sup> In 2013, the establishment was holding 1,061 inmates.

*Metris R-type Prison*, which is part of the Metris Prison Complex in Istanbul, was opened in 2009 as the first establishment of this kind in Turkey,<sup>65</sup> and it is the only R-type prison in the country which, in addition to prisoners in need of somatic care, also caters for prisoners with chronic mental disorders (only male adults). Metris R-type Prison was given the specific role of providing care and treatment to prisoners who have developed a psychiatric disorder while serving their prison sentence (under Section 18 (1) of the Law on the Execution of Sentences and Security Measures (LESSM)).<sup>66</sup> With an official capacity of 156 places, it was accommodating at the time of the visit a total of 106 inmates, including 50 in need of somatic care and 46 under Section 18 (1) of the LESSM. In addition, ten sentenced prisoners who presented no somatic or psychiatric disorders were accommodated in the prisoners as house workers.

84. The size of Turkey's prison population has continued to grow at an alarming rate and, at the time of the 2017 visit, reached approximately 221,000, compared to some 132,000 at the time of the CPT's last periodic visit in 2013. In particular, the number of remand prisoners had risen from some 25,000 to 83,000 (i.e. about 38% of the total prison population).<sup>67</sup> In the meantime, the official capacity of the prison estate had been increased to 202,676 places (as compared to 147,266 in 2013).<sup>68</sup>

In this context, the CPT is very concerned to note that most of the prisons visited during the 2017 visit were grossly overcrowded (see paragraphs 92 and 93). The overcrowding had a negative impact on many aspects of life in the establishments, often leading to extremely cramped accommodation, limited access to out-of-cell activities and overburdened health-care services.

85. During consultations with the delegation, the Turkish authorities referred to a series of measures taken to tackle the problem of prison overcrowding. Most notably, according to provisional amendments introduced to the LESSM by Decree-Law No. 671 (dated 17.08.2016), with regard to persons convicted of a criminal offence<sup>69</sup> committed before 1 July 2016: (a) those who have less than two years<sup>70</sup> remaining to be served before the date of their eligibility for conditional release may serve their remaining term under probation outside prison establishments, and (b) those sentenced to a determinate term of imprisonment may benefit from conditional release after having served half of their term in prison.<sup>71</sup> The delegation was informed that a total of some 45,000 persons (including 1,691 women and 82 juveniles) had been released from prison as a result of the application of these legal provisions.

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<sup>65</sup> The R-type prison shares the same management as the adjacent Metris T-type Prison No. 2.

<sup>66</sup> This provision allows for "convicts who have been diagnosed with mental disorders other than insanity" for whom confinement in a mental hospital is not necessary to serve their sentences in "exclusive sections of designated establishments".

<sup>67</sup> The delegation was told by the authorities that such a sharp increase in the number of remand prisoners was attributable to large-scale law enforcement operations in connection with the military coup attempt of 15 July 2016, as a result of which some 50,000 persons were in remand custody.

<sup>68</sup> It became clear during the visit that the increase in capacity had been achieved not only by bringing into service new prisons but also by installing additional beds in existing accommodation units.

<sup>69</sup> Save for certain serious crimes, such as premeditated murder, drug trafficking, terrorism and offences against state security and constitutional order.

<sup>70</sup> The previous version of the law set a one-year limit (Section 105A, paragraph 1, of the LESSM).

<sup>71</sup> Instead of two-thirds under the previous version of the law (See Section 107, paragraph 2, of the LESSM).

Reference was also made to the introduction of community work (instead of imprisonment) for failure to pay fines and increased resort to legal provisions on alternatives to prosecution (e.g. through mediation and compensation of the victim), as well as to greater use of the measure of judicial supervision (including by means of electronic monitoring) in respect of criminal suspects.<sup>72</sup>

The delegation was also informed of steps taken to further expand the prison estate. It was mentioned that 139 prisons with a total capacity of some 134,000 places had been opened in the last ten years, of which 38 (with a total capacity of 26,572) were built in 2016. It was added that the existing prison capacity would be increased by 13,000 places by the end of summer 2017. Further, in their letter of 25 September 2017, the Turkish authorities informed the CPT that they “planned to construct 228 new prison establishments by 2021. Among these, 106 are under construction, 51 are in the tender phase, 59 are in the project phase and twelve are in the planning phase. The planned capacity of these establishments is 333,714”. That said, it remains unclear to what extent the implementation of these plans will lead to the closure of old prisons. **The CPT would like to receive clarification on this point.**

86. Whilst acknowledging the above-mentioned measures, the CPT must point out that the problem of prison overcrowding still remains very acute. In this connection, the Committee is not only concerned by the exponential increase in the size of the country’s prison population in recent years,<sup>73</sup> but also by its further increase in the coming years as predicted by the Turkish authorities.

The CPT wishes to recall that constructing new prisons is not likely, in itself, to provide a lasting solution to the problem of overcrowding. Addressing this problem calls for a coherent strategy, covering both admission to and release from prison, to ensure that imprisonment – including pre-trial detention – really is the measure of last resort. Such a strategy implies an emphasis on non-custodial measures in the period before the imposition of a sentence. In this regard, strict limits should be set on the use of remand in custody and alternative measures should be used wherever possible. Further, greater use should be made by the judiciary, especially in less serious cases, of alternatives to custodial sentences. Moreover, the adoption of measures to facilitate the reintegration into society of persons who have been deprived of their liberty could reduce the rate of re-offending.

**In the light of the above, the CPT calls upon the Turkish authorities to take concerted action to curb prison population inflation and to intensify their efforts to eradicate prison overcrowding. In so doing, the authorities should be guided by the relevant Recommendations of the Committee of Ministers of the Council of Europe: Recommendation R (99) 22 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, and Recommendation Rec(2010)1 on the Council of Europe Probation Rules.**

**Appropriate action should also be taken vis-à-vis the prosecutorial and judicial authorities, including through training, to ensure their full understanding of – and support for – the policies being pursued, thereby avoiding unnecessary pre-trial custody and sentencing practices.**

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<sup>72</sup> According to information provided by the authorities, about 255,000 persons were under judicial supervision.

<sup>73</sup> It should be recalled that the total number of the country’s prison population was approximately 56,000 in 2005.

87. It is a matter of serious concern that, at Menemen R-type Prison, inmates sentenced to aggravated life imprisonment (as well as some other inmates convicted of terrorism-related offences) were held in the establishment's high-security unit under a solitary-confinement-type regime.<sup>74</sup> Apart from one hour of outdoor exercise (to be taken alone), they were locked in their room for 23 hours per day, without being offered any purposeful activities.

The situation was more favourable at Metris R-type Prison, where inmates sentenced to aggravated life imprisonment had access to an outdoor exercise yard every day for one to two hours, during which time they could associate with other inmates of the same category. In addition, from Monday to Friday, they were usually offered one hour of activities as described in paragraph 108, separately from other inmates who were not sentenced to aggravated life imprisonment. Notwithstanding that, the inmates concerned usually remained locked up alone in their cell for 21 hours per day.

At Trabzon E-type Prison, most of the aggravated life-sentenced prisoners could associate with each other during fortnightly sports sessions lasting one hour. Further, the daily one-hour outdoor exercise was usually taken with another inmate of the same category. However, for the rest of the time these prisoners were confined to their (single) cells and left to their own devices.

In this connection, the CPT must stress once again that the underlying concept of the detention regime of persons sentenced to aggravated life imprisonment, as defined in Section 25 of the LESSM, is fundamentally flawed, all the more so when it is being applied to prisoners who suffer from chronic physical disabilities and/or mental disorders.<sup>75</sup> As a matter of principle, the imposition of such a regime should lie with the *prison authorities* and always be based on an *individual* risk assessment, and not be the automatic result of the type of sentence imposed.

**The CPT once again calls upon the Turkish authorities to carry out a complete overhaul of the detention regime applied to inmates sentenced to aggravated life imprisonment, in the light of the precepts set out in paragraphs 82 to 84 of the report on the 2013 visit.<sup>76</sup> To this end, the relevant legislation should be amended accordingly.**

Further, pending the revision of the relevant legislation, **the Committee recommends that the Turkish authorities take steps to ensure that, at Istanbul-Metris and Izmir-Menemen R-type Prisons and Trabzon E-type Prison, inmates sentenced to aggravated life imprisonment, as well as other high-security inmates, are able spend more time outside their cells in association with other inmates.**

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<sup>74</sup> In the Turkish prison system, prisoners sentenced to "normal" life imprisonment are usually not segregated from the general prison population and in principle have access to the same regime activities as prisoners who are serving a fixed prison term. In contrast, the regime applied to prisoners sentenced to aggravated life imprisonment is very restrictive. In particular, under Section 25, paragraphs (1) (a) and (b), of the LESSM, the prisoners concerned are in principle accommodated in single cells, the only guaranteed out-of-cell activity being one hour of outdoor exercise per day. According to Section 25, paragraph (1) (c), prisoners may have their daily one-hour outdoor exercise and sports period extended and may be allowed to engage in limited contact with prisoners accommodated in the same unit, depending on the risk factors, security requirements and the efforts and good behaviour they demonstrate in "rehabilitation and educational activities". Under Section 25, paragraph (1) (d), prisoners may also engage in a professional or occupational activity considered suitable by the administrative board, if conditions in the place where they are held so permit.

<sup>75</sup> See also Rules 6 and 102.2 of the European Prison Rules as well as Recommendation Rec (2003) 23 on the management by prison administrations of life sentence and other long-term prisoners.

<sup>76</sup> See also Rules 43 and 44 of the UN Standard Minimum Rules for the Treatment of Prisoners (*Nelson Mandela Rules*).

## 2. Ill-treatment

88. Hardly any allegations were received by the CPT's delegation of recent physical ill-treatment of prisoners by staff of the establishments visited. Most of the inmates interviewed by the delegation stated that staff treated them in a correct manner.

Further, it appeared from the information gathered during the visit that inter-prisoner violence did not constitute a major problem in any of the establishments visited.

89. That said, at Diyarbakır and Siirt E-type Prisons and Menemen R-type Prison, the delegation heard a number of accounts of verbal abuse of adult male prisoners by custodial officers. Similar complaints were received from several female prisoners at Batman M-type and Trabzon E-type Prisons. **The CPT recommends that a clear message be delivered to prison officers in these establishments that any form of ill-treatment of prisoners – including verbal abuse – is unacceptable and will be sanctioned accordingly.**

90. Although not deliberate ill-treatment, it should be pointed out that, in several of the prisons visited (such as Batman M-type Prison and Diyarbakır, Siirt and Trabzon E-type Prisons), many inmates were being held for prolonged periods of time under conditions which could, in the CPT's view, be described as inhuman and degrading treatment (see paragraphs 92 and 93).

## 3. Conditions of detention of adult prisoners

91. During its visits to *Batman M-type Prison, Diyarbakır D- and E-type Prisons* and *Siirt and Trabzon E-type Prisons*, the delegation paid particular attention to the general conditions of detention. With the exception of Diyarbakır D-type Prison (where prisoner accommodation consisted mainly of single-storey dormitories), the great majority of the inmate population in these establishments was accommodated in dormitories of a duplex design, consisting of a living area on the ground level (equipped with a sanitary annexe with a toilet and a shower) and a bedroom upstairs. In all the prisons visited, the dormitories had an adjacent courtyard to which prisoners had unrestricted access during daylight hours.

### a. material conditions

92. The CPT was concerned to note that, in order to cope with the ever-increasing prison population, the dormitories in the aforementioned prisons were usually accommodating a much larger number of inmates than their original design capacity.<sup>77</sup> This resulted in serious overcrowding in prisoner accommodation at Batman M-type Prison and Diyarbakır, Siirt and Trabzon E-type Prisons.<sup>78</sup> By way of example, at Siirt Prison, a single-level dormitory measuring some 36 m<sup>2</sup> was holding 19 inmates. At Batman, the delegation saw a dormitory of some 35 m<sup>2</sup> (combined floor space of the two levels, excluding the sanitary annexe), which was accommodating 16 prisoners. Another dormitory in this prison, measuring some 75 m<sup>2</sup>, was holding 34 inmates.

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<sup>77</sup> For example, at Trabzon E-type Prison, dormitories with a design capacity of 10 to 12 places were holding between 30 and 35 prisoners.

<sup>78</sup> As regards Diyarbakır D-type Prison, although the establishment was operating well above its official capacity (see paragraph 83), many dormitories provided sufficient living space for the number of inmates held (e.g. dormitories of some 20 and 32 m<sup>2</sup> holding up to five and eight prisoners respectively). That said, in some dormitories, the living space per prisoner was below 4 m<sup>2</sup> (e.g. seven prisoners in a dormitory of some 25 m<sup>2</sup>).

The situation was particularly precarious at Trabzon E-type Prison where in a large number of dormitories the overcrowding reached extreme proportions. For example, several single-level dormitories, which measured some 40 m<sup>2</sup>, were holding 32 prisoners each. Another dormitory measuring some 20 m<sup>2</sup> plus an upper-level bedroom of some 27 m<sup>2</sup> was accommodating 34 inmates.

Furthermore, in each of the prisons visited, many dormitories were holding more prisoners than the number of beds available;<sup>79</sup> as a result, inmates often had to sleep on mattresses placed on the concrete floor. Moreover, in some dormitories, there was not even a sufficient number of additional mattresses to provide every prisoner with an individual sleeping place. For instance, at Batman, the delegation saw a two-level dormitory with 33 prisoners, which was only equipped with 14 beds (in seven double bunks). The mattresses placed on the floor (including at the door to the sanitary annexe and under the staircase) on both levels provided for an additional 13 sleeping places. As there was no floor space left for more mattresses, six prisoners were obliged to take the “day shift” in order to sleep.

A number of other adverse effects of this state of affairs were also in evidence (e.g. insufficient numbers of chairs, tables and lockers; 30 to 40 inmates having to share one toilet; etc.). It should be highlighted that the deleterious effects of overcrowding were further exacerbated after the locking of the courtyard door in the evening as well as during inclement weather.

93. In the CPT’s view, such a state of affairs is not in compliance with the State’s duty of care vis-à-vis persons it has deprived of their liberty, which includes the obligation to provide them with adequate living conditions and it can easily raise issues under Article 3 of the European Convention on Human Rights (inhuman and degrading treatment).

**The CPT therefore recommends that the Turkish authorities take urgent measures to address the problem of overcrowding at Batman M-type Prison and Diyarbakır, Siirt and Trabzon E-type Prisons (as well as in all other establishments where similar conditions prevail), with a view to ensuring that dormitories offer at least 4 m<sup>2</sup> of living space per prisoner (not counting the area taken up by sanitary facilities). Steps should also be taken at Diyarbakır D-type Prison to meet this objective throughout the establishment.**

**The Committee also recommends that immediate steps be taken in all the prisons visited to ensure that every inmate is provided with his/her own bed and that the dormitories are suitably equipped with tables/chairs and lockers for the number of prisoners they accommodate.**

**The CPT would like to receive, within three months, an account of action taken to implement the above-mentioned recommendations.**

94. Overcrowding apart, material conditions of detention were on the whole acceptable at Batman M-type and Diyarbakır D-type Prisons, in terms of the state of repair and hygiene and access to light (both natural and artificial). However, in both establishments, numerous complaints were received from prisoners about insufficient heating during the cold season.

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<sup>79</sup> For example, at Trabzon E-type Prison, a dormitory with 34 inmates only had 14 beds.

Further, the delegation noted that a number of dormitories at Diyarbakır, Siirt and Trabzon E-type Prisons were poorly ventilated and visibly affected by damp, creating a potentially unhealthy environment for prisoners. Moreover, at Siirt, some prisoner accommodation areas were dilapidated (with crumbling walls and decrepit in-cell toilets), and the level of hygiene in a number of dormitories left much to be desired (infestations of cockroaches, etc.).

**The CPT recommends that steps be taken in the establishments visited to ensure that all prisoner accommodation areas are kept in a satisfactory state of repair and hygiene and are properly ventilated and heated.**

95. In each of the prisons visited, the delegation received many complaints from inmates that they had to pay for bed linen<sup>80</sup> as well as for basic hygiene items and cleaning products for their dormitories, while the vast majority of them did not have any opportunity to earn money in prison. The delegation also noted that, at Diyarbakır and Trabzon E-type Prisons, in-cell showers were not functioning and prisoners had to wash themselves with water collected in buckets. Further, at Siirt and Trabzon, hot water was only available once or twice a week for a couple of hours (during which prisoners had to wash themselves and their clothes), which posed a particular problem in dormitories with large numbers of inmates.

**The CPT recommends that steps be taken in the establishments visited and, where appropriate, in other prisons in Turkey to ensure that all prisoners are provided free of charge with bed linen as well as with essential personal hygiene items (including sanitary towels for women) and materials for cleaning their dormitories. Steps should also be taken at Diyarbakır, Siirt and Trabzon E-type Prisons to ensure that prisoners are able to take a hot shower at least twice a week.**

96. At Siirt and Trabzon E-type Prisons, the delegation also examined the situation of female prisoners.

It is noteworthy that at Siirt, unlike the majority of their male counterparts, women were being accommodated in dormitories which offered sufficient living space and adequate material conditions. Notably, every female prisoner had their own bed with proper bedding. That said, the prisoners concerned found the problem of the intermittent hot water supply (see paragraph 95) very difficult to cope with, and understandably so.

As regards female prisoners at Trabzon Prison, their situation was similar to that of their male counterparts (e.g. serious overcrowding,<sup>81</sup> shortage of beds, dysfunctional showers, etc.). **Reference is made in this regard to the relevant recommendations in paragraphs 93 to 95. In this connection, steps should be taken to ensure adequate provision for the specific hygiene needs of female prisoners.**

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<sup>80</sup> At Diyarbakır and Siirt E-type Prisons, the delegation observed that a number of inmates who had already spent several days in the establishment had no bed linen.

<sup>81</sup> For example, a double-storey dormitory with 16 women (and a small child) measured some 42 m<sup>2</sup>.

97. At the end-of-visit talks with the Turkish authorities, the delegation expressed its serious misgivings about the situation observed at Trabzon E-type Prison where a nine-month old child was being held with her mother in a dormitory under extremely cramped conditions.<sup>82</sup> As far as the delegation could ascertain, no specialist support (by a paediatrician) was provided to them. Further, the heating was insufficient, the dormitory did not provide a safe environment for the child (e.g. there was no safety barrier for the stairs between the two floors, etc.) and there were no play areas for children.

By letter of 25 September 2017, the Turkish authorities informed the Committee that the prisoner concerned and her child had been transferred to another prison with “a more appropriate environment”.

98. More generally, the CPT would like to stress that postnatal care provided in custody should be supervised by specialists in social work and child development, and that access to paediatric and other types of medical care (including for mothers) should be guaranteed. Where babies and young children are held in prison, they should be placed in conditions providing them with the equivalent of a crèche, ensuring *inter alia* that their movement and cognitive skills develop normally. Further, **The Committee recommends that steps be taken to ensure that the managements of Trabzon E-type Prison and, as appropriate, of other prisons in Turkey fully assume their responsibilities vis-à-vis mothers imprisoned together with their babies or young children, in the light of the above remarks.**

b. regime

99. One of the negative consequences of overcrowding in the prisons visited was reduced communal activities provided to inmates. With the exception of a small number of prisoners working in the establishments’ general services (kitchen, food distribution, etc.), as well as in workshops available in some of the prisons, hardly any purposeful out-of-cell activities were offered to inmates, apart from one-hour sports sessions which took place at best three times a month and a limited range of vocational courses. Moreover, at Batman M-type Prison and Diyarbakır, Siirt and Trabzon E-type Prisons, inmates accused or convicted of offences related to terrorism were generally not allowed to engage in any kind of organised communal activity.

100. At *Trabzon E-type Prison*, out of the total of 1,140 inmates, some 50 were involved in remunerated work (including in a small sewing workshop) and about the same number in vocational training (e.g. sewing, hairdressing, etc.). Further, about a dozen prisoners attended literacy classes. In addition, indoor or outdoor sports activities were offered to inmates three times per month, for approximately one hour.

At *Batman M-type Prison*, some 15% of the inmate population were reportedly engaged in work. As regards sports activities, prisoners had access to an outdoor football/basketball field three times per month, for up to one hour.

The only regular out-of-cell activity provided to inmates at *Diyarbakır D and E-type Prisons* was one-hour sports sessions, which were available once a month to nearly half of the inmate population in the D-type and three times a month in the E-type Prison.

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<sup>82</sup> The inmate concerned was admitted to the prison on 25 November 2016, together with her child.

The worst situation was observed at *Siirt E-type Prison* where, with the exception of a small number of working prisoners, no out-of-cell activity whatsoever was available to inmates. According to the prison management, apart from the lack of staff, this was due to the fact that the communal activity rooms had to be converted into prisoner accommodation units. It is of all the more concern that several dormitories in Block E had no adjoining outdoor area, the prisoners concerned only being offered one hour of daily outdoor exercise.<sup>83</sup>

101. The limited range of out-of-cell activities on offer and the lack of staff and facilities to organise such activities resulted in a seriously deficient regime for prisoners in the establishments visited. Whilst acknowledging the fact that the vast majority of inmates in these prisons had, in principle, ready access to a courtyard throughout the day, it is not acceptable that the bulk of the prisoner population had to spend almost all of their time in their (overcrowded) dormitories, without being offered a structured programme of purposeful activities.

**The CPT calls upon the Turkish authorities to take steps at Batman M-type Prison, Diyarbakır D- and E-type Prisons and Siirt and Trabzon E-type Prisons (and in all other prisons in Turkey where a similar situation prevails) to improve substantially the regime of activities for all inmates, regardless of their legal status and criminal charges involved. The aim should be to ensure that all prisoners are able to spend a reasonable part of the day outside their dormitory, engaged in purposeful activities of a varied nature (such as work, preferably with vocational value, education and sport).**

#### **4. Conditions of detention of juvenile remand prisoners**

102. At Batman M-type Prison, Diyarbakır D- and E-type Prisons and Siirt and Trabzon E-type Prisons, the delegation paid particular attention to the situation of juveniles. In each prison, the juveniles were separated from adult inmates in distinct dormitories.

103. In all the prisons visited, material conditions of detention in the dormitories for juveniles were on the whole satisfactory. They offered sufficient living space to inmates and were generally in an adequate state of repair and cleanliness, well-lit and ventilated and suitably equipped (including with a sufficient number of bunk beds).

That said, in the same way as adult prisoners, juveniles complained to the delegation that they had to buy themselves basic personal hygiene items and cleaning products. In this regard, **reference is made to the relevant recommendation in paragraph 95.**

104. The CPT was concerned to note that juvenile inmates in the prisons visited were offered a rather limited range of sports and recreative activities. Further, no efforts appeared to be made to engage juveniles in education. As a result, they were confined to their dormitories for most of the time, with very little to do besides watching television, playing video games and reading. Such a state of affairs is unacceptable, given that juveniles were held in remand detention for months on end, and even up to a year.

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<sup>83</sup> Admittedly, most of the prisoners concerned enjoyed generous living space (for example, nine prisoners in a dormitory of some 70 m<sup>2</sup>).

For example, at Batman, the only regular out-of-cell activities available to juveniles were weekly football matches and twice weekly one-hour game sessions in a computer room. At Diyarbakır D- and E-type Prisons, the programme of out-of-cell activities for these prisoners was limited to one-hour sports sessions once or twice per week. The few juvenile inmates held at Trabzon E-type Prison were offered movie sessions and computer games several times per week and 45-minute sports sessions two to three times per month. At Siirt, juveniles could leave their dormitory once a week for one hour to play table tennis. On a positive note, the delegation heard accounts of frequent meetings with a psychologist in almost all the establishments visited.

105. Juveniles have a particular need for physical activity and intellectual stimulation. Those deprived of their liberty should be offered a full programme of education, sport, vocational training, recreation and other purposeful activities. Physical education should constitute an important part of that programme.

**The CPT reiterates its recommendation that steps be taken in all the establishments visited (and, as appropriate, in other prisons in Turkey) to provide juveniles with a programme of organised activities, in the light of the above remarks.**

## **5. Situation of prisoners held in R-type prisons**

106. As already mentioned in paragraph 82, the delegation visited for the first time two R-type prisons, namely in Istanbul-Metris and Izmir-Menemen.<sup>84</sup>

At the outset, the CPT wishes to stress that it has gained a favourable impression of the very concept of R-type prisons, since they are likely to be effective in preventing inhuman detention conditions for inmates with special needs in ordinary prisons. Indeed, many inmates interviewed by the delegation gave harrowing and distressing accounts of conditions they had faced in normal prisons. In addition to problems of access and lack of appropriate medical and psychosocial care, the prisoners concerned may face discrimination, stigma and inappropriate measures taken by prison staff. Further, in the case of prisoners with psychiatric disorders, there can be harassment, exploitation and segregation from the rest of the prison population. Moreover, most Turkish prisons do not have the equipment or staff to deal with long-term physical disabilities such as paraplegia, amputees or degenerative neurological disorders.

107. At Istanbul-Metris and Izmir-Menemen R-type Prisons, material conditions were on the whole adequate in terms of state of repair, access to natural light, ventilation and living space.<sup>85</sup> It is also noteworthy that indigent inmates were provided with a television set and a refrigerator.

That said, at Menemen R-type Prison, in-cell doors to the sanitary annexe were so narrow (less than 80 cm) that disabled inmates were not able to access the annexe in their wheelchair. Thus, they had to be carried to the toilet or shower by fellow-inmates or members of staff. **Steps should be taken to remedy this deficiency.**

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<sup>84</sup> Three more R-type prisons are located in Adana, Elazığ and Samsun.

<sup>85</sup> Inmates were usually accommodated in three-bed cells measuring some 24 m<sup>2</sup> (without counting the fully partitioned sanitary annexe, which was equipped with a toilet, a sink and a shower). Single cells measured some 14 m<sup>2</sup> (including a semi-partitioned toilet and a sink).

108. As regards the regime, most of the prisoners had unrestricted access to an exercise yard during a major part of the day in both R-type prisons visited.

At Istanbul-Metris R-type Prison, a weekly activity programme was offered to inmates which allowed them to participate for a total of one hour per day in various activities, such as spending time in a “special garden” (with small trees, a lawn, benches and flowers), access to a pet room (fish and birds) a games room (with table football, chess and puzzles), a rhythm room (with drums, tambourines and other percussion instruments) and a gym, table tennis, painting, etc..

That said, it is regrettable that, at Metris, a considerable number of inmates admitted under Section 18 (1) of the LESSM did not benefit from the recreative activities on offer. Further, hardly any recreative activities were offered to inmates at Izmir-Menemen R-type Prison. Overall, the delegation was struck by the high degree of inactivity and apathy of most inmates at Menemen.

**The CPT recommends that steps be taken by the management of Istanbul-Metris and Izmir-Menemen R-type Prisons to provide inmates with a range of recreative activities which are adapted to their health condition.**

109. As regards the specific situation of inmates sentenced to aggravated life imprisonment who were being held at Istanbul-Metris and Izmir-Menemen R-type Prisons, **reference is made to the remarks and recommendations in paragraph 87.**

110. At Izmir-Menemen R-type Prison, the health-care staff included four full-time doctors, seven full-time nurses, one full-time physiotherapist, and 21 orderlies (caregivers). In addition, a psychiatrist, a physical therapist, and a dentist each visited the prison for one day per week.

At Istanbul-Metris R-type Prison, there were three full-time doctors, one part-time psychiatrist (working for half a day three times a week), six nurses, one physiotherapist and 20 orderlies (caregivers).

In both R-type prisons, one doctor and at least one nurse were present at all times. Both prisons also employed two full-time psychologists who formed part of the administration and were thus not affiliated to the health-care unit.

While the number of general practitioners and nursing staff appeared to be generally adequate in both establishments, the psychiatrist’s presence was clearly insufficient at Metris R-type Prison, where many prisoners with chronic psychiatric conditions were not being seen regularly by the psychiatrist. Moreover, although Menemen R-type Prison is not intended for patients with a mental disorder, there were nevertheless a significant number of inmates who presented psychiatric problems (including two with a diagnosis of psychosis) in association with a somatic disorder. Thus, the presence of a psychiatrist for one day per week was scarcely sufficient.

According to the Turkish authorities’ letter of 25 September 2017, there are plans to recruit two additional part-time psychiatrists at Istanbul-Metris R-type Prison. **The CPT welcomes this initiative and would like to receive confirmation that the psychiatric cover at Istanbul-Metris R-type Prison has been increased to the equivalent of at least one full-time post.**

**Further, steps should be taken to review the part-time presence of the psychiatrist at Izmir-Menemen R-type Prison, in the light of the above remarks.**

111. In both R-type prisons visited, the somatic care provided to inmates was generally adequate. The delegation gained a positive impression of the supply of medication and medical supplies needed for patients suffering from incontinence or with intestinal stoma. Further, the availability of dedicated physical rehabilitation therapy and the supply of prosthetic devices and mobility aids was adequate.

That said, the frequency and seriousness of bed sores appeared to be a major problem at Izmir-Menemen R-type Prison. At the time of the visit, seven inmates were under treatment for bed sores with daily dressings, antibiotics and special mattresses.<sup>86</sup> According to medical staff, all the inmates concerned had arrived with bed sores from other prisons. Other examples of delays in transferring seriously ill prisoners from other prisons to Menemen concerned cases of malnutrition, muscle contracture, chronic bone infections and decompensated diabetes. It remained somewhat unclear as to whether these delays were caused by delays in requesting assessments by the specialist panels in state hospitals, delays in carrying out these assessments or delays in organising the transfer once the assessment has been carried out.

In this connection, the situation of a 76-year old patient (Mr R.Y.) who was admitted to Menemen R-type Prison one week prior to the visit with deep extensive and infected bedsores gives rise to particular concern. The person concerned was unable to feed himself and was fed by orderlies with liquids. He was incontinent, emaciated, dehydrated and semi-conscious when seen. He had large bed sores, mainly in the sacral area, but also on his right heel. The sacral bone was exposed. He was receiving antibiotic treatment for an infection of his bed sore. The bed sore gave out an extremely unpleasant smell which was intolerable for other prisoners. The delegation was puzzled by the fact that the patient had been returned to the prison after an assessment in the State Hospital. In the delegation's view, the health condition of this person was so alarming that he should be cared for in a hospital setting. Thus, the delegation informed the doctor and the management of the prison of the urgent need for him being hospitalised.

In their letter dated 25 September 2017, the Turkish authorities confirmed that the above-mentioned patient had promptly been transferred to a hospital where he continued to receive treatment.

Whilst acknowledging the action taken by the Turkish authorities after the visit in this particular case, **the CPT recommends that the Ministry of Justice take appropriate steps – in co-operation with the Ministry of Health – to ensure that prisoners suffering from severe illnesses in an ordinary prison are speedily transferred to an R-type prison or, if necessary, to a hospital.**

112. At Menemen R-type Prison, the delegation was informed by the management that special diets could be ordered and assessments of the dietary needs of inmates could be carried out by a medical dietician at the State Hospital. The delegation was also told that, following a recent inspection by the visiting board of the Izmir Governor's Office, arrangements were being made to improve the supply of food. That said, at the time of the visit, medical staff were unable to give any details about the type of diets available from the kitchen. During interviews with inmates, it appeared that the situation about diets was far from satisfactory, in particular, there was a lack of appetising, low-calorie and low-fat diets as well as of protein supplements for emaciated and cachectic inmates. **The CPT recommends that the provision of special diets be reviewed at Izmir-Menemen R-type Prison, in the light of the preceding remarks.**

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<sup>86</sup> All prisoners with bed sores were referred to the State Hospital for evaluation by a plastic surgeon and, in certain cases, debridement was carried out surgically.

113. As regards mental health care, the pharmacological treatment provided to inmates at Istanbul-Metris R-type Prison appeared to be generally adequate.

However, as already mentioned above, the presence by the psychiatrist was clearly insufficient, given the number and profile of the inmate population. Among inmates there was a widespread dissatisfaction with the attitude and the availability of the current psychiatrist. It is also disconcerting that, according to many accounts received from inmates, the psychiatrist frequently carried out consultations whilst standing at the cell door and that in the presence of custodial staff (see, in this regard, paragraph 115). Further, there were no individual treatment plans and there was no significant offer of therapies other than medication or of work opportunities adapted to the needs of patients with chronic psychiatric disorders.

**The CPT recommends that the provision of psychiatric care at Istanbul-Metris R-type Prison be reviewed, in the light of the above remarks. Steps should also be taken to ensure the regular presence of a clinical psychologist who is affiliated to the health-care staff.**

114. In particular at Izmir-Menemen R-type Prison, the delegation received a number of complaints from foreign inmates that, due to language barriers, they had been unable to communicate with medical staff during medical consultations.

**The CPT recommends that steps be taken at Izmir-Menemen R-type Prison and, where appropriate, in other R-type prisons in Turkey, to ensure that, whenever doctors are unable to communicate with inmates during medical examinations/consultations due to language problems, the persons concerned benefit from the services of a qualified interpreter.**

115. It is yet another matter of concern that there was an almost total lack of medical confidentiality in both R-type prisons visited. Consultations with doctors (including psychiatrists) routinely took place in the presence of custodial staff. In addition, medical notes and prescriptions were recorded in the UYAP database of the Ministry of Justice, which continued to be accessible to the prison management and other non-medical staff.

**In this regard, the remarks and recommendations made in paragraph 130 equally apply to Istanbul-Metris and Izmir-Menemen R-type Prisons, as well as to other R-type Prisons.**

116. At both Istanbul-Metris and Izmir-Menemen R-type Prisons, the delegation saw a number of security cells. These cells were covered on the walls and floors in with a soft material to minimise injuries, had access to natural light, were equipped with a mattress and a floor toilet and were under CCTV surveillance. Regrettably, due to the lack of a special register, the delegation was not in the position to obtain a clear picture of the use of the security cells. At Menemen, the management affirmed to the delegation that these cells had hardly ever been used since the opening of the prison, while, at Metris, the delegation received conflicting information from the management, general practitioners, the psychiatrist and individual inmates during interviews. It would appear that security cells had been used approximately ten times a year and usually for not more than one hour (pending the transfer of the inmate concerned to a psychiatric hospital). Only in some incident reports was reference made to the involvement of a doctor in the context of placement of an inmate in a security cell.

**The CPT recommends that a special register be kept at Istanbul-Metris and Izmir-Menemen R-type Prisons and, where appropriate, in other R-type prisons, of every placement in a security cell, recording the name of the inmate concerned, the reasons for the measure, the date and time of the beginning and end of the measure, the name of the person who decided on the placement, the precise location where the prisoner subject to segregation is accommodated and the time of the daily checks by health-care staff. Steps should also be taken to ensure that every such placement is immediately brought to the attention of a doctor.**

117. In both R-type prisons visited, prisoners who had been admitted due to chronic somatic illnesses were usually assessed with a view to a possible conditional suspension of the sentence on medical grounds in accordance with Section 16 (2) of the LESSM.<sup>87</sup> To this end, the persons concerned were first examined by a panel of doctors at the local State hospital and then by doctors of the Forensic Institute in Istanbul. If the latter formulated a positive recommendation, a decision was taken by the court, after the opinion of the competent prosecutor had been sought. Decisions to suspend the execution of a sentence were usually taken for renewable periods of six months.

In this regard, the delegation noted that the relevant procedures at the local hospitals and the Forensic Institute in Istanbul had usually been carried out in an expeditious manner. That said, the judicial procedures at the level of the prosecutor's office and the courts often lasted a long time, the consequence being that, at Metris R-type Prison, a total of 37 patients had passed away before a decision was taken by the court on a possible conditional release. **The CPT would like to receive the comments of the Turkish authorities on this matter.**

## **6. Health-care services in the other prisons visited**

118. The delegation conducted a full evaluation of the health-care services at Siirt and Trabzon E-type Prisons. It also examined certain health-care issues at Batman M-type Prison and Diyarbakir D- and E-type Prisons, in particular as regards staffing levels, medical screening of newly-arrived remand prisoners and recording of injuries. At Bakırköy Women's Prison and Metris T-type Prison No. 1, the delegation mainly focused on initial medical screening and recording of injuries.

119. The dramatic rise in the prison population over recent years not only negatively affected the prisoners' living conditions, but also strained the capacity of health-care services in prisons. In particular, all the prisons visited by the delegation in the course of the 2017 visit suffered from a severe shortage of doctors and nurses.

120. At *Batman M-type Prison*, health-care staff resources consisted of a part-time (40%) general practitioner and a part-time (40%) dentist. The prison employed no nurses. Instead, the establishment's medical unit was staffed by six "health officers" (*sağlık memuru*) who were assigned by the Ministry of Justice and had some medical training.<sup>88</sup> Further, the prison was visited by a psychiatrist once every two to three weeks.

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<sup>87</sup> Section 16 (2) reads as follows: "in the case of other [than mental] illnesses, the execution of a sentence shall continue in the section of official medical establishments designated for sentenced prisoners. Even in this case, however, if the execution of the prison sentence would definitely endanger the convicted person's life, it shall be suspended until the persons recovers."

<sup>88</sup> Despite the transfer of responsibility for prison health care from the Ministry of Justice to the Ministry of Health, the former continued to employ health officers working in prisons. Health officers carried out various tasks, such as managing the pharmacy and distributing medicines.

*Diyarbakır D-type Prison* had two part-time general practitioners working the equivalent of one full-time post, a full-time dentist and four full-time nurses. Further, the establishment was visited by a psychiatrist once a week for up to three hours. In addition the health-care staff were assisted by five health officers.

At *Diyarbakır E-type Prison*, the medical team consisted of a full-time general practitioner and a part-time (50%) dentist. They were assisted by six full-time nurses, who ensured a 24-hour presence. Further, the prison received regular visits by a psychiatrist (once a week) and several other specialists, such as a surgeon, an ENT specialist and an ophthalmologist.

*Siirt E-type Prison* was visited by two general practitioners (each visiting once a week for six hours) and a dentist (once a week). As at Batman, the establishment had no nurses; it only employed three health officers.

*Trabzon E-type Prison* employed one full-time general practitioner, a part-time (60%) dentist and three health officers. In addition, a psychiatrist held consultations once every two to three weeks.

121. In the CPT's view, the above-described staffing levels as regards doctors and nurses in the prisons visited were inadequate for the establishments' official capacities, let alone for the needs of the actual prisoner populations. It is obvious that a prison health-care service cannot be expected to perform its tasks in an effective manner under such circumstances. Not surprisingly, delegation received numerous complaints in the prisons visited regarding long delays in gaining access to a doctor and the quality of treatment and care provided. It became apparent that medical consultations often lasted no more than one or two minutes. Further, personal medical files often lacked the most elementary medical data.

It is also a matter of concern that no health-care staff were present at night in some of the prisons visited (e.g. Siirt E-type Prison).

**The CPT recommends that the Turkish authorities take urgent steps to increase the health-care staffing levels in the prisons visited, in the light of the above remarks. Further, it is important to ensure that health officers working in prisons are affiliated to the Ministry of Health.**

**The Committee also recommends that someone competent to provide first aid always be present on the premises of all prisons, including at night.**

122. As regards the provision of psychiatric care to prisoners, the CPT was concerned to note that Siirt E-type Prison, which had a population of some 800, was not visited by a psychiatrist. Further, the presence of a psychiatrist in the other prisons visited was not sufficient for the actual number of prisoners they were accommodating. Indeed, the delegation came across several cases in which prisoners with apparent mental health problems were not receiving the care required by their state of health.

By way of illustration, at Trabzon E-type Prison, the delegation met a 23-year old prisoner who appeared to suffer from a severe mental disorder. It would appear that the prison's health-care staff, including the doctor, were not aware of the severity of the inmate's situation and, despite the fact that he had been held in the prison for almost seven months, the prisoner had not been examined by a psychiatrist.

At the end-of-visit talks with the Turkish authorities, the delegation requested the Turkish authorities to take immediate steps to ensure that the prisoner concerned was transferred to a psychiatric hospital for assessment and treatment. By letter of 25 September 2017, the Turkish authorities informed the Committee that, shortly after the visit, the prisoner concerned had been taken to the psychiatry department of Trabzon Hospital. Subsequently, on 7 June 2017, he was referred to Samsun Psychiatric Hospital.

123. As the CPT has stated in the past, all prisons will accommodate a certain number of prisoners who, while not requiring admission to a psychiatric facility, would benefit from ambulatory psychiatric care. The regular presence of a psychiatrist will enable those prisoners to be identified in good time and given appropriate treatment. In many cases this may well make it possible to avoid any subsequent need for their transfer to an outside facility. Further, such a presence will ensure that the state of health of inmates who are returned to prison after treatment in a psychiatric facility is satisfactorily monitored.

**The CPT recommends that steps be taken in all prisons in Turkey to arrange for systematic screening of prisoners for mental health problems, proper follow-up of chronic mental disorders and regular visits (at least once a week, and more frequently in larger prisons) by a psychiatrist. Moreover, in the Committee's opinion, it is necessary that doctors and nurses working in prisons are trained to identify common mental health disorders.**

124. Health-care facilities were found to be generally satisfactory in all the establishments visited. However, in most of the prisons visited, the medical unit lacked appropriate equipment, such as a defibrillator and an ECG. Further, at Siirt Prison, the medical unit was located on the upper floor which posed problems with access for physically handicapped and elderly prisoners (there being no lift in the building). **The CPT recommends that appropriate steps be taken to remedy these failings.**

125. At Siirt and Trabzon E-type Prisons, it appeared that many requests for a medical consultation were followed by a prescription for medication without the prisoner having been seen by a doctor. Further, at Trabzon, the delegation noted that some prisoners had run out of medication (including essential medication such as antibiotics and anti-diabetic drugs) as they had apparently failed to submit a request for renewal of the prescription on time. Such a state of affairs is not acceptable. **Immediate steps should be taken at Siirt and Trabzon E-type Prisons to review the current practices of prescribing and supplying medication to prisoners, with a view to *inter alia* ensuring that they receive the necessary medication without interruptions.**

126. In practically all the prisons visited, the delegation received allegations from prisoners (including women) that they had been handcuffed during medical interventions when taken to an outside hospital. In the CPT's view, handcuffing prisoners during medical consultations/examinations is not acceptable, since it infringes upon the dignity of the inmates concerned and inhibits the development of a proper doctor-patient relationship (and may also impede the establishment of an objective medical finding). **The Committee recommends that steps be taken to put a stop to any such practice. Other means of meeting security needs satisfactorily can and should be found (e.g. the installation of a call system, the presence of additional health-care personnel, etc.).**

127. The CPT has repeatedly emphasised the crucial role of prompt medical screening of new arrivals, in particular at establishments which represent points of entry into the prison system. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, of the timely provision of medical and psychosocial care and of the timely recording of any injuries.

128. From the information gathered during the visit, it transpired that, at Metris T-type Prison No. 1, newly-arrived prisoners were usually seen by a doctor within 24 hours of admission, but they were not systematically subjected to a physical examination.

At Diyarbakır D-type Prison and Bakırköy Women's Prison, initial medical screening seemed to be generally performed in a perfunctory manner; it was usually limited to a few general questions by a doctor (or nurse) about the prisoner's state of health. It is a matter of particular concern that medical screening was virtually non-existent at Batman M-type Prison and Diyarbakır, Siirt and Trabzon E-type Prisons.

In several of the prisons visited, no medical screening was performed at weekends and prisoners arriving late on a Friday would not be seen until the following Monday. Further, in none of the establishments visited were newly-arrived prisoners screened for transmissible diseases.

As regards the recording and reporting of injuries, the delegation noted that, at Metris T-type Prison No. 1, traumatic lesions displayed by newly-admitted prisoners were recorded in a satisfactory manner (containing information about the size, nature and colour of the lesion). However, in the other prisons visited, in those rare cases where traumatic injuries were recorded, the descriptions of the latter were usually superficial and lacked detail. Further, as a rule, no record was kept of statements made by the prisoner concerned as to the origin of the injuries. In this regard, several prisoners who had arrived in prison with visible facial injuries claimed that the doctor had not asked any questions about the cause of their injuries. Moreover, injuries recorded upon admission were not systematically reported to the competent prosecutor.

**129. The CPT once again calls upon the Turkish authorities to take the necessary steps (including through the issuance of instructions and the provision of training to relevant staff) to ensure that in all the prisons visited and, as appropriate, in other prisons in Turkey:**

- **all newly-arrived prisoners are subject to a comprehensive medical examination (including systematic TB screening and voluntary testing for HIV and hepatitis B/C) by a doctor (or a qualified nurse reporting to a doctor) within 24 hours of admission;**
- **the record drawn up after the medical examination of a prisoner contains: (i) a full account of objective medical findings based on a thorough examination, (ii) 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), and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations of ill-treatment 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. Further, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the prisoner and, upon request, to his/her lawyer.**

**Recording of the medical examination in cases of traumatic lesions should 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. Further, it would be desirable for photographs to be taken of the injuries; these photographs should also be placed in the medical file. In addition, a special trauma register should be kept in which all types of injury observed should be recorded.**

**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 should be systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned.**

130. The CPT is very concerned by the continued lack of respect for medical confidentiality in Turkish prisons, despite the specific recommendations repeatedly made by the Committee in previous visit reports. The information gathered during the 2017 visit suggested that, with the notable exception of Bakırköy Women’s Prison, doctor-inmate consultations in the prisons visited were usually carried out in the presence of custodial staff. Further, despite the repeated assurances by the Turkish authorities after previous visits, it remained the case that non-medical staff had access to medical files.

It is also a matter of concern that prison health-care services were still not connected to the health-care database of the Ministry of Health. Instead, medical data continued to be entered into the UYAP<sup>89</sup> database of the Ministry of Justice, to which non-medical staff had unrestricted access.

**The CPT once again calls upon the Ministry of Justice to take immediate steps – in cooperation with the Ministry of Health – to ensure that in all the prisons visited, as well as in all other prisons in Turkey, medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers and that prisoners’ medical data are, as a rule, not accessible to non-medical staff.<sup>90</sup> Further, steps should be taken to ensure that the connection of prison health-care services to the Ministry of Health database is established without further delay, with a view to ensuring continuity of care.**

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<sup>89</sup> The National Judiciary Informatics System.

<sup>90</sup> Health-care staff may inform custodial officers about the state of health of a prisoner; however, the information provided should be limited to that necessary to prevent a serious risk for the prisoner or other persons, unless the prisoner consents to additional information being given.

## 7. Other issues

### a. contact with the outside world

131. In accordance with the relevant rules, remand and sentenced prisoners could receive one family visit per week (lasting up to one hour for adults and up to three hours for juveniles).<sup>91</sup> As provided for by the Regulation on Visits to Sentenced and Remand Prisoners (RVP), within a given month prisoners could have one open visit (so-called “table visit”), while the remaining visits during that month took place in closed conditions. Further, remand and sentenced prisoners were, in principle, allowed to make one ten-minute telephone call per week.<sup>92</sup>

132. According to Section 51 of the LESSM, remand and sentenced prisoners who demonstrate good behaviour may receive various rewards, such as conjugal visits for married prisoners for a period of up to 24 hours every three months (as well as parental visits for juveniles every two months), replacement of a closed visit with an open one, accumulation of three consecutive unused visit entitlements, prolongation of the duration of weekly visits to up to two hours and doubling the number or duration of weekly telephone calls.

The delegation was informed that, at Trabzon E-type Prison, 18 prisoners had been granted conjugal visits in the first four months of 2017.<sup>93</sup> Further, 71 inmates had their closed visit replaced by an open one during the same period.

133. According to an amendment made to the RVP in August 2016, by decision of the prison’s management board, prisoners accused or convicted of certain offences related to national security and terrorism-related offences may be granted only one open visit every two months.<sup>94</sup> It should be noted that, at the time of the visit, this rule was only being applied at Siirt and Trabzon E-type Prisons, while in the other prisons visited inmates of this category were allowed to receive one open visit every month.

134. Under Decree-Law No. 667, prisoners accused of certain offences related to national security and terrorism-related offences were allowed to make only one phone call every fifteen days.<sup>95</sup> In the CPT’s view, there can be no legitimate justification for such a restriction. **The Committee encourages the Turkish authorities to take the necessary steps to ensure that the existing emergency legislation is amended, with a view to abolishing the aforementioned restriction.**

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<sup>91</sup> Section 83 of the LESSM and Section 5(d) of the Regulation on Visits to Sentenced and Remand Prisoners.

<sup>92</sup> Section 66 of the LESSM and Section 88(f) of the Prison Regulations.

<sup>93</sup> The prison had two designated rooms for extended family visits.

<sup>94</sup> Section 5 (e).

<sup>95</sup> Section 6 (e).

135. The CPT has repeatedly stressed in the past that visiting arrangements whereby any physical contact between prisoners and their visitors is prevented may be justified only in exceptional cases, for security-related reasons. Open visits should therefore be the rule and closed visits the exception.

In their response to the CPT's report on the 2013 periodic visit, the Turkish authorities stated that they aimed at allowing prisoners more frequent open visits but that the physical capacity of prisons and the problem of overcrowding posed difficulties in achieving this goal.

Whilst acknowledging the prevailing logistical challenges, **the CPT urges the Turkish authorities to review conditions in the visiting facilities throughout the prison system in order to ensure that, as a rule, family visits take place under open conditions (i.e. without physical separation) for all categories of prisoners.**

136. As regards visits by lawyers, Decree-Law No. 667 has introduced restrictions regarding the confidentiality of contacts between remand prisoners and their lawyer(s). According to Section 6 (d), with regard to certain offences related to national security as well as terrorism-related and collective<sup>96</sup> offences, interviews between a remand prisoner and his/her lawyer may be audio- or video-recorded, an official may be present during such interviews, and documents and files exchanged between the prisoner and his/her lawyer, as well as notes on their conversations, may be seized by order of a public prosecutor, where there is a potential risk that public security or the security of the prison establishment is endangered, that terrorist or other criminal organisations are directed, or that orders and instructions are given or secret, clear or encrypted messages are transmitted to such organisations.

The delegation observed that, in most of the prisons visited, conversations between the prisoners concerned and lawyers were systematically monitored (either by means of audio/video recording or the presence of a prison officer). The CPT must stress once again that the effective exercise of the right of confidential access to a lawyer constitutes an essential safeguard against ill-treatment (as distinct from a means of ensuring a fair trial). Restrictions of the kind referred to above will greatly weaken this safeguard; their application is likely to deter detained persons from disclosing the manner in which they are being treated and, in particular, from making complaints about any ill-treatment they have experienced.

**The CPT recommends that the Turkish authorities revise Section 6 (d) of Decree-Law No. 667 and its application in practice, in the light of the above remarks.**

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<sup>96</sup> I.e. offences committed by three or more persons.

b. discipline

137. It is recalled that disciplinary sanctions which may be imposed on adult sentenced and remand prisoners include cellular confinement for up to 20 days.<sup>97</sup> For juveniles, the most severe disciplinary sanction is confinement to a room (alone) for up to five days.<sup>98</sup>

138. During the visit, the delegation looked into issues related to discipline at Siirt and Trabzon E-type Prisons and Menemen and Metris R-type Prisons. In none of these establishments did the delegation gather evidence of excessive recourse to the sanction of cellular confinement.<sup>99</sup> Further, the periods of disciplinary cellular confinement were usually below the maximum provided for by law. It is also noteworthy that many of the prisoners concerned had appealed against the decision imposing disciplinary isolation, which had a suspensive effect.

Nevertheless, the CPT considers that the maximum possible period of cellular confinement of 20 days for adult prisoners is excessive. Given the potentially very damaging effects of solitary confinement on the mental and/or physical well-being of the prisoners concerned, this period should be no more than 14 days for a given offence, and preferably lower.<sup>100</sup>

Further, the CPT wishes to stress that any form of isolation may have an even more detrimental effect on the physical and/or mental well-being of juveniles. In this regard, the Committee observes an increasing trend at the international level to promote the abolition of solitary confinement as a disciplinary sanction in respect of juveniles. Particular reference should be made to the revised United Nations Standard Minimum Rules for the Treatment of Prisoners (*Nelson Mandela Rules - NMR*) which were adopted in 2015 by a unanimous Resolution of the General Assembly and which stipulate in Rule 45 (2) that solitary confinement shall not be imposed on juveniles as disciplinary sanction.<sup>101</sup> The CPT fully endorses this approach. Thus, **it recommends that the Turkish authorities take the necessary steps to ensure that this precept is effectively implemented in practice and that the relevant legal provisions are amended accordingly.**

139. The CPT was concerned to note that, despite the specific recommendation repeatedly made by the Committee after previous visits, the sanction of disciplinary confinement in respect of adult prisoners still entailed a total prohibition on contact with the outside world (except with a lawyer).<sup>102</sup> It also remains the case that the sanction of deprivation of family visits may be applied for disciplinary offences not related to such visits.<sup>103</sup>

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<sup>97</sup> The other disciplinary sanctions for adult prisoners are reprimand, suspension from participation in certain activities, exclusion from paid work, deprivation or restricted use of information and communication facilities, and deprivation of visits for a period of one to three months (See Section 38 of the LESSM).

<sup>98</sup> See Section 46 of the LESSM.

<sup>99</sup> In both prisons, cellular confinement was mainly imposed for an escape from an open prison and usually for up to 15 days.

<sup>100</sup> See paragraph 56(b) of the 21st General Report on the CPT's activities.

<sup>101</sup> See also Rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly Resolution A/RES/45/113, Annex). It is recalled that Rule 44 of the NMR defines solitary confinement as the confinement of inmates for 22 hours or more a day without meaningful human contact.

<sup>102</sup> See Section 44, paragraph 1, of the LESSM.

<sup>103</sup> For example, at Siirt E-type Prison, this sanction was usually applied for offences such as violence against other inmates, insulting a staff member, etc.

**The CPT reiterates its recommendation that the Turkish authorities take the necessary steps – including, if necessary, of a legislative nature – to ensure that disciplinary punishment of prisoners does not lead to a total prohibition on family contacts and that any restrictions on family contacts as a form of disciplinary punishment are applied only when the offence relates to such contacts.<sup>104</sup>**

140. Another issue of the Committee's concern is the practice observed at Menemen and Metris R-type Prisons of imposing disciplinary sanctions on inmates who have harmed themselves. The CPT must stress that acts of self-harm often reflect the distress that the prisoners concerned might be experiencing or problems and conditions of a psychological or psychiatric nature. Consequently, such acts should be approached from a therapeutic rather than a punitive standpoint. In particular, all cases of self-harm ought to be assessed medically immediately after the incident to evaluate the extent of lesions and to assess the psychological state of the prisoner.

**The Committee recommends that the Turkish authorities take appropriate steps throughout the prison system to review the approach being followed vis-à-vis prisoners who have harmed themselves, in the light of the above remarks.**

141. As regards disciplinary procedures, the relevant legal provisions continue to display certain deficiencies. First of all, the law still does not require that prisoners facing disciplinary charges be heard in person by the disciplinary board before a decision on the measure is taken (and in practice such a hearing was usually denied at the establishments visited). Further, such prisoners still have no right to call witnesses on their own behalf or to challenge evidence given against them.

**The CPT reiterates its recommendation that the Turkish authorities review the disciplinary procedure in order to ensure that the prisoners concerned are always heard by the body which takes the decision and are entitled to call witnesses on their own behalf and have evidence against them cross-examined.**

142. It is regrettable that, despite the specific recommendation made by the CPT after previous visits, the rules concerning the involvement of health-care staff in the disciplinary procedure remain unchanged. Before a prisoner is placed in a disciplinary cell, a prison doctor is still required to certify that the prisoner concerned is fit to sustain the measure.<sup>105</sup>

The CPT does not contest as such the involvement of prison doctors in the context of the placement of prisoners in solitary confinement for disciplinary reasons, quite the contrary. However, the Committee wishes to stress once again that medical practitioners in prisons act as the treating doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. Against this background, the practice of prison doctors certifying that a prisoner is fit to undergo punishment is scarcely likely to promote that relationship. As a matter of principle, medical personnel should never participate in any part of the decision-making process resulting in any type of solitary confinement, except where the measure is applied for medical reasons.

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<sup>104</sup> See also Rule 60.4 of the European Prison Rules and the Commentary to that Rule.

<sup>105</sup> Section 48(3)(c) of the LESSM.

On the other hand, health-care staff should be very attentive to the situation of prisoners placed in solitary confinement. The health-care staff should immediately be informed of every such placement and should visit the prisoner without delay after placement and thereafter on a regular basis, at least once per day, and provide him/her with prompt medical assistance and treatment as required. They should report to the prison director whenever a prisoner's health is being put seriously at risk by being held in solitary confinement.

**The CPT reiterates its recommendation that the Turkish authorities review the role of health-care staff in relation to disciplinary confinement, in the light of the above remarks. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the Committee in its 21<sup>st</sup> General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28).**

143. At Trabzon E-type Prison, material conditions in the disciplinary cells in use were acceptable, including in terms of state of repair, in-cell lighting and equipment (a bed, a washbasin and a floor toilet with a half-height partition).

In contrast, at Siirt E-type Prison, many of the disciplinary cells were in a poor state of repair (e.g. crumbling walls, broken bed, etc.) and cleanliness. **The CPT recommends that steps be taken to remedy these shortcomings.**

144. At Trabzon, the delegation received complaints from prisoners that, whilst in cellular confinement, they had not been granted outdoor exercise on a daily basis. For example, one of the prisoners interviewed by the delegation claimed that during a recent stay in a disciplinary cell for eleven days he had been allowed to go into the open air only once. **The CPT recommends that steps be taken at Trabzon E-type Prison to ensure that each inmate placed in cellular confinement as a disciplinary measure is offered at least one hour of outdoor exercise every day.**

c. complaints procedures

145. It appeared that, in most of the prisons visited, newly-arrived inmates usually received no written information about their basic rights, including the right to complain, and the internal rules of the establishment. The delegation was told by staff that inmates were informed orally of the establishment's internal regulations by the officer on duty on their arrival at the prison. However, interviews with inmates suggested that, on arrival, prisoners usually received very little or no information.<sup>106</sup>

In some of the prisons visited, the delegation was shown by the management leaflets/brochures which contained information on the general rules to be followed by prisoners, prisoners' rights, duties and rewards, disciplinary sanctions and procedure, etc. **The CPT recommends that such a leaflet/brochure, which should also contain information about the right to lodge formal complaints and the modalities for doing so, be provided to all newly-admitted prisoners.**

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<sup>106</sup> The task of informing newly-arrived inmates about prison rules, the regime and their rights appeared to be left largely to other inmates already acquainted with the situation.

146. At Trabzon E-type Prison, the delegation received a number of complaints from inmates that they were required to hand their letters – even those addressed to state institutions – in an unsealed envelope to a prison officer. They believed that letters addressed to competent outside bodies were read by staff and, depending on their contents, occasionally not dispatched. Such a practice would be in violation of Section 68(4) of the LESSM, which provides that letters addressed by prisoners to official authorities shall not be censored. As repeatedly stressed by the CPT in the past, **it is essential that an effective complaints system is in place in all prison establishments, enabling prisoners to contact competent outside bodies in a truly confidential manner.**

147. It is a matter of serious concern that, despite the assurances given by the Turkish authorities, letters addressed to the CPT by prisoners detained in various Turkish prisons are often censored by the establishments' letter reading unit (*mektup okuma komisyonu*).<sup>107</sup> **The CPT recommends that an immediate end be put to this practice throughout the prison system so that prisoners are able to correspond with the Committee on a confidential basis.**

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<sup>107</sup> Such letters bore a stamp indicating “seen by the letter reading commission of the prison”.

## **APPENDIX I**

### **List of the establishments visited by the CPT's delegation**

#### *Establishments under the authority of the Ministry of the Interior*

- Ankara Police Headquarters (Anti-Terror Department, including a sports hall used as ad hoc detention facility)
- Ankara Police Headquarters (Law and Order Department)
- Batman Police Headquarters (Anti-Terror Department)
- Batman Central Gendarmerie Commandership
- Diyarbakır Police Headquarters (Anti-Terror Department)
- İstanbul Police Headquarters (Anti-Terror Department)
- İstanbul-Beyoğlu District Police Station
- İstanbul-Fatih District Police Station
- İstanbul-Şişli District Police Station
- Siirt Police Headquarters (Organised Crime Department)
- Siirt Police Headquarters (Law and Order Department)
- Siirt-Yeni Mahalle Police Station
- Trabzon Police Headquarters
- Trabzon-Çarşı Police Station
- Trabzon-Gülbahar Hatun Police Station
  
- İstanbul-Binkılıç Removal Centre
- İstanbul-Atatürk Airport (holding facility for passengers declared inadmissible and holding facility for asylum-seekers in the transit zone)
- İzmir-Harmandalı Removal Centre
- İzmir-Işıkkent Removal Centre

#### *Establishments under the authority of the Ministry of Justice*

- Batman M-type Prison
- Diyarbakır D-type Prison
- Diyarbakır E-type Prison
- İstanbul-Metris R-type Prison (for prisoners suffering from a mental disorder and prisoners in need of special care)
- İzmir-Menemen R-type Prison (for prisoners in need of special care)
- Siirt E-type Prison
- Trabzon E-type Prison.

In addition, the delegation went to İstanbul-Bakırköy Prison for Women and Metris T-type Prison No. 1, in order to interview remand prisoners who had recently been in police custody.

**APPENDIX II**

**List of the national authorities and organisations  
with which the CPT's delegation held consultations**

**A. National authorities**

**Ministry of the Interior**

Süleyman SOYLU	Minister of the Interior
Çetin Oktay KALDIRIM	Deputy Undersecretary
Mehmet TEKİNARSLAN	Governor, Deputy Undersecretary
Ali ÇARDAKÇI	Head of Public Order, Gendarmerie General Command
Metin ÖZKAN	Head of Department for Foreign Relations, Directorate General of Security
Nail İLBEY	Head of Department for Strategic Planning and Foreign Relations, Gendarmerie General Command
Hasan YİĞİT	Acting Head of Counterterrorism Department, Directorate General of Security
Ömer SEYMENOĞLU	Acting Head of Civil Inspection Board
Mithat DUMANLI	Deputy Head of Civil Inspection Board
İlker GÜNDÜZÖZ	Acting First Legal Counsel
Ramazan SEÇİLMİŞ	Acting Head of Department for EU Affairs and Foreign Relations
Yunus SEZER	Advisor to the Minister
Abdullah KORKMAZ	Deputy First Legal Counsel
Özkan DEMİREL	Deputy Head of Department for EU Affairs and Foreign Relations

*Directorate General for Migration Management*

Atila TOROS	Director General
Osman HACIBEKTAŞOĞLU	Deputy Director General
Osman KORAMAZ	Head of Department
Önder BAKAN	Head of Department
Gamze Gül ÇAKIR KILIÇ	Lawyer
Burak YAŞAR	Migration Expert
Mustafa ÇELİK	Migration Expert

**Ministry of Justice**

Bilal Uçak	Deputy Minister of Justice
Enis Yavuz YILDIRIM	Director General for Prisons and Detention Houses
Burhanettin ESER	Deputy Director General for Prisons and Detention Houses
Mehmet Fatih BELVİRANLI	Deputy Director General for Prisons and Detention Houses
Ramazan GÜRKAN	Head of Department, Directorate General for Criminal Affairs
Serdar SEZER	Head of Department, Directorate General for Prisons and Detention Houses
Çelebi YILMAZ	Head of Department, Directorate General for Prisons and Detention Houses
Hasan AKCEVİZ	Head of Department, Directorate General for Prisons and Detention Houses
Selim Doğanay	Deputy Head of Department, Directorate General for International Law and Foreign Relations
Selahattin DOĞAN	Deputy Head of Department, Directorate General for International Law and Foreign Relations
Nazmiye AYDEMİR	Section Head, Directorate General for Prisons and Detention Houses
Handan ORUÇ ÖMEROĞLU	Judge, Directorate General for Prisons and Detention Houses
Fatih ELMAS	Officer

**Ministry of Foreign Affairs**

Yonca GÜNDÜZ ÖZÇERİ

Deputy Director General  
for the Council of Europe and Human Rights

Buket KABAKÇI

Head of Department for the Council of Europe

Tenzile KOÇAK

Third Secretary

**Office of the Chief Public Prosecutor of Ankara**

Yüksel Kocaman

Chief Public Prosecutor

**Office of the Ombudsman**

Şeref Malkoç

Chief Ombudsman

**B. International and non-governmental organisations**

Ankara Office of the United Nations High Commissioner for Refugees (UNHCR)

Human Rights Association

Human Rights Foundation of Turkey