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Response

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

from 10 to 23 May 2017

The Turkish Government has requested the publication of this response. The CPT's report on the May 2017 visit to Turkey is set out in document CPT/Inf (2020) 22.

Strasbourg, 5 August 2020

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INTRODUCTION

The views of the Turkish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Turkey from 9 to 23 May 2017 are set out below in the order adopted in the report. Extracts from the CPT's report are reproduced in bold typeface with paragraph references.

The Turkish Government is pleased to note that the CPT received very good cooperation at all levels throughout the visit. As mentioned in the report, the delegation enjoyed rapid access to all the establishments visited. Information requests were promptly fulfilled and the delegation was able to interview all persons it requested.

On this occasion, Turkey, honouring its resolute and long-established commitment to the policy of zero tolerance against torture, reaffirms its determination to cooperation with the CPT.

Turkey gives due consideration to the recommendations and comments of the CPT and, on their basis, will continue to take necessary measures as appropriate in the field of prevention and punishment of torture and inhuman or degrading treatment.

GENERAL REMARKS

In recent years, the Republic of Turkey has been facing severe and multiple terrorist threats and the authorities have been countering bloody terrorist organizations such as PKK, FETÖ/PDY, DEASH and DHKP-C concurrently.

On the night of 15 July 2016, members of the Fetullahist Terrorist Organization (FETÖ/PDY) in the military attempted to overthrow democratically elected government together with the President and the constitutional order in Turkey. Terrorist coup plotters massacred the civilians who took to the streets and stood against them. They attacked the Presidency, bombarded the Parliament with the MPs inside and tried to assassinate the President and other dignitaries. The terrorist coup attempt of 15 July 2016 caused the death 251 persons and wounded more than 2.000.

Also, as from July 2015, PKK terrorist organization heavily intensified its decades old acts of terror in Turkey. It adopted tactics to blend in with the local population and moved its violence to urban centres, trying to establish control in certain regions by putting civilians' lives at risk and even using them as human shields. It declared so-called "autonomy" in some districts.

Turkey's campaign to fight DEASH and similar groups that adopt its wicked ideology continues with the same resolve.

In order to completely eliminate these terrorist threats, Turkish state has the right and the responsibility to take all necessary measures in accordance with its international obligations. The State of Emergency has been declared on 20 July 2016 in order to take these measures in the most speedy and effective manner. They are taken within the limits of the rule of law and international obligations.

Decree Laws are issued and measures are taken to the extent strictly required by the exigencies of the situation and proportionate to the current crisis faced. All measures were needed to be taken to eliminate the influence of terrorist organizations within the State.

Turkey acts in full respect for democracy, human rights, the principle of rule of law in this process and due respect is shown to fundamental rights and freedoms and the rule of law is strictly observed. The principles of “necessity”, “proportionality” and “legality” have been sensitively complied with as regards the measures taken under the State of Emergency in the aftermath of the coup attempt.

Turkey’s resolute stance for implementing its policy of zero tolerance against torture and ill-treatment has never changed despite the grave security threats originating from various terrorist organizations. The Government of Turkey continues to give due consideration to the recommendations of the CPT. In this vein, among the improvements introduced with the Decree Laws on 23 January 2017, the maximum duration of police custody has been reduced from thirty days to seven days and the provision enabling public prosecutors to impose restrictions up to five days for the persons in police custody on consulting their lawyers has been abolished.

After the terrorist coup attempt on 15 July 2016, taking into account the large number of plotters who participated in the coup attempt and of members of the terrorist organization, large number of suspects had to be arrested and detained in a very short time. Even while facing this challenge and countering an existential threat to the life of its nation, Turkey has never compromised its achievements in the field of legislation on prohibition, prevention and prosecution of torture and ill-treatment.

RESPONSES TO RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION SET OUT IN THE REPORT

Introduction

The CPT trusts that the Turkish authorities will take appropriate measures to prevent any repetition of such occurrences in the future (para. 6);

The Turkish Government would like to refer to its response to the preliminary observations on this matter made by the Delegation and reiterate that appropriate measures are taken to prevent any repetition of the incident detailed in para. 38.

Monitoring of 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.) (para. 8);

The Human Rights and Equality Institution of Turkey (HREI) was established with the Law dated 6 April 2016 and No. 6701 with a wide range of mandates and duties to promote and protect human rights, to combat discrimination, to ensure effective implementation of the principle of equality and to fight against ill-treatment, degrading treatment and torture.

With the entry into force of the new Law, which aimed at strengthening the capacity of the Institution in accordance with the Paris Principles and OPCAT (Optional Protocol to the Convention Against Torture) the Institution replaced the former Human Rights Institution of Turkey and has commenced operating as the national human rights institution as of 20 April 2016.

As set forth in its preamble, operating in line with the Paris Principles besides relevant UN covenants and EU Directives is among the Institution's main duties.

Within this context, the Law sets forth related provisions in line with the mentioned international-regional documents and instruments and guarantees independence and impartiality of the Institution. Under Article 8 of the Law it is mentioned that the Institution is a public-law legal entity and has the administrative and financial autonomy with special budget. The HREI executes the duties and exercises its authority independently, under its own responsibility.

According to Article 10, the Human Rights and Equality Board, which is composed of eleven members, is the decision making body of the Institution and exercises its duties and powers granted by this Law and other legislation under its own responsibility and independently. It is also laid down in the Article that “no person, authority, office or individual shall give orders or instructions or recommendations or suggestions to the Board on matters falling under its mandate”.

In addition, according to Article 10, eight members of the Board shall be elected by the Council of Ministers, and three members by the President of Turkey. One member shall be elected by the Council of Ministers from among the two candidates, who are academics studying in the field of human rights, that shall be nominated by the Council of Higher Education; seven members, provided that they meet the requirements shall be elected from among the candidates to be nominated by non-governmental organizations, unions, social and professional associations, academics, lawyers, members of the press and field experts working on human rights, or among those who apply for membership. The aim of this composition is to ensure diversity, pluralism and impartiality within the Board and its effective functioning owing to this election process.

Within this context, the Board, which was elected in March 2017 and took office in May 2017, is composed of members who have different backgrounds and proficiencies. While some of the members have human rights related legal backgrounds, some members, also including the chair, besides their experiences as lawyer, inspector, expert or teacher, are also known for their civil society and union activities. An academic (professor of administrative law) and a former diplomat also serve for the board.

In addition, in Article 10/8, it is laid down that: “The Head, Deputy-Head and members cannot be dismissed from office for any reason before their office terms expire.” According to the same Article, dismissal and termination of membership is restricted with conditions listed in the Law and covers cases such as losing eligibility criteria, conviction of an offence committed and heavy mental disability.

The Turkish Government would also like to refer to the recent secondary legislative works completed regarding the Human Rights and Equality Institution. The Regulation on the Procedure and the Principles on Implementing the Law on the Human Rights and Equality Institution was published in the Official Gazette on 24 November 2017. With the entry into force of this Regulation, the Institution is now vested with the powers to carry out visits to places of deprivation of liberty in Turkey.

In terms of staffing of HREI, the Regulation on Human Rights and Equality Experts was published in the Official Gazette on 11 November 2017.

The key requirements as laid down in the OPCAT and subsequently elaborated by the SPT in its aforementioned Guidelines have been duly taken into consideration in the course of the drafting works of these secondary legislations.

The HREI is fully operational. The Institution is determined to carry out its duties within the framework of national preventive mechanism function, in cooperation with CPT, SPT and other international mechanisms, in order to ensure to effectively fight against torture and ill-treatment. The Institution started its first visits as the National Preventive Mechanism in October 2017.

Police Custody

Preliminary remarks

[] 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) (para. 11);

With the Decree Law No 684 dated 23 January 2017, the maximum duration of police custody has been decreased from 30 to 7 days only for offences against the security of the State, constitutional order, national defense and State secrecy and espionage as well as terror and collective offences during the State of Emergency. It can be extended for another 7 days only by public prosecutor's decision taking into account difficulties of collecting evidence and high number of suspects. It must be indicated that for offences other than abovementioned specific offences, regular criminal procedural rules on custody period are applicable during the State of Emergency.

Furthermore the general provisions of the Turkish Code of Criminal Procedure are still in force. During the period of custody, it is possible to lodge an appeal against the decision to take into custody. As per Article 91/5 of the Turkish Code of Criminal Procedure, persons in custody, their lawyers or legal representatives, spouses, first or second degree relatives can apply to the Magistrate's Office on Criminal Matters against the written decision of the Public Prosecutor to be released immediately.

It is worth noting that for the said offenses after the end of the period of State of Emergency the maximum period of detention in police custody shall be one day under general provisions which can be extended up to four days in compelling cases.

Ill-treatment

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.

[] 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 (para. 15);

Turkey is a party to all relevant international conventions for the prevention of torture and ill-treatment. Turkey maintains a constructive cooperation with the CPT and the UN Committee Against Torture CAT.

It decisively implements a “zero tolerance policy” against torture and ill-treatment since 2003. In line with this policy, effective measures are in place for many years. The judicial reform packages adopted by the Parliament since 2010 included substantial legislative amendments to the Turkish Criminal Code, Code of Criminal Procedure, Anti-Terrorism Law and Press Law and fostered the policy of “zero tolerance against torture.”

The 4th Judicial Reform Package, which came into force in April 2013 abolished the statute limitations with regard to the offence of torture, thus enabling more effective investigations.

Turkey’s resolute stance for implementing its policy of zero tolerance against torture and ill-treatment has never changed despite grave security threats originating from various terrorist organizations. It has sustained during the State of Emergency. With the Decree Law No. 682 torture and ill-treatment committed by law enforcement officials has been enumerated as a reason for dismissal from the profession. The Ministry of Justice established a special unit in November 2016 to monitor and examine torture and ill-treatment claims.

The Government of Turkey shows utmost care for the protection of fundamental rights and freedoms. In case of isolated incidents, necessary steps are naturally taken including investigations and sentences if required.

The law enforcement personnel are regularly given courses and trainings on the said topics.

At Police Profession Highschool Directorates courses on following subjects such as Human Rights (Use of Force and Arms While Protecting Right to Life), Democratic Policing and Human Rights (Limits to Use of Force, Description of the Disproportionate Use of Force) Police Intervention Means and Techniques (degree of use of force and proportionality) are thought.

Training Courses Provided Between 2017-2018 (until May)	
Topics of the training courses	Number of participants
Use of force	24.310
So and use of force	152.229
Arrest and detention	11.102
TOTAL	187.641

Candidates of commissioned and non-commissioned officers who study at the Gendarmerie and the Coast Guard Academy are undergoing a course on human rights which lasts about 35 hours in which the participants are reminded that no more force than 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. The issue of human rights is attentively stressed in other applied courses.

Within the framework of on-the-job trainings provided by the headquarters of the Gendarmerie General Command; the Gendarmerie Provincial Commands are visited, the personnel are trained on human rights and the standards of detention rooms are controlled. During the on-the-job trainings carried out between 2009-2018, 41 provinces were visited, on-the-job trainings were delivered to 2.975 personnel in these provinces and 780 detention rooms were supervised.

[] 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 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.

[] 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 (para. 16);

In accordance with the policy of zero tolerance on torture, the Ministry of Interior continues to carefully investigate all kinds of claims about torture and ill-treatment, takes the necessary measures without delay.

At the Turkish Gendarmerie prosecutions with regard to six personnel against whom judicial investigations initiated in 2017 on charges for ill-treatment are ongoing. No disciplinary proceeding for allegations of ill-treatment has been initiated in the last two years (2017-2018) against personnel.

At the Directorate General for Security, between 2015-2017;

-142 disciplinary proceedings in respect of charges for exceeding the limits of the power to use force (Article 256 of the Turkish Criminal Code) were carried out. Of those 95 cases were resulted with decisions of no ground for sanction; 32 decisions were rendered on striking out of the list, 1 was resulted in a short term suspension, 2 were resulted in a long term suspension and 12 cases are pending investigations.

-1373 criminal proceedings in respect of charges for exceeding the limits of the power to use force (Article 256 of the Turkish Criminal Code) were carried out. Of those 2 resulted with judicial fine, 8 with acquittal, 2 with imprisonment, 1 with suspension of the announcement of the verdict, 1322 with non-prosecution and 38 cases are pending investigations/prosecutions.

-152 criminal proceedings in respect of charges for torture (Articles 94 and 95 of the Turkish Criminal Code) were carried out. Of those 4 resulted with acquittal, 1 with imprisonment, 143 with non-prosecution and 4 cases are pending investigations/prosecutions.

The Ministry of Interior Board of Inspection also investigates among others allegations about ill-treatment by law enforcement officials during their official duties.

Between 1 February 2015 - 30 March 2018, a total of 51 approvals for inquiry/investigation regarding allegations of ill-treatment were referred to the Board of Inspection. Inquiries/investigations on 44 of these are completed and the respective reports have been submitted to the relevant law enforcement units for the necessary actions to be taken.

The Board of Inspection received 13 applications between 15 July 2016 and 30 March 2018 from persons detained in connection with the 15 July terrorist coup attempt concerning allegations with regard to practices they alleged they have been subject to during custody. Necessary inquiry into and investigation of these applications have been completed and referred to the relevant enforcement units.

Fundamental safeguards against ill-treatment

The CPT calls upon the Turkish authorities to ensure that the law enforcement officials throughout Turkey fulfil their legal obligations regarding the implementation of the right of notification of custody (para. 17);

Article 8 of the Regulation on Arrest, Custody and Statement Taking provides that in case a person is arrested, the factual basis for his/her arrest will be notified to a relative or another person he indicates. Moreover, the Instructions on Detention Centres issued by Turkish National Police which entered into force upon General Director's approval dated 24 June 2014 is available on PolNet Legislation Databank. These Instructions include the procedures to be followed by the police during detention of the persons taken under custody and their stay at and release from the detention centres.

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.

[] 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 (para. 18);

Turkish national legislation guarantees the right of access to a lawyer for the suspect and the accused at every stage of investigation and prosecution.

As per Article 149 of the Turkish Code of Criminal Procedure, the suspect and the accused are free to choose and be represented by one or more lawyers. In cases where the suspect or accused has a legal representative, he may also choose a defence counsel on his behalf. If they cannot afford to retain a lawyer, legal aid is available. The right of the lawyer to consult with the suspect or the accused, to be present during the statement-taking or interrogation, and to provide legal assistance shall not be prevented, restricted at any stage of the investigation and prosecution phase. Moreover, as per Article 150 of the Turkish Code of Criminal Procedure, the suspects and the accused are asked to retain a lawyer; if they declare that they are not in a position to choose a lawyer, a lawyer shall be appointed for them. Due to the seriousness of the offenses the suspects are accused of, it is mandatory for the investigation or prosecution authorities, whether the suspects request it or not, to appoint a lawyer *ex officio* for offenses which carry imprisonment for a term of at least 6 years.

The current Code of Criminal Procedure (No. 5271), which was introduced in 2005, completely changed the legal framework providing that an interpreter shall be appointed for a suspect, who cannot speak Turkish, for both investigation and trial stage (Article 202 paragraph 1-3 of the Law No. 5271). Accordingly, during the criminal investigation, if a suspect cannot speak Turkish, an interpreter should be appointed by the public prosecutor or the judge to explain the accusation and important points regarding the case. Furthermore, Article 324 paragraph 5 provides that the applicant cannot be charged with a legal fee due to the appointment of an interpreter. In the Regulation on Arrest, Custody and Statement Taking it is also provided that the signature of the interpreter in the documents regarding suspect's detention is also required (Article 12 of the said Regulation).

As regards the capability of the interpreter to be selected, the current legislation also requires that the interpreters should have certain qualifications. In Article 202 paragraph 5 of the Law No. 5271 it is provided that the interpreters might be selected from a list to be introduced by the Commission of Courthouses. The Commission of Courthouse shall ensure that the interpreters to be added to the list are qualified and adept with both languages.

The 1st Chamber of the Court of Cassation held that taking statement of the suspect without an interpreter during investigation stage was unlawful (1st Chamber of the Court of Cassation, Docket no. 2015/3046, Decision no: 2015/5678 on November 2015.)

The Attorneyship Law provides for regulations regarding legal aid. General provisions regarding the legal aid are stipulated in the Articles from 176 to 181 of the Attorneyship Law, and procedures and principles of the legal aid are regulated in the Legal Aid Regulation of the Union of Bar Associations of Turkey. Pursuant to the Article 177 of the Law, bar associations are assigned to form legal aid bureaus in the centre of bar associations consisting of sufficient number of attorneys appointed by bar association board of directors in order to offer legal aid services to people with no means to pay the attorney's fee and other court expenses. Legal aid bureaus have no legal personality and work under the bar associations' board of directors. Legal aid demands are made to legal aid bureaus or agencies where the legal aid is offered. After the examination of the necessary documents by the legal aid bureau or agency, if it is decided that the applicant has no potential to pay for the necessary expenses regarding the issue being subject of the demand and his/her demand is just, the legal aid demand is accepted and required service is provided to the applicant. In order to benefit from the legal aid, the reciprocity principle must be fulfilled. The case of the person benefiting from the legal aid service in accordance with the provisions of the law is opened by an attorney appointed by legal aid bureau or agency. Legal aid beneficiary cannot personally choose the attorney to be appointed in his/her case according to the legal aid decision.

The CPT once again calls upon the Ministry of 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.

[] 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 (para. 19);

In accordance with Article 9 of the Regulation on Arrest, Custody and Statement Taking;

- In cases the person arrested is to be taken into custody or has been arrested by use of force, the state of his/her health at the time of arrest shall be determined by means of medical examination by a doctor. In case the place of detention of a detainee is changed for any reason, the duration of his detention is extended, the detainee is released or transferred to the judicial authorities, the state of his/her health shall be determined prior to these actions by means of medical examination by a doctor. Detainees whose health has deteriorated due to any reason or those whose state of health is suspicious shall undergo medical examination immediately and be provided with necessary treatment. Detainees who suffer from a chronic illness shall be examined and treated by an official doctor in presence of his/her own doctor, if any, upon their request.
- The law enforcement officer who takes the detainee to medical examination must be different from the law enforcement officer who takes his/her statement or conducts investigation. If there is no different law enforcement officer due to inadequate number of personnel, the situation shall be documented.
- Medical examination, control and treatment shall be conducted by the Forensic Medicine Institute or official health institutions.
- Medical reports shall be prepared in three copies. The unit which will provide the health report shall be informed in writing whether the report is for admission to or release from detention by the law enforcement officers. One copy of the health report for arrest or admission to detention shall be kept in the health institution which has provided the report; the second copy shall be given to the person in custody; and the third copy shall be given to the law enforcement officer to be included in the investigation file. One copy of the health report provided in case the period of custody is extended, the place of detention is changed, or in case of release shall be kept by the health institution; other two copies shall be sent to the chief public prosecutor in a closed and sealed envelope by the health institution which has provided the report. One copy of these reports shall be given to the detainee or his lawyer, and the other copy shall be included in the investigation file.
- Confidentiality requirement in Article 157 of the Turkish Code of Criminal Procedure must be observed in preparation of these health reports and when they are sent to the chief public prosecutors and necessary measures must be taken by the relevant health institution.
- In case the doctor discovers findings indicated that the offense of torture under Article 94 of the Turkish Criminal Code No. 5237, the offense of aggravated torture on account of its consequences under Article 95, or the offense of torment under Article 96 might have been committed, he shall immediately inform the Public Prosecutor. In

- in this case, measures shall be taken as per Article 7 and 8 of the Regulation on Corporal Examination, Genetic Examination and Determination of Physical Identity.
- It is essential for the doctor and the detainee to be alone and for the examination to take place in confidence between the doctor and the patient. However, the doctor may request the presence of a law enforcement officer during examination due to fear of personal security. This request shall be documented in writing. In this case, the detainee's lawyer may also be present during examination upon the detainee's request, provided that it does not cause a delay.
 - Medical examination of women shall be carried out by a female doctor, upon her request and as far as the conditions allow it. If, despite the detainee's request, there is no female doctor, it shall be ensured that a female health personnel will be present together with a doctor during the examination.

As per the Turkish Code of Criminal Procedure and the Regulation on Arrest, Custody and Statement Taking, it is required to obtain health reports in all cases of arrest and custody in order to prevent allegations of torture. Similarly, health reports are obtained when suspects are released from custody. Reports on the conditions of suspects during 1-3 days in custody and reports on their admission to and release from detention centres are obtained in full. Moreover, it is not possible to restrict for lawyers to access to medical records.

Turkish Government would like to underline that law enforcement officials are prohibited to use any form of reprisals or threats thereof as well as to exert any other discouragement vis-à-vis detained persons. During trainings law enforcement officials are recalled that such acts are unacceptable and will be punished accordingly.

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 (para. 20);

The right of the suspect arrested or taken under custody include being informed of the accusation and his/her rights, i.e. right to remain silent, benefiting from legal assistance, communication with his/her family, providing evidence in his/her favor and demanding for the collection of these, being brought to trial and requesting to see a doctor.

The current Code of Criminal Procedure (No. 5271), which was introduced in 2005, completely changed the legal framework providing that an interpreter shall be appointed for a suspect, who cannot speak Turkish, for both investigation and trial stage (Article 202 paragraph 1-3 of the Law No. 5271). Accordingly, during the criminal investigation, if a suspect cannot speak Turkish, an interpreter should be appointed by the public prosecutor or the judge to explain the accusation and important points regarding the case. Furthermore, Article 324 paragraph 5 provides that the applicant cannot be charged with a legal fee due to the appointment of an interpreter. In the Regulation on Arrest, Custody and Statement Taking, it is also provided that the signature of the interpreter in the documents regarding suspect's detention is also required (Article 12 of the said Regulation).

As regards the capability of the interpreter to be selected, the current legislation also requires that the interpreters should have certain qualifications. In Article 202 paragraph 5 of the Law No. 5271 it is provided that the interpreters might be selected from a list to be introduced by the Commission of Courthouses. The Commission of Courthouse shall ensure that the interpreters to be added to the list are qualified and adept with both languages.

The 1st Chamber of the Court of Cassation held that taking statement of the suspect without an interpreter during investigation stage was unlawful (1st Chamber of the Court of Cassation, Docket No. 2015/3046, Decision No: 2015/5678 on November 2015.)

In line with the provisions of the Regulation on Arrest, Custody and Statement Taking, persons arrested or detained are to be given the "Form on the Rights of Suspects and Accused Persons". If the detained person does not wish to exercise the right to appoint a lawyer, it is considered appropriate for him/her to fill out the relevant entry in the Form in his/her own handwriting, stating a phrase as "I do not want a lawyer", and to verify this situation with his/her signature. The said form has been translated into a multitude of languages (11 languages in 2009) and the translated texts are to be found in the units concerned. Detained persons are given a copy of the Form. In addition, illiterate persons are orally informed of their rights and this is continuously monitored by superior officers.

The CPT recommends that the Turkish authorities take appropriate steps to remedy this deficiency (para. 21);

Custody registers for the detention of foreign nationals under aliens legislation in law enforcement establishments are duly kept.

Conditions of detention

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 m² should not be used for accommodating more than two persons at a time.

]] 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 (para. 22)

Pursuant to Article 25 of the Regulation on Arrest, Custody and Statement Taking, detention rooms shall be arranged having a minimum area of 7 square meters, a height of 2.5 meters and a distance of 2 meters between walls. Sufficient natural lighting and ventilation facilities shall be ensured.

In addition, as stated in Section 6 of the Regulation on Arrest, Custody and Statement Taking, sufficient number of blankets are given for the use of persons to be held overnight, having regard to the season and the physical conditions of the detention centre. A signed detention instructions card is affixed at the entrance of detention centres. Care is displayed as regards the use of separate spaces with ensured internal and external safety as statement-taking rooms, being built for the purpose and technically-equipped.

The CPT recommends that the Turkish authorities take immediate steps to ensure that all detained persons who are held overnight at İstanbul-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.

]] the Committee would like to receive confirmation that the small basement room at Fatih District Police Station is no longer used for detention purposes (para. 23);

All detainees are provided with clean mattresses and clean blankets.

The Turkish Government confirms that the small basement room at Fatih District Police Station has been withdrawn from service and does no longer serve as detainee accommodation. In line with the regulation for detention rooms two detention rooms, one for men and one for women, are in service.

Steps are taken to reduce the number of persons placed in the two detention cells at Fatih District Police Station.

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 (para. 24);

The construction of a new detention facility for detained persons at Anti-Terror Branch of Ankara Security Directorate is underway in an area within the premises of the Ankara Security Directorate. All detainees held at the said sports hall are provided with mattresses and blankets.

Foreign nationals detained under aliens legislation

The CPT would like to receive updated information on the implementation of these plans (para. 31);

From 9 to 23 May 2017, the dates during which the delegation carried out its visit, the number of the removal centres in Turkey was 22 with a capacity to accommodate a total of 8.136 persons. As of 2 April 2018, 18 removal centres are in operation with a capacity to accommodate a total of 8.276 persons.

REMOVAL CENTRES OPERATED BY THE DIRECTORATE GENERAL OF MIGRATION MANAGEMENT (AS OF 2 APRIL 2018)		
	PROVINCE	TOTAL
1	ADANA	80
2	ANTALYA	170
3	AYDIN	564
4	ÇANAKKALE	400
5	EDİRNE	500
6	ERZURUM 1	750
7	ERZURUM 2	750
8	GAZİANTEP	750
9	HATAY	192
10	İSTANBUL (Silivri)	270
11	İSTANBUL (Binkılıç)	120
12	İZMİR	750
13	KAYSERİ	750
14	KIRKLARELİ	750
15	KOCAELİ	250
16	MUĞLA	88
17	VAN 1	392
18	VAN (Kurubaş)	750
TOTAL CAPACITY		8276

Among the removal centres which were in operation at the time of the visit, the removal centres Antalya-1, Bursa, İzmir-Işıkent and Kocaeli were closed down in 2017 and the removal centre in Tekirdağ has been transformed into a reception and accommodation centre.

At the time of the visit 16 removal centres with a capacity of 7200 places have been under construction. Following the visit, the construction of the removal centre in Kocaeli, financed from the national budget, was completed and opened in December 2017. At present, the construction of 15 removal centres is still underway.

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 (para. 32);

Within the framework of the Law No. 6458, foreign nationals in police custody against whom an administrative detention pending removal, has been issued are directly transferred to a removal centre in the province they have been apprehended. In provinces where a removal centre does not exist, foreign nationals concerned are transferred to an appropriate removal centre within 48 hours following the issuance of such administrative orders.

[] the CPT recommends that the Turkish authorities review as a matter of priority the existing arrangements at İzmir-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). (para. 33);

In line with the CPT standards, the foreign nationals at all removal centres in Turkey, including İzmir-Harmandalı Removal Centre have access to open air at least one hour per day. While open air time varies depending on seasonal conditions and the number of foreign nationals, it generally exceeds the minimum duration of one hour. During this time, all foreign nationals are offered, in line with their requests, with a range of activities such as basketball, volleyball and football. Children can benefit from indoor and outdoor playgrounds without any time limitation.

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 (para. 34);

Medical reports of foreign nationals attesting contagious diseases is cited among the grounds for deportation orders issued against these foreign nationals who are considered to pose a threat to public health.

Foreign nationals may be subjected to a deportation order on the grounds of “constituting a threat to public health” if their medical reports attest so. It must be certified by medical reports issued as a result of necessary medical checks and blood tests by the respective health institutions undersigned by a doctor.

Personal data privacy is protected duly in the course of the process.

The CPT would like to receive updated information on the implementation of the above-mentioned co-operation agreements (para. 36);

The Turkish Red Crescent officials carried out 86 and 10 visits respectively in 2017 and 2018 to removal centres for need assessment within the scope of the Cooperation Protocol with the Directorate General of Migration Management (DGMM). The reports which have been prepared at the end of these visits were conveyed to DGMM. Accordingly, removal centres have been improved. Visits will be continued periodically.

As per the protocol on training signed between DGMM and the Ministry of Justice, training for the trainers has been provided for psychosocial support personnel. Besides, 743 private security personnel were trained within the framework of the projects carried out in cooperation with the International Organization for Migration. Additional trainings were held concerning working procedures and principles of removal centres, security of removal centres and intervention in emergency situations, de-escalation techniques, stress management, human rights, cultural sensitivities and differences methods of effective communication with migrants and social gender awareness.

As regards the provision of education to children in removal centres upon the application by DGMM the Ministry of National Education started the process to assign teachers to all removal centres. As of April 2018 a total of 17 teachers have been assigned in different branches. Works are underway to increase the number of teachers.

Talks between DGMM and the Ministry of Health on the protocol regarding health care services for foreign nationals in removal centres continue.

Ill-treatment

The CPT recommends that the Turkish authorities reiterate to all staff dealing with immigration detainees at İstanbul-Binkılıç and İzmir-Harmandalı Removal Centres as well as at İstanbul Atatürk Airport, that all forms of ill-treatment of foreign nationals (including verbal abuse) are not acceptable and will be punished accordingly.

[] 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) (para. 38);

The manner in which staff is expected to deal with persons accommodated in removal centres is regulated under relevant legislation. Removal centres are under monitoring of the provincial director of migration management, the governorate in the province, the Directorate General of Migration and the Ministry of Interior. In this context, utmost attention is paid to issues such as the prevention of ill-treatment. Irrespective of their position, staff members employed at removal centres are regularly offered training on fundamental human rights.

Through projects carried out in cooperation with the International Organization for Migration, training has been provided for 743 private security personnel in 2017. Trainings continue on working procedures and principles of removal centres, security of removal centres and intervention in emergency situations, de-escalation techniques, stress management, human rights, cultural sensitivities and differences, methods of effective communication with migrants and social gender awareness in 2018.

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 (para. 39);

Jucial proceedings against the former security officials concerned continue.

The CPT would like to receive updated and more detailed information on this matter (para. 40);

The Human Rights Committee has been established within the Directorate General for Migration Management. The duties and mandate of the Committee are as follows:

The Human Rights Committee works within the scope of the Office of the Legal Counselor under the direct authority of the Director General.

With a view to prevent human rights violations in the central and provincial organization, the Committee carries out trainings and awareness studies. In the event of suspicion of human rights violation prepares a report and it informs the Director General.

The Committee consists of a chairman and three members. The chairman and one member are assigned from the Office of the Legal Counselor. Other two members are assigned from the Training Department and from the Foreign Relations Department. If needed, the number of members can be increased. The chairman and the members of the Committee are assigned upon the approval of the Director General.

The Human Rights Committee conducts trainings and awareness studies to prevent the violation of human rights. It also delivers opinions on human rights trainings carried out by the Directorate General and related international projects undertaken in cooperation with international organizations and institutions. The Committee visits removal centres with Provincial Directorates of Migration Management with a view to raise awareness and find out possible rights violations.

Conditions of detention in removal centres

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

- **the official capacity of İstanbul-Binkılıç Removal Centre is significantly reduced and that number of beds is adjusted accordingly;**
- **detention areas at İstanbul-Binkılıç and İzmir-Harmandalı Removal Centre are equipped with tables and chairs and that foreign nationals are provided with personal lockable space;**
- **immigration detainees at İzmir-Harmandalı Removal Centres are provided with sufficient quantities of cleaning materials (para. 41);**

Removal centres with insufficient physical structures are either closed down or their capacity is reduced. Efforts are underway with regard to İstanbul-Binkılıç Removal Centre.

As a general practice, rooms at İzmir-Harmandalı Removal Centre and other centres of similar design are equipped with tables and chairs. As regards those who have no suitable space to place tables and chairs inside their rooms they are offered communal areas which are equipped with tables and chairs where they can take their meals and rest.

At all removal centres, cleaning products are provided to foreign nationals upon their admission. When demanded, products are renewed and periodically checked by officers. In addition, if any shortcoming is identified by the Red Crescent during its need assessment visits, the removal centre administration takes necessary steps to address.

Steps should be taken to remedy this shortcoming (para. 43);

Rooms accommodated by foreign nationals and communal areas at removal centres are cleaned by cleaning staff. Laundry service and ironing is provided for the materials used by the foreign nationals such as clothes, bed sheets and blankets and they are periodically replaced with new ones. This service is made available to the foreigners on demand. Signboards include necessary information in this regard.

]] it would like to receive more detailed information on the measures taken by the Turkish authorities regarding the provision of outdoor exercise at İzmir-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.

]] the Committee recommends that the design and equipment of the outdoor facilities at İstanbul-Binkılıç and İzmir-Harmandalı Removal Centres be reviewed, in the light of the remarks made in paragraphs 45 and 46 (para. 47);

At İstanbul-Binkılıç Removal Centre, a covered area has been established within the activity space to provide shelter from bad weather. The said area has been equipped with benches and various sports equipment for the use of the foreign nationals.

Foreign nationals staying at İzmir-Harmandalı Removal Centre stay in open air for 1,5 hours per day (30 minutes after breakfast, 30 minutes after lunch and 30 minutes after dinner).

The Committee reiterates its recommendation that the Turkish authorities take steps at İstanbul-Binkılıç and İzmir-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.

[] there can be no justification for preventing immigration detainees from having writing materials and wrist watches in their detention rooms (para. 49);

In line with their requests, foreign nationals are offered activities such as basketball, volleyball and football in the removal centres. Children in all removal centres have the opportunity to spend time at indoor and outdoor playgrounds. Steps are taken to expand the activity areas in those removal centres that lack sufficient space for sports activities. Movie screenings are organized for children as well as entertaining events for adults. On special occasions such as International Women's Day commemorative programs are also organised. Skill courses are opened upon request of those accommodated in the removal centres.

In order to prevent the immigration detainees to inflict harm upon themselves and others and to protect their belongings of value, no watch or pen is given to them. Mural clocks are placed in communal areas in sight of the detainees.

Detention of minors

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 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.

[] 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 (para. 51);

Children receive supplementary food in accordance with their development needs during their stay with their families in removal centres. In case of health problems, a health officer in the removal centre takes care and if need be, he/she is referred to a hospital. If required, medicines are administered by the family under the supervision of a doctor or nurse and

directed to the relevant health institutions for vaccination. Medical controls of children are carried out by health personnel and by respective health institutions in the centres.

As of January 2018, according to the capacities of each centre; psychologists and social workers have been dispatched to take care of both adults and children.

By the end of 2017, the Ministry of National Education has assigned teachers for the education of children in the centres. Several age differentiated educational activities are carried out for children during five days in a week.

In case foreign nationals with children, against whom deportation orders have been issued in accordance with Article 54 of Law No. 6458, methods alternative to administrative detention are considered before such orders are taken. If possible, families with children are only made subject to certain administrative obligations. In the event that an administrative detention order is issued against persons with children, considering the best interest of children, they are accommodated in a separate place in removal centres and their procedures are carried out urgently and as priority.

Holding facilities for foreign nationals in the transit zone of İstanbul Atatürk Airport

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 İstanbul Atatürk Airport (para. 52);

Necessary measures are taken to limit their stay for the shortest period of time.

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 İstanbul 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 (para. 53);

Foreign passengers who are found inadmissible (Inadmissible Passenger/INAD) are immediately sent back with the first flight to the place they have boarded, within 24 hours.

Due to reasons such as of unavailability of flights, technical problems or adverse weather conditions, inadmissible passengers on the basis of their consent are sent back with another airline to the departing airport or to another country.

INADs who cannot be immediately sent back are allowed to visit the transit area. Foreign nationals who have to wait for prolonged periods are allowed to go to the terrace which is located at the departure floor. In addition, while the relevant procedures are processed, families with children are either directed to a hotel in the transit area or allowed to freely wait for their flights in the transit area on the departure floor which has an outdoor option.

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 İstanbul Atatürk Airport are henceforth provided with basic personal hygiene products (para. 54);

Applicants for international protection, staying in the holding facility of the Atatürk Airport, are provided, upon their request, with the basic hygiene products by the airline company carrying them to İstanbul.

[] 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 İstanbul New Airport. The Committee also wishes to receive further details about the new holding facilities for foreign nationals at İstanbul New Airport (such as their layout, capacity, infrastructure in terms of access to natural light, etc.) (para. 57);

Two holding facilities are being built inside and outside of the airfield facilities at the New Airport in İstanbul. They include outdoor facility and open air sports areas of different sizes. The outdoor facility in the airfield is allocated 912 m², and the other one holds 2395 m².

[] 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 (para. 58);

Applicants for international protection can move freely in the transit zone of İstanbul Atatürk Airport. Open air areas will be provided for with the New İstanbul Airport.

Health care

The CPT recommends that the doctor's presence at Harmandalı be increased to the equivalent of at least one full-time post (para. 59);

At İzmir-Harmandalı Removal Centre, a doctor and health-care staff work full-time. If necessary, 112 emergency services and hospitals are also rendering health services.

[] the CPT calls upon the Turkish authorities to take urgent steps to ensure that, at İstanbul-Binkılıç and İzmir-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 (para. 65);

Prior to their transfer to the removal centre by law enforcement officials it is required for any foreign national to have a health report. These reports are kept in the files of the foreign nationals. During the admission process, an additional medical screening is carried out by the doctor of the centre and the related staff.

The medical report obtained prior to the admission of the foreign national to the centre includes the physical examination. However, as tests for contagious diseases result in a couple of days, it is not always possible to request the submission of the test results during admission to the centre, therefore they are submitted subsequently. In addition, if any traumatic situation is identified as a result of the medical screening during the admission psychosocial support/care services are provided.

No foreign national is accepted to the centres without a health report. Health reports are obtained from the hospitals affiliated to the Ministry of Health and the findings are recorded in detail.

Foreign nationals with no medical report are not admitted to the centre without undergoing medical control. Even if their medical control is done at the hospital, the foreign nationals undergo a pre-examination when being admitted to the centre and in case of any complaint, suspicion or indication of ill-treatment, the necessary administrative and judicial proceedings are initiated, and the required support is provided to the foreign national depending on his/her need.

In accordance with the "Directive of Removal Centres" a health register is kept. In addition this register the Ministry of Interior has requested from the Ministry of Health to record a separate file for each foreign national.

The CPT reiterates its recommendation that the Ministry of Interior take steps – in cooperation 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 (para. 66);

Unless necessary, it is ensured that during medical examinations by the doctor in the removal centre, foreign nationals are examined without the security officer being present. The Ministry of Interior requested by way of official correspondence from the Ministry of Health, to convey to relevant health officers that "all medical examinations of foreign nationals are conducted out of the hearing and - unless the doctor or nurse concerned requests otherwise - out of the sight of the officers of the removal centre."

The Ministry of Interior requested by way of official correspondence from the Ministry of Health that medical data is not accessible to non-medical staff and that medical files and records shall be kept locked by medical staff.

The Committee recommends that the Turkish authorities take the necessary steps to ensure that, at İzmir-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 (para. 67);

Like adults, children at removal centres receive, when necessary, medical examination services by the doctor or other health personnel. Children are periodically vaccinated and their vaccination card is delivered to their families. Psychologists and social workers carry out works regarding children.

The CPT would like to receive the Turkish authorities' comments on this matter (para. 68);

Health-care staff at the centre works 24 hours basis. Currently one doctor, one nurse, four paramedics work at the centre. Each day one doctor, one nurse and one paramedic work between 08:30-16:30 hours and one paramedic stays at the centre between 16:30-08:30 hours as health-care staff on duty.

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.

]] the Committee would like to receive information on the action taken by the management of İzmir-Harmandalı Removal Centre in respect of the above-mentioned foreign national (para. 69);

Mental health examination is carried out in all removal centres and psychosocial support services are provided. Services that required to be provided at a clinical level are conducted in hospitals affiliated to the Ministry of Health.

According to the report dated 16 May 2017 drawn up by the Psychosocial Support Unit of İzmir-Harmandalı Removal Centre in respect of a foreign national from Azerbaijan (S.M.); it is stated that the foreign national concerned can speak and understand Turkish well, that he can express himself easily. It was further stated that the said person showed aggressive behaviour from time to time as he did not want to be subject to administrative detention and was unhappy; nonetheless, it was indicated that no anxiety disorder was detected. It is further stated that the foreign national who has been informed that he might be interviewed again in the course of his stay at the centre, was reluctant to talk unless these negotiations would facilitate his leave from the centre.

Other issues

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 (para. 71);

All foreign nationals for whom a deportation order and/or administrative detention order has been issued are served with these decisions either in their mother tongue or in the language they understand. The relevant notification forms have been translated into 21 languages. A copy of the notifications is handed over to the foreign national concerned/his/her legal

representative/his/her lawyer. Besides, in the event that the form is not available in his/her language etc., the notification is made with the assistance of an interpreter.

Foreign nationals have access to information brochures since they are admitted to the removal centres. These brochures contain information regarding international protection and deportation procedures and provision of services.

These brochures are available in seven different languages commonly used by foreign nationals.

The CPT recommends that steps be taken in all the removal centres visited, as well as other removal centres in Turkey, to ensure that all newly-admitted foreign nationals effectively benefit, if they wish so, from their rights to inform a relative or another person of their choice of their detention as well as to seek consular assistance (para. 72);

The information brochures contain the clause that foreign nationals may meet with their relatives, lawyers, UNHCR official, consular officials, use the payphone upon their demand, the requests are put into process directly. Phone cards are provided to indigent foreign nationals.

[Joint Response to recommendations set out in paragraphs 73 and 77]

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) (para. 73);

[] the recommendation made in paragraph 73 equally applies to foreign nationals held in the transit zone of İstanbul Atatürk Airport, as well as in the transit zones of other international airports in Turkey (para. 77);

Legislation and information brochures related to removal centres contain necessary information as regards access to legal aid and bars. Foreign nationals are reminded about this right during their admission and their stay at the centre. Requests from the bars as regards access to lawyers are taken into consideration.

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 (para. 74);

Lawyers allocate their judicial knowledge and experiences to justice service and for the benefit of people. In the practice of this important public service, important tasks have been assigned to bar associations and to the Turkish Union of Bar Associations, which are professional organizations of lawyers. In this respect, bar associations are public professional organizations which carry out their works according to democratic principles in order to

improve attorneyship profession, ensure honesty and trust in the relations of the members of this profession with each other and clients, defend and maintain professional order, ethics, dignity, rule of law and human rights and meet common needs of lawyers.

The CPT recommends that the Turkish authorities take the necessary steps to fill this lacuna (para. 76);

The Turkish Government has taken note of this recommendation which will be given due consideration during respective legislative work.

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.

]] 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 (para. 78);

Article 59 of Law No. 6458 is about "Services Provided in Removal Centres" and stipulates in paragraph 1(b) that "the foreign national shall be allowed to access and have the opportunity to meet with their relatives, the notary public, his/her legal representative and the lawyer, as well as an have access to telephone services". In this context, foreign nationals classified as Foreign Terrorist Fighters (FTF) are also provided with the opportunity to meet with their relatives, to have access to the lawyer as well as to telephone services like those foreign nationals who are held under administrative detention in removal centres. However, in cases when the capacity of the removal centres is full, the risk is deemed to be materializing that FTF inflict either upon themselves and/or upon other foreign nationals any harm or the occurrence of any such risk is deemed possible, visits of foreign nationals might be restricted.

On the condition that the foreign national submits a written request to meet with a lawyer and the lawyer conveys an application letter to the management which includes details of the foreign national the lawyer wishes to meet; then, the lawyer shall access to the foreigners' file to review and meet with the foreigner. Lawyers, without causing any delay in the proper functioning of the work and procedures of the management, may examine information which is not-confidential. Lawyers may get a copy of those documents which are not confidential in the case of submission of the letter of attorney issued by the notary.

Foreign nationals have the opportunity to use the payphones in the removal centres. Phone cards are brought periodically for that indigent foreign nationals are able to use the payphone. In March 2018, 60.000 phone cards were brought by way of tender to be used in the removal centres.

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.

[] the material conditions in the security rooms at İzmir-Harmandalı Removal Centre should be improved, in the light of the above remarks (para. 79);

Rules regarding the use of the security rooms are designated by the official directive. Implementation is realized according to the rules in the official directive. The walls of the security rooms are covered with a soft material guardedly. From time to time when wall coverings are damaged they are fixed immediately.

The Committee recommends that the Turkish authorities review their policy of video-surveillance at İstanbul-Binkılıç Removal Centre and, where appropriate, in other removal centres in Turkey, in the light of the above remarks (para. 80);

The rooms of foreign nationals in the removal centres are not surveyed in accordance with the privacy principle. However, the communal areas of the foreign nationals, offices and outdoor areas are surveyed by camera for security purposes.

[] the Committee considers that custodial staff in removal centres should not carry such devices as a matter of routine in detention areas (para. 81);

Private security officers who work as custodial staff in the removal centres are unarmed. In principle, carrying batons and handcuffs are not recommended and accordingly all personnel do not carry batons and handcuffs.

Prisons

Preliminary remarks

The CPT would like to receive clarification on this point (para. 85);

In 2017 in small districts ten penitentiary institutions which were not in compliance with a modern enforcement regime were closed down. In 2018, one small district penitentiary institution was closed down.

[] 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 (para. 86);

The Government would like to refer to its response dated 6 March 2018 regarding the recommendation contained in Paragraph 93. As explained in the said correspondence, with a view to prevent unforeseen overcrowding at penitentiary institutions the General Directorate of Prisons and Detention Centres and the Penitentiary Institutions continue to undertake all types of necessary measures such as legislative work, measures alternative to detention, additional personnel recruitment, building new penitentiary institutions, improving physical structure of the existing institutions, observation and classification.

[Joint Response to recommendations set out in paragraphs 87 and 109]

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. To this end, the relevant legislation should be amended accordingly.

[] the Committee recommends that the Turkish authorities take steps to ensure that, at Istanbul-Metris and İzmir-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 (para. 87);

[] reference is made to the remarks and recommendations in paragraph 87 (para. 109);

Aggravated life sentences are executed in compliance with the principles regulated in Article 25 of the Law No. 5275 on the Execution of Sentences and Security Measures. The convicts, serving aggravated life imprisonment in single rooms are not isolated. The single rooms built for these convicts have windows, bathrooms, toilets and ventilation gardens which are large enough. They benefit from the same rights as other convicts sentenced to imprisonment for a fixed term and enjoy the possibilities set out in the law such as visits, phone calls, open air time, vocational activities, etc. In this vein, they receive visits from their spouses, descendants and ascendants, siblings and guardians for up to one hour a day once every fifteen days. They may call the persons mentioned also once every fifteen days.

The open air time may be extended and the convict may be allowed, to a limited extent, to have contacts with other convicts who stay in the same unit, depending on risks and security considerations as well as the convict's good conduct and efforts during rehabilitation and training. The convict may also carry out an artistic or occupational activity which is possible where he lives and which is considered appropriate by the administrative committee.

Trabzon E-type Closed Penitentiary Institution provides for three open air gardens which both convicts serving aggravated life imprisonment and other convicts/detainees serving solitary confinement as a disciplinary sanction can use. They are permitted to walk in the open air under necessary security measures for at least one hour a day, always with the same persons. Those who are in the same type of crime group and do not have enmity against each another can use the open air gardens in groups of three persons if they do not pose a threat to the security of the establishment.

Ill-treatment

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 (para. 89);

Turkey, at the outset, would like to affirm that the penitentiary institutions all around the country are strictly bound by the provisions of the Law on the Execution of Sentences and Security Measures No. 5275 which prohibit torture and ill-treatment. Having considered that, the relationship between the custodial staff and prisoners is governed by the provisions of the relevant Laws and other legislations. Any complaints by inmates are promptly submitted to the relevant authorities. Administrative or, where necessary, judicial proceedings are brought in respect of the official concerned.

The staff at the penitentiary institutions is always instructed to serve their duties in accordance with the following principles stated in Article 2 and 3 of the Law on the Execution of Sentences and Security Measures:

- ensuring the execution of sentences in accordance with the Constitution, domestic and international laws;
- encouraging the re-socialization of the offender; ensuring reintegration and correction;
- ensuring that rules relating to the execution of sentences and security measures are implemented without discrimination as to the convicts and detainees' race, language, religion, sect, nationality, color, gender, birth, philosophical belief, national or social origin, political or other ideas or thought, economic power and other social status, and without making any privilege for anyone;
- avoiding cruel, inhuman, degrading and humiliating treatment in the execution of sentences and security measures;
- achieving primarily general and special prevention for those involved in crime; strengthening factors that prevent the convict from committing an offence again;
- protecting society against crime;
- encouraging the resocialization of the convict;
- and facilitating compliance to a lifestyle which is productive, responsible and respectful for laws, regulations and social codes.

Those who fail to do so are warned and judicial/administrative measures are imposed when necessary.

It should also be born in mind that all acts and measures taken by the penitentiary institutions are subject to judicial review. This being the case, inmates, as the first action, are allowed to file complaints with judges of execution which may then be followed by challenging the decision of the said judge before assize courts. Since the judges enjoy judicial independence, the prison administration may not in any way suggest, recommend or interfere with the decisions by the judges.

A judicial investigation can be launched ex-officio in respect of a prison personnel, in other words, authorization for an investigation is not required for such personnel.

Acts which constitute crime are not tolerated and those officials who are found guilty are sanctioned both by independent courts as a judicial measure and by the administration as an administrative measure.

At this juncture, Turkey emphasizes the importance it attaches to the professional training of the prison personnel in the field of human rights. The controllers who are in charge of supervision of penitentiary institutions receive practical training for three years following

their recruitment, on the general regulations to be followed and implemented to ensure the conformity of detention conditions with at least minimum standards as well as the prevention of human rights violations of the detainees and convicts. During the annual meetings with supervisory officials and the staff, an in-depth discussion and exchanges take place on the issues above.

Conditions of detention of adult prisoners

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 m² 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 (para. 93);

Information concerning Paragraph 93 was submitted within the deadline given.

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 (para. 94);

There is no heating problem in Diyarbakır D-type and E-type Closed Penitentiary Institutions. The heating system of the Institutions runs for 24 hours in cold weathers and no complaints have been submitted in this respect. Wards, dormitories and common areas of penitentiary institutions have all been renewed and they have been painted and whitewashed. Except for the detainees and convicts whose hours of open air are limited due to the legislation, the garden gates of the wards where other detainees and convicts stay are open at sunrise in the morning and close at sunset in the evening. In this respect, there is sufficient time of open air for the detainees and convicts.

Whenever needed, repair works are carried out immediately in Trabzon E-type Closed Penitentiary Institution. To prevent moisture arising from the climatic conditions of the province, garden gates of wards and dormitories have been left open from the sun rise so that ventilation can be maintained. Until 2017 for heating, coal had been used in the penitentiary institution. Considering the environmental effects of coal use, heating system is transformed.

The current system is regularly controlled and repaired when needed. No complaints have been submitted regarding hygiene.

Painting and whitewash works are made at Siirt E-type Penitentiary Institution, staff is warned for hygiene. Renovation for ventilation system is not planned due to the physical structure of the building. However, a new L-type Penitentiary Institution and an Open Penitentiary Institution with an extension will be constructed in Siirt, and accordingly rearrangement of physical conditions will be possible in the new buildings.

Menemen R-type Closed Penitentiary Institution which the delegation visited is in service since 15 June 2015. Therefore, it is a new building, furnished with new facilities and hygiene is maintained by the medical staff serving in the Institution.

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 (para. 95).

Reference is made in this regard to the relevant recommendation in paragraphs 93 to 95. In this connection, steps should be taken to ensure adequate provision for the specific hygiene needs of female prisoners (para. 96);

During the initial admission of the detainees and convicts to the penitentiary institution, beds, sufficient number of blankets, pillows and bed linings (quilt cover sets), basic hygiene products and cleaning products for wards are provided by the Institution. In addition, personal hygiene products such as tooth brush, tooth paste, soap, shampoo and detergent are provided by the Institution itself to the indigent inmates. If needed or the products provided by the Institution are not preferred, blankets and other products can be bought from the canteen of the Institution. The detainees and convicts are allowed to benefit from the laundry of the Institution for cleaning blankets, quilt cover sets and other clothes which cannot be washed by hand.

One bed, quilt cover set and blanket are provided to each convict and detainee in Diyarbakır E-type Closed Penitentiary Institution. Showers of the Institution are working and their maintenance is carried out when breakdowns occur due to improper usage. Hot water is given to all wards three times a week. In addition, hot water is provided two times a day for half an hour, mornings and evenings, in order for washing the dishes and other cleaning purposes.

Since the current number of the detainees and convicts is high in Trabzon E-type Closed Penitentiary Institution, both hot and cold water use is excessive. A problem occurred in

supplying hot water during the transformation of heating system for natural gas. As soon as the transformation completed, this problem was solved. Hot water is provided to rooms four times a week in line with the planning made by considering the number of the detainees and convicts.

At present, the boiler house in the Siirt E-type Closed Penitentiary Institution is open for 24 hours. However, since hot water boilers and boilers houses are built on old-system, additional boilers can not to be placed because of insufficient physical place. The required diligence is shown to enable detainees and convicts to benefit from hot water facilities at the maximum level and the arrangements related with the issue are reviewed. Quilt cover sets are provided according to the number of detainees and convicts in the Penitentiary Institution. There is no complaint about such needs. The Administration of the Penitentiary Institution had already identified the shortcomings and had asked for the necessary allowances from the Director General of Prisons and Detention Centres. These demands were tried to be met with a view to preventing unjust treatment.

On the other hand, the Directorate General of Prison and Detention Centres instructed all penitentiary institutions and informed Offices of Chief Public Prosecutors that toys, diapers and cleaning products of the children staying with their mothers, as well as other cleaning and hygiene products, should be provided to all female inmates who make a request, with priority to those who are pregnant or breastfeeding, from the Institution's own budget, without waiting for allocation of allowances.

It has been considered that women and children staying with their mothers in penitentiary institutions are individuals entrusted to the State and when necessary, they should be protected by positive discrimination as stipulated by the Constitution.

In line with the contemporary understanding of execution of penalties, contemporary approaches have been adopted in punishment and rehabilitation policies. A new criminal justice system was created under the Turkish Criminal Code, the Code of Criminal Procedure and the Law on the Execution of Sentences and Security Measures. Practices of the contemporary execution regime in Turkey have been taken as a model in some developed and developing countries.

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 (para. 98);

In addition, periodical follow-ups and controls (such as vaccination, analyses etc.) of the children staying with their mothers are conducted on a monthly basis by Trabzon Community Health Care Centre via infirmary unit of the Institution. Furthermore, storehouse unit of the Institution provides supplementary food and other necessities (such as milk, egg, honey, baby food, diapers etc.) in addition to daily food in a way that will support daily nutrition and

energy needs of both mothers and children. Besides, park and playground, from which children staying with their mothers will benefit, were constructed in the Institution with the contributions of the Trabzon Ortahisar Municipality. Within the framework of the cooperation with Trabzon Provincial Directorate of Family and Social Policies, kids' room and playground have been constructed for the abovementioned children.

On the other hand, as prescribed in the Article 65 of the Law No. 5275 on the Execution of Sentences and Security Measures, children aged zero to six whose mothers are convicted and who have no one outside the Institution to look after them may stay with their mothers. Such children shall be accommodated during day-time in the crèches or day-care centres of penitentiary institutions or the Institution for Social Services and Child Protection Agency or other public organisations and institutions. In these crèches within the Institution, extracurricular play sessions, celebrations and various activities are conducted under the supervision of experts of psycho-social services. Moreover, within the framework of "The Cooperation Protocol on Supporting the Development of the Children Staying with Their Mothers in Penitentiary Institutions and Detention Centres" (2011), between the Ministry of Justice and the Ministry of National Education, children aged 3-6 staying in the institutions benefit from the pre-schools and nursery classes affiliated to the Ministry of National Education with priority and free of charge. Furthermore, play rooms are created and social-cultural activities such as theatre, cinema, painting, and story reading are conducted by non-governmental organizations, public institutions and organizations via psycho-social and educational services in the penitentiary institutions and with the support of the Ministry of Justice. Children are closely followed by psychologists and social workers in the psycho-social assistance services and interviews are conducted regularly with their mothers. Development of children is closely followed by regular medical checks and when necessary, children are sent to the related departments of state hospitals.

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, engage in purposeful activities of varied nature (such as work, preferably with vocational value, education and sport) (para. 101);

Regimes are regulated in accordance with the Article 87 of Law No. 5275 on the Execution of Sentences and Security Measures and provisions of the Circular (dated 27 July 2017 and No. 46/1), and the provision in the paragraph "f" of the Article 40/1 titled the "Duties of the Board of Execution and Supervision" in the Regulation on the Administration of Penitentiary Institutions and the Execution of Penalties and Security Measures.

Considering the physical structure and security measures, knowledge contests, conferences and seminars are held in penitentiary institutions. Open and closed facilities are made available to the detainees and convicts.

Furthermore, detainees and convicts are allowed to come together for chatter in penitentiary institutions in line with the Article 13 titled "Joint Activities" of the Circular No. 45/1, which is as follows:

"To the extent that will not pose a danger in terms of security, willing detainees and convicts determined by the board of execution and supervision may be brought together for conversation purposes and not more than a total 10 hours a week as groups not surpassing 10 people and under the supervision of the administration within the framework of social activities carried out in open visit areas and other common places. This activity is conducted in weekdays and in a way that will not hinder open visits, and visits of lawyers and relatives."

There is one closed and one open football facility in Diyarbakır E-type Closed Penitentiary Institution. Within the framework of the plans made by the Administration of the Institution, the inmates are allowed to benefit from these facilities two times a month. Within the physical capacities of the institutions, vocational courses, knowledge contests, cinema displays and conferences are held.

In Trabzon E-type Closed Penitentiary Institution as of 10 April 2018 there are 1.108 detainees and convicts which is above its capacity. Since the number of detainees and convicts is above the capacity, the public order and security of the Institution as well as security of the inmates constitute priority. Furthermore, due to the facts that, people –known by the public for various reasons– were detained and brought to the Institution after 15 July 2016 coup attempt; that certain detained civil servants are known by other detainees and convicts; that physical and technical possibilities of the building of the Institution is limited and that daily work circulation is intensive, social and cultural activities and physical exercise are carried out in accordance with the legislation and the schedules made in advance.

In conducting these activities, criteria such as crime groups, physical limitations of the building, the number of personnel and internal operation of the Institution are taken into consideration to avoid any weakness in terms of public order and security. Work is underway to increase these activities within the existing means.

Various vocational courses are provided. The capacity of textile atelier has expanded. 20 convicts are working in textile atelier. Insurances of the inmates working in these ateliers are paid by the Institution. Furthermore, a share from the revenue generated from these economic activities are paid to working inmates.

Literacy, machine embroidery, jewelry making and designing, religious education, skincare and hairdressing courses were offered. They were attended by 70 inmates.

In 2018, machine embroidery courses (13 trainees), jewelry making courses (10 trainees), basic religious knowledge courses (16 trainees), Arabic language courses (15 trainees) have been offered to inmates. Moreover, 50 detainees have attended the courses of "weaving Keşan cloth" and "sewing local clothes". 40 inmates participated in courses of weaving traditional

cloth, sewing women outerwear, knitting Kazaz wire, weaving Çarpana/Kaytan (silk or cotton cord).

A football field carpet was also laid between the Institution building and surrounding wall and made available to detainees and convicts with prior planning.

Within the framework of the event of “Football Legends are Meeting the Young Detainees” organized under the Protocol between the Ministry of Justice and the Ministry of Youth and Sport, well-known former national football players held football competition with inmates at the Institution. Furthermore, arm wrestling competition was organized by Provincial Directorate of Youth and Sport between inmates under the supervision of licensed referees.

All well behaving convicts, at Batman M-type Closed Penal Institution are provided the opportunity to do sports for an hour a week at the sport hall of Institution. They are also offered religious, hairdressing, and computer courses. Besides, the convicts can do painting and carpentry at daily hobby ateliers. Detainees or convicts committed terror crimes can also participate in these activities. However, those having disciplinary punishment due to collective action are not included to these activities.

Naturally, social activities at Siirt E-type Closed Penal Institution are conducted in accordance with the above-mentioned legislation.

Conditions of detention of juvenile remand prisoners

Reference is made to the relevant recommendation in paragraph 95 (para. 103);

The practices explained for recommendations in Paragraph 95 and 96 are also followed at the institutions where there are minor convicts.

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 (para. 105);

Employment of convicts are regulated in Article 29 of the Law No. 5275 on the Execution of Sentences and Security Measures. As to minor convicts, they can only be directed towards vocational training. Minors and juvenile convicts attending educational institutions or formal education cannot be employed in workshops during the academic year. Juvenile inmates are only employed within the framework of their educational activities. Thus, juveniles are encouraged to benefit, with priority, from all the activities carried out at the institution (sports, education, vocational training, etc.) for their development.

Moreover, juveniles at penitentiary institution are considered as special groups. At all penitentiary institutions their rehabilitation is prioritized and supported with education and other means. In addition to regulations that will allow them to enjoy the right to vocational

and academic education, the further development of juveniles at the institutions is encouraged through psychosocial support.

All measures are taken to educate them properly. Psychologists and social workers, in individual or group sessions, assist and encourage them to become healthier and more harmonious individuals.

Juniper Program, an in-service training, was developed to strengthen psycho-social and management skills of the personnel to reintegrate the juveniles at penitentiary institutions to society. This program includes modules on acquiring positive behavior, personality development, national and international legislation, neglect and abuse, in-house communication, intervention in crisis, etc.

Situation of prisoners held in R-type prisons

Steps should be taken to remedy this deficiency (para.107);

The above-mentioned entrances are 80 cm and convenient for disabled detainees and convicts using wheelchair to have access to these rooms and meet their need to use the bathroom and take a shower without any obstacles.

The CPT recommends that steps be taken by the management of İstanbul-Metris and İzmir-Menemen R-type Prisons to provide inmates with a range of recreative activities which are adapted to their health condition. (para. 108);

At Metris F-type Closed Penal Institution, within the process of rehabilitation, detainees and convicts actively benefit domestic animal room (in which there are species of fish, birds, turtles), sound proof room (in which there are percussion instruments and movie screening), hobby garden (designed like a park), fitness room, hobby and recreation rooms (such as painting studio, rooms for table football, chess and clay).

At Menemen R-type Closed Penal Institution, inmates can play table tennis and mind games. A ramp was set up to football field carpet and garden to provide access for wheelchair users. Events such as Disability Awareness Week and World Women's day are organized to provide moral support and motivation.

Since all the detainees and convicts at the Institution are severely ill or require medical care, they do not do activities requiring physical effort, but play games such as chess, strategy game and table tennis. Thus, necessary equipments are made available.

The CPT welcomes this initiative and would like to receive confirmation that the psychiatric cover at İstanbul-Metris R-type Prison has been increased to the equivalent of at least one full-time post.

[] steps should be taken to review the part-time presence of the psychiatrist at İzmir-Menemen R-type Prison, in the light of the above remarks (para. 110);

At Metris R-type Closed Penal Institution, where part-time psychiatric service for two days and part-time physiotherapeutic service for three days are provided, it is recommended to provide patients with full-time services. Taking the recommendation into account, service procurement tender was launched for 2018, with an aim to employ a full time psychiatrist and a physiotherapist. However the tender was cancelled because subcontracted workers were granted tenure with publication of Decree-Law No. 696 (Law No. 7079), Thus, as of April 2018, proceedings are underway to employ full time psychiatric service for two days and full time physiotherapeutic service for three days. At Menemen R-type Closed Penitentiary Institution inmates with physical disabilities, without psychological disorders, but can receive physical and rehabilitating treatment. A psychiatrist and a physical therapist work on a full time basis one day a week and two psychologists carry out individual group therapies.

|| 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 illness in an ordinary prison are speedily transferred to a R-type prison, or, if necessary, to a hospital (para. 111)

The prisoners who are severely ill are expediently sent to R-type Penitentiary Institution upon a health report by a fully equipped state hospital. If needed, they can be further referred from R-type penitentiary institutions to Forensic Medicine Institute. They serve their sentences in an environment (i.e. either penitentiary institution or hospital) where doctors deem appropriate. To facilitate an expedient transfer of inmates, for instance at the Menemen R-type Closed Penitentiary Institution, there are three patient transport vehicles and one vehicle equipped with an elevator for handicapped persons. Ambulance service can be called from Chief Physician's Office of İzmir in case of additional need.

Furthermore, at their initial admission process all inmates are medically examined and findings are registered in line with the principle of medical confidentiality. The medical screening at the admission aims at protecting mental and physical health of the incoming inmates as well as others staying in the same penitentiary institution.

The doctors are responsible for the management and regulation of health conditions at the penitentiary institutions. The first degree medical examination and treatment services are carried out in the Institution, those who need further health care are referred to state or university hospitals. Results of all medical examinations and treatments are registered in their personal health files.

Pursuant to the law, all medical examinations and treatments are financed by the State.

Family doctors, doctors serving in institutions and dental physicians are authorized to refer inmates to hospitals.

In cases of emergency *112 Emergency Service* are called. If needed, ambulance service can be requested to transfer to a hospital.

The CPT recommends that the provision of special diets be reviewed at İzmir-Menemen R-type Prison, in the light of the preceding remarks (para. 112);

Pursuant to the Article 9 of the By-Law on Food, the menus for special diets are determined by dietitians or physicians for inmates and the personnel of penitentiary institutions. Special diet menus are also supplied at the maximum required level.

As is the case with other penitentiary institutions, inmates with special dietary requirements at R-type penitentiary institutions are provided with appropriate food as per the recommendation of the physician who is responsible for their treatment.

The CPT recommends that the provision of psychiatric care at İstanbul-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 (para. 113);

The senior psychiatrist who was serving in the said Institution had to leave his position due general regulatory changes related to the health personnel employed at state institutions. Another senior psychiatrist has been appointed. He is currently working for one full day in a week and his working hours in the said institution are planned to be increased.

The CPT recommends that steps be taken at İzmir-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 (para. 114);

When interpretation service is required, initially the Institution personnel who speak foreign languages assist inmates in communicating their concerns to the relevant personnel including doctors. The same applies to foreign inmates. The personnel of the İzmir Menemen R-type Closed Penitentiary Institution, who speak English, Arabic or Kurdish, facilitate communication between medical personnel and foreign inmates.

[[the remarks and recommendations made in paragraph 130 equally apply to İstanbul-Metris and İzmir-Menemen R-type Prisons, as well as to other R-type Prisons (para. 115);

As stated in reply to the preliminary remarks of the Delegation, following to visit, even though all kind of information of inmates are registered in UYAP (National Judiciary Informatics System) system, access to the system is restricted on the basis of the content of

information. Access is granted only to the personnel who are authorized to see relevant information for the exercise of their duties. In addition, immediately after the visit of the delegation, all related departments have been instructed to grant access to only doctors and healthcare personnel to health documents of detainees and convicts. With an update on UYAP system, access by unauthorized personnel to the documents has been prevented.

As to the medical examinations at R-type prisons, unless requested otherwise by doctors, for the purposes of security, the custodial staffs continue their supervisory functions in the course of medical examination with strict observance of the principle of medical confidentiality.

The CPT recommends that a special register be kept at İstanbul-Metris and İzmir-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 (para. 116);

“Private Security Room”s, are monitored, checked and recorded with closed circuit camera system. These rooms, which include fresh and waste water installations and ventilation system, can only be used by the recommendation of a physician and as a last resort, after taking all the security measures. Details regarding the usage are recorded in a special register.

The CPT would like to receive the comments of the Turkish authorities on this matter (para. 117);

As per penalty adjournment procedures, those convicts who are referred to the Institution of Forensic Medicine are temporarily transferred to Metris R-type Closed Penitentiary Institution with a view to avoid any delay or shortcoming. The reports received from the Institution of Forensic Medicine are immediately put into process and sent to the relevant authorities for execution. Therefore there cannot be any delay stemming from any penitentiary institution or prosecutor’s office.

If a detainee is subject to the adjournment due to the health problems the court is notified the same day. If the person is a detainee pending appeal, relevant Penal Chamber of the Court of Cassation or Office of the Chief Public Prosecutor of the Court of Cassation are notified as well in written pursuant to the interrogation made. Since 24 January 2013 when Metris R-type Closed Penitentiary Institution started to function as the coordinator for adjournment procedures, out of these persons who passed away while the adjournment procedures continued ten were detainees pending appeal, two were detainees pending trial and twenty-five were convicts.

It has been confirmed that the Institution of Forensic Medicine reports concerning the detainees and convicts in Menemen R-type Closed Penitentiary Institution were immediately sent to the relevant authority and meticulously followed up.

Moreover, according to the notifications made by the penitentiary institutions through the Chief Public Prosecutor's Office, form 24 January 2013, when Article 16/6 of Law No. 5725 came into force, to 1 May 2018 a total of 1161 detainees and convicts were released due their illnesses under the said provision, upon penalty adjournment being approved in accordance with the said provision, which reads as follows:

"Article 16/6 (Additional: 24/01/2013- Art.3 of the Law No. 6411) The execution of the penalty of a convict who cannot continue his life in prison conditions due to a severe illness or disability or who are evaluated to constitute no severe or substantial danger in terms of public security may be deferred until his/her recovery according to the procedures determined in the third paragraph."

Health-care services in the other prisons visited

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. [] it is important to ensure that health officers working in prisons are affiliated to the Ministry of Health (para. 121);The Minister of Health personnel employed at the public institutions are planned to be increased in 2018.

The CPT also recommends that someone competent to provide first aid always be present on the premises of all prisons, including at night (para. 121);

In Trabzon E-type Closed Penitentiary Institution, one doctor and five paramedics are working and four execution and protection officers are assigned to help paramedics in carrying out hospital referral procedures and taking detainees and convicts to the health unit. In addition, one dentist and one psychiatrist are recruited through external assignment for the treatment of the detainees and convicts for two days a week. The number of personnel working in the institution's health unit is currently sufficient, and additional staff requests can be made if necessary. All health problems of the detainees and convicts are firstly dealt with by the health team of the institution and in cases of insufficiency they are transferred to the state and university hospitals within the province via 112 Emergency Service or with vehicles belonging to the Institution urgently. The Institution building is located in the centre of Trabzon and it is 10-15 minutes driving distance from State and university hospitals.

All information and documents related to the health condition of detainees and convicts are kept in their health files.

Paramedics in the health unit of the institution are scheduled on a shift system to respond to all kinds of health problems that may occur out of working hours.

A family physician works Tuesdays and Thursdays and a dentist on Mondays, Wednesdays and Fridays in Batman M-type Closed Penitentiary Institution. During the examinations, all patient complaints are listened to and acted on, without any time limitations. Information about all referrals, examinations and use of medication each convict, and health information of the same person before coming to the institution, are included in the health file kept by the

relevant institution. In addition, there is at least one paramedic in the institution who can provide first aid services for 24 hours.

There are one family physician, one nurse, ten paramedics, one execution and protection head officer, five execution and protection officers in the Health Unit of Diyarbakır D-type Closed Penitentiary Institution. A psychiatric specialist is also assigned by Diyarbakır Provincial Health Directorate and works at the institution one day a week. Kayapınar 15th Family Health Centre in the institution provides services to patient detainees for the treatment of simple illnesses, and to the patient detainees who need to be transferred to the advance-level health care institution. Sufficient examination time is provided for all patient detainees and convicts in the institution. In addition, one healthcare personnel providing first aid service in case of emergency is made available for 24 hours.

One dentist and one family physician assigned by Provincial Health Directorate give five full day health services per week in 21 Family Health Centre of Diyarbakır E-type Closed Penitentiary Institution. A nurse (Emergency Medical Technician- EMT) eight paramedics and six execution and protection officers from the Ministry of Justice work in the health unit. In addition a nurse from the Ministry of Health works at weekends. Upon the request of the directorate of the Institution, a psychiatrist serving for one day and specialists doctors in internal medicine, general surgery and orthopedics, working once in every three weeks, are assigned by the Ministry of Health. Each detained/convicted patient is allocated the maximum time to be thoroughly examined according to his/her health condition and if required referred to a more advanced health institution.

As in all other penitentiary institutions, a paramedic who provides 7/24 first aid service is always available at the Diyarbakır Closed Penitentiary Institution.

The directorate of the Siirt E-type Closed Penitentiary Institution has requested from the Ministry of Health additional health staff in order to provide more efficient health services. Furthermore, the Siirt Provincial Health Directorate has trained twenty four personnel to perform "Basic First Aid Intervention" until relevant health teams arrive to the institution in case of an emergency. A physician along with the staff from the 112 Emergency Ambulance has also been requested from the Siirt Provincial Health Directorate.

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. [] it is necessary that doctors and nurses working in prisons are trained to identify common mental health disorders (para. 123);

Social workers and psychologists in penitentiary institutions are working five days in a week. In addition a psychiatrist, assigned by the relevant Provincial Health Directorate works at penitentiary institutions once a week to take care of the detainees and convicts who have psychological and mental health disorders.

On the other hand, detainees and convicts with severe psychological disorders are transferred to advanced health institutions and regularly checked. Also, if it is deemed appropriate by the physician, they are admitted to the hospital in the course of treatment and the time spent in hospital is counted as spent in the penitentiary institution.

In addition, trainings for all psychological and social workers in penitentiary institutions are provided relevant trainings in this regard. The General Directorate of Prisons and Detention Centres has developed "The Guide for Individual Intervention with Mental Problems" under "The Structured Psychological Assessment and Intervention Program (YARDM)". The psychological and social workers are accordingly trained on these guidelines, systematically screen the detainees starting from their admission to the institution until their release on the basis of the "risk-need-eligibility model" and "effective-evidence based-standardized practices". Additionally, if necessary, they are referred to the relevant units of the state hospitals and regularly checked up.

The CPT recommends that appropriate steps be taken to remedy these failings (para. 124);

Due to the physical limitations of the institution, the health unit could not be moved to a different area. This situation is taken into account in the new penitentiary institution project and this problem will be resolved when the new institution is built. Until then, mobile stretchers are placed on the ground floor at three locations to be able to respond to emergency medical situations in the institution. A health control area is also established to enable 112 emergency personnel and institutional health officers to intervene to possible cases.

Immediate steps should be taken at Siirt and Trabzon E-type Prisons to review the current practices of prescribing and supplying medication to prisons, with a view to *inter alia* ensuring that they receive the necessary medication without interruptions (para.125);

The doctors working in Trabzon E-type Closed Penitentiary Institution, examine detainees and convicts for all kinds of health problems. In cases where advanced examination and treatment are required, they are transferred to the state or university hospitals. According to the records of the Institution 15.153 detainees and convicts were treated in 2017. Of those 1.589 were treated within the state or university hospitals for advance examination and treatment.

There are one doctor and five health officers in the institution. Four execution and protection officers are assigned to assist paramedics in taking detainees and convicts to the health unit or to a hospital if needed. In addition, the Provincial Health Directorate has appointed a dentist (for two days a week) and a psychiatrist (for one day a week).

The doctor in the institution works for five weekdays during working hours. He/she examines detainees and convicts who have health problems or complaints and if advance examination and treatment is needed refer them to hospitals. Medicines prescribed after the examination in the Institutional health unit or in the hospitals are supplied on the same day and delivered to

the relevant detainees or convicts by the paramedics. In cases where excessive amounts of medicine was prescribed or the medicine prescribed is not available in the pharmacy; they are provided following day. There are twenty nine contracted pharmacies in the city and medicines are supplied from these pharmacies within the framework of specified program. Naturally, urgent cases are provided with medicine immediately.

The Institutional health care staff pay utmost attention to supply prescribed medicines for detainees and convicts for treatment or regular administration. Medicines prescribed by the hospital health board or a doctor, which necessitate regular administration can be prescribed subsequently by the doctor in the Institution in accordance with the relevant timeframe (one month, six months, one year, etc.). Upon request, new prescription is issued after the proper medical examination of the detainees and convicts. Any medicine brought together with newly entering inmate for personal use is controlled and given to the relevant inmate after the careful examination by the doctor in the institution. Detainees and convicts are not allowed to have any medicine which is not prescribed by a doctor.

In sum there is no problem in the provision of the prescribed medicine to inmates. At the latest they are provided within one day. After the receipt of the CPT's report, the allegations included therein were investigated. It is revealed that some convicts/detainees who requested medicines that are subject to *green prescription* or containing neuropathic painkillers such as "gabapentin, pregabalin" were declined by the psychiatric specialists. The complaints on this issue are manifestly ill-founded as these medicines were not approved and prescribed by the specialist doctors.

In Siirt E-type Closed Penitentiary Institution, the detainees and convicts are examined by a doctor twice a week. In emergency situations they can be always examined by 112 Emergency Officers. No medicine is provided without medical examination or approval of doctor even if requested. There is not any filed complaint on this matter. The related personnel are also re-informed for the timely provision of the prescribed medicine within the legally described framework.

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.) (para. 126);

As per the Article 50 entitled "Use of constraining instruments" of the Law No. 5275 on the Execution of Sentences and Security Measures;

- (1) Under any circumstances, chaining up or clapping somebody in irons shall not be implemented as a measure. Handcuffs and other body restraints may be used;*
 - (a) to prevent escape during referral and transfer, on condition that they are removed when the convict is brought before the competent authority,*
 - (b) for medical reasons, under the guidance and supervision of a physician,*

(c) by order of the highest authority of the Institution, where other control procedures are insufficient, in order to prevent the convict from injuring himself or causing damage to property.

(2) ... (f) The provisions of Subparagraph (a) of Paragraph 1 shall not apply to the minor convicts.

Therefore, any use of these constraining tools, other than stipulated in the aforementioned Article, is not allowed.

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 specialized 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 (para. 129);

Admission, registration and placement of the detainees and convicts into the institutions are conducted pursuant to Articles 21, 23 and 116 of the Law No. 5275 on the Execution of Sentences and Security Measures; following body search and search of their belongings, they are accepted into the admission rooms (temporary rooms) and following the medical examination, they are placed in the institution. In the suspected cases (contagious diseases such as HIV, TBC Hepatitis B/C etc.), the convicts or the detainees are referred to the relevant healthcare organization by the Institution's doctor without delay and necessary examinations and treatments are provided.

During the initial admission to the institution, General Judicial Examination Report of the convict or detainee prepared by a healthcare organization is required. The convict or detainee lacking General Judicial Examination Report is not admitted. Taking the General Judicial Examination Report prepared by a healthcare organization into account the relevant person undergoes a medical examination by the institution's doctor, as well. Conducted procedures are registered in the UYAP records of the relevant person and kept accessible to the authorized personnel only.

In the traumatic lesion cases, the convict or detainee is referred to the hospital and following the necessary treatment, the form filled in by the hospital is registered in UYAP records of the relevant person.

During the initial admission to the Institution, in case of any signs indicating that ill-treatment might have occurred within the period of stay in the Institution are found, notification is made to the Public Prosecutor's Office (whether it is alleged by the relevant or not), in line with the report prepared by the Institution's doctor as result of the examination.

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. [] 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 the care (para. 130);

In accordance with the principle of medical confidentiality, medical examinations of detainees and convicts are conducted out of the hearing of custodial staff, unless requested otherwise by the doctor. During the examination process, no other persons other than the doctor and the healthcare personnel are present in the room. All procedures with regard to the health condition of the relevant inmates are conducted inaccessibly to anyone other than the health personnel. In cases that are continuous in terms of the treatment, the relevant person's

healthcare data is shared, upon the request of the doctor of the hospital he/she has been referred to.

Pursuant to the relevant Articles of the Law No. 5275 on the Execution of Sentences and Security Measures and Protocol on Administration, External Protection, Referral and Transfer of the Detainees and convicts and Health Services in Penitentiary Institutions; management of the Institution's health conditions, urgent or ordinary examination and treatment of the convict and detainee, inspection of the Institution in reference to health conditions and the measures to be taken with respect to health are provided by the Institution's doctor. So, the detainee is initially provided healthcare services in the institution's infirmary, but if the treatment cannot be provided in the infirmary, he/she is referred to the state or university hospitals. Moreover, if any disease that will prevent the convict from serving his/her penalty, is diagnosed during the examination and observation conducted by the institution's doctor or the attendant doctor, the situation is reported to the institution's administration.

In accordance with the doctor-patient confidentiality principle, unless requested otherwise by the relevant doctor, custodial staff does not accompany the detainees and convicts during the medical examination, either within or outside the institution i.e hospitals.

Other issues

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 (para. 134);

The aim and scope of the Decree Law No. 667 on Measures To Be Taken Under State of Emergency (Law No. 6749) is as follows:

Article 1 – (1) The aim of this Decree Law is to establish measures that must necessarily be taken within the scope of attempted coup and fight against terrorism under the state of emergency declared throughout the country by the Decree Law of the Council of Ministers dated 20 July 2016 and numbered 2016/9064, and to determine procedures and principles relating to these measures.

Within this scope, Article 6 of the relevant Decree Law, subtitled investigation and prosecution procedures, provides that:

“Article 6 – (1) During the period of state emergency, with regard to the offences enumerated under Fourth, Fifth, Sixth and Seventh Sections of Fourth Chapter of Second Volume of the Turkish Criminal Code no. 5237 dated 26 September 2004, the offences falling under the Anti-Terror Law no. 3713 dated 12 April 1991 and the collective offences;

.....

e) The detainees may only be visited by his/her spouse, relatives of the first and second degrees and the first degree relatives-in law and his/her guardian or trustee only

where the relevant documents are submitted. The powers of the Ministry of Justice and the Chief Public Prosecutor's Office shall be reserved. The detainees shall enjoy the right to telephone conversations for once every fifteen days and for a period not exceeding ten minutes, limited to the persons set out in this subparagraph."

Considering the necessity of maintaining the public order and security of the State, the detainees who are in penitentiary institutions for the said offenses shall enjoy the right to have telephone conversations as per the provisions of the relevant Decree Law, during the State of Emergency.

[] 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 (para. 135);

Visits of detainees and convicts are conducted under the Articles 83, 84, 85, 86 and 114 of the Law No. 5275 on the Execution of Sentences and Security Measures, and under the provisions of the By-Law on Visiting the Detainees and convicts, as per a schedule considering the type of offense and sentence. Provision on visits under Article 83 of the said Law is as follows;

"Article 83- (1) The convict may be visited once a week for half an hour as minimum and one hour as a maximum, within working hours, by his/her spouse, his relatives of up to the third degree, on condition that the relation is documented, and his/her guardian or trustee and by a maximum of three other persons whose names and addresses he notified at the time of admission into the Institution, not be changed except in overriding cases. (Additional sentence: 24/1/2013-6411/Art.9) Period of visit for juvenile convicts may be determined as no less than one hour and no more than three hours.

(2) Visits by persons other than those mentioned in the first paragraph may be permitted in writing by the Office of Chief Public Prosecutor.

(3) Visits shall be of two types, open and closed, with their conditions and durations specified in the Regulation issued by the Ministry of Justice."

Thus, open/closed visits of the detainees and convicts are conducted in full compliance with the relevant laws and by-laws, without any exception.

The Government would like to recall that M. Ö. lodged an individual application (no. 2017/34584) to the Constitutional Court on the ground that the right to respect for his family life was violated since free visit rights of some prisoners have been restricted to once every two months. The Court declared the application "inadmissible" on 22 March 2018, as it is manifestly ill-founded.

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 (para. 136);

The aim and the scope of the Decree Law on Measures to be taken under the State of Emergency, No: 667 (Law No. 6749) is to establish measures that must be taken within the scope of terrorist coup attempt of 15 July 2016 and the fight against terrorism under the State of Emergency, declared on 20 July 2016, and to determine procedures and principles related to these measures.

Within this scope, Article 6 of the relevant Decree Law; subtitled "Investigation and Prosecution Procedures", reads as follows:

"Article 6 – (1) During the period of emergency, with regard to the offences enumerated under Fourth, Fifth, Sixth and Seventh Sections of Fourth Chapter of Second Volume of the Turkish Penal Code no. 5237 dated 26 September 2004, the offences falling under the Anti-Terror Law no. 3713 dated 12 April 1991 and the collective offences;

....

d) Where there is a risk that public security and security of the penitentiary institution is endangered, that the terrorist organization or other criminal organizations are directed, that orders and instructions are given to them or secret, clear or crypto messages are transmitted to them through the remarks during the interviews between the detainees and their lawyers; the interviews may be recorded auditorily or audio-visually via technical devices, the officers may be made present during the interviews between the detainee and his/her lawyer with a view to monitoring the interview, documents or document templates and files given by the detainee to his/her lawyer or vice versa and the records kept by them concerning the interview between them may be seized, or days and hours of the interviews may be limited upon the public prosecutor's order. In the event that the interview of the detainee is understood to be made for the aim set above, the interview shall be immediately ended, and this fact shall be recorded into minutes together with the grounds thereof. The parties shall be warned about this issue prior to the interview. In the event that such minutes are drawn up in respect of a detainee, the Office of the Magistrates' Judge could ban the detainee from interviewing with his/her lawyers, upon the public prosecutor's request. Decision on banning shall be immediately served on the detainee and the relevant Bar Presidency with a view to assigning a new lawyer. The public prosecutor may ask for replacement of the lawyer commissioned by the Bar. The commissioned lawyer shall be paid in accordance with Article 13 of the Law no. 5320 on the Enforcement and Application Procedure of the Criminal Procedure Code of 23 March 2005."

As stated in the Government response to the Paragraph 134, regarding the visits by lawyers, considering the necessity of maintaining the public order and security of the State, the detainees who are in the institution for the said offenses are visited by their lawyers in accordance with the provisions of the relevant Decree Law during the State of Emergency.

[] 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 (para. 138);

Article 38 of the Law No. 5275 on the Execution of Sentences and Security Measures, subtitled “Disciplinary Penalties and Measures” reads as follows:

“Article 38-(1) The disciplinary penalties applicable to convicts, excluding minors, are as follows in order of severity:

- a) Reprimand.*
- b) Prevention from participating in certain activities.*
- c) Deprivation of paid work.*
- d) Deprivation or restriction of access to communication means.*
- e) Deprivation of accepting visitors.*
- f) Confinement in a cell.*

(2) Collective, corporeal, cruel, inhuman or degrading penalties may not be applied as disciplinary penalties.”

Following a disciplinary investigation, findings are assessed by the Disciplinary Committee and initially the lesser sentence shall be imposed depending on the nature of the action. In case that action yields to heavy consequences for other inmates and environment or recurs the sentence is aggravated with a view to avoid setting a bad example for other inmates and to maintain the order and security of the institutions. None of the inmates are initially imposed the heaviest penalty for his/her actions.

Regarding the juvenile convicts, Article 45 of the same Law, subtitled “Disciplinary Measures Applicable to Minor Convicts” reads as follows:

“Article (45) - (1) The disciplinary measures applicable to minor convicts are protective and preventive measures not in the nature of a penalty, which are implemented with the aim of eliminating the risk of any act that would call for a disciplinary penalty or avoiding the emergence of losses which would be difficult or impossible to compensate while an investigation is under way.

(2) The disciplinary measures applicable to minors are the following:

- a) Suspending incentive-based privileges.*
- b) Changing the minor's room or dormitory.*
- c) Transferring the minor to another part of the Institution.*

d) Changing the minor's workplace or workshop without damaging the integrity and continuity of his vocational training.

e) Prohibiting him/her from entering certain places.

f) Prohibiting him/her from keeping or using certain items. Priority shall be attached to adopting these measures."

Article 46, titled "Disciplinary penalties applicable to minor convicts", of the same law provides the following:

1. Warning.

2. Reprimand.

3. Repairing, compensating or restoring to former condition.

4. Imposing a limit on expenditure

5. Prevention from participating in certain activities.

6. Withdrawing incentive-based privileges.

7. Suspension of a leave.

8. Return to a closed penitentiary institution.

9. Confinement in a room: If a minor who is in the closed execution institution is referred to in the eighth paragraph above commits one of the acts specified in that paragraph, he/she shall be kept in a room by himself/herself for up to five days, for night and day, without prejudice to his/her right to go in the open air. This penalty shall be implemented without preventing the minor from access to institution officers whenever he/she wants. The minor shall be subjected to a medical check before, during and after the execution of the penalty. During the execution of the penalty, the minor shall be allowed to see his/her family, lawyer and legal representative."

If the measures listed in Article 45 are insufficient, action is taken in accordance with the provisions of Article 46.

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 (para. 139);

First paragraph of the Article 38, with the sub-title "Disciplinary penalties and measures", of the Law No. 5275 on the Execution of Sentences and Security Measures lists the disciplinary

penalties that can be imposed on the convicts other than minors and the following penalties are provided for:

"... (d) Deprivation or restriction of access to communication tools (from one month to three months)

e) Deprivation of accepting visitors (from one month to three months)

f) Confinement in a cell. (from one day to ten days, from eleven days to twenty days)

During the execution of the above mentioned disciplinary penalties, the communication of inmates with their families is restricted in accordance with the legislation provisions. Penal sanctions relevant to the disciplinary penalties imposed due to the act of the inmates, which negatively affects the order and security of the Institution as well as rights of the other inmates. The aim of imposing these sanctions is to maintain the Institutional order, peace and security and to protect the rights of all detainees and convicts in the institution. It is proved that disciplinary penalties effectively deter indiscipline and the violation of rights of other inmates.

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 (para. 140);

Similar events also take place in other closed penitentiary institutions as well as in R-type penitentiary institutions. Article 26, titled "Serving the sentence, complying with security and rehabilitation programs" of the Law No. 5275 on the Execution of Sentences and Security Measures states the following:

Article (26)-(1) The convict has the obligation to serve his/her prison sentence and to act in compliance with the execution regime implemented for this purpose.

(2) The convict must fully comply with the security and rehabilitation programmes of the penitentiary institution. Any deliberate act on his/her part, for any purpose whatsoever, that would endanger his own life or physical integrity shall be considered a breach of the obligation to serve the sentence."

Furthermore, Article 27, titled "Compliance with the rules of health protection" of the same Law states as follows:

Article (27) – (1) The convict must comply with the measures required and implemented for the protection of health and prevention of epidemics, promptly notify the administration of any circumstances that pose a danger to health, and behave as required for his/her personal hygiene and for the hygiene of the environment in which he lives.

(2) The convict must avoid any acts that could endanger his own health of other convicts."

Detainees and convicts in good health at closed penitentiary institutions must serve their sentences imposed by the court where they are convicted due to their illegal actions. It is against the law to act and behave otherwise.

The convicts who harm themselves are provided with psychosocial assistance service, starting from their entry until their release, with a view to solve their psychological and social problems by employing various occupational and technical methods. Under the supervision of the Ministry of Justice they also participate in Anger Management Programme, Smoking, Alcohol and Drug Addiction Programme, Personal Improvement of Convicts Prior to Release Programme, Think First Programme, Special Monitoring and Supervision Programme and Programme for Raising Awareness among the Personnel on Prevention of Suicide and Self-harm.

"The Programme for Risk Management on Suicide and Self-harm and Raising Awareness among the Personnel" is also provided. In this programme the relevant personnel are trained on the care and surveillance of convicts prone to suicide and self-harm and on how to approach towards the act of suicide or self-harm. Moreover, since the act of suicide or self-harm is also a traumatic experience even for the penal institution personnel they are given targeted support.

Within the scope of the Programme for Risk Management on Suicide and Self-harm and Raising Awareness among the Personnel, case assessment meetings are held under the presidency of the Institution's director and with the participation of a psychologist, social worker, teacher, health officer, the chief officer on execution and protection and the relevant execution and protection officer. In these meetings the risk-evaluation forms are analyzed, for risk-bearing persons care and surveillance plans are made.

The CPT reiterates its recommendation that the Turkish authorities review the disciplinary procedure in order to ensure that the prisoners concerns 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 (para. 141);

Disciplinary penalties to be imposed on the convicts are stipulated in Article 38 of the Law No. 5275 on the Execution of Sentences and Security Measures and the principles regarding the investigation of actions requiring these penalties are set out in Article 47 of the same law. Accordingly, Article 47, with the title "Disciplinary Investigation" sets out the following provisions:

"Article 47-(1) (Amended 25/5/2005-Art.4 of the Law No. 5351) The penalties of warning, reprimand and prevention from participating in certain activities shall be imposed and implemented by the highest authority of the Institution.

(2) *Within the two days of learning that a convict has committed an act that calls for one of the other disciplinary penalties, an investigation shall be started by an officer appointed by the highest authority of the Institution.*

(3) *The investigation shall be completed within seven days and report drawn up at the end of it together with any annexes shall be submitted to the disciplinary committee. The investigation period may be extended by up to seven days with the written approval of the execution judge according to the nature of the act and of the investigation.*

(4) *No disciplinary penalty may be imposed without receiving a defence. The convict against whom a disciplinary investigation has been started shall be notified in writing of the nature and consequences of the act with which he/she is charged and that he/she must submit a defence within three days, failing which he/she shall be deemed to have waived this right. The defence may be submitted in writing or made orally. The oral defence shall be taken down in writing. The defence of a convict who does not know Turkish or who is deaf and mute shall be received through an interpreter.*

(5) *Disciplinary penalties shall be discussed by the disciplinary committee on the basis of documents and shall be decided within three days. The disciplinary committee may decide to impose the disciplinary penalty specified in the law or that a disciplinary penalty is not called for. The decision of the disciplinary committee shall be supported by a justification and clearly indicate the authority and the time-limit for appeal.*

(6) *The decision of the disciplinary committee shall be immediately notified by the administration to the convict.*

(7) *In cases where it is necessary to take urgent action because the internal order of the Institution or the life and physical integrity of convicts is seriously endangered, the highest authority of the Institution shall start the investigation while at the same time taking the measures specified in Article 49 below. In such event, the execution judge shall be informed. "With respect to the acts subject to all kinds of disciplinary penalties, the provisions of the Article 47 are applied. During the investigation of the disciplinary penalty, defence of the parties of the incident are received, and at the same time, knowledge and experience of the persons, who are witnesses of the incident and not the parties, are referred to. Convicts, for whom disciplinary procedure is carried out, use their right to lodge complaint and right of objection against themselves and the penalty to be imposed with their lawyer, or before the Office of Execution Judge and Assize Court. The Courts, when they deem necessary, receive the defences of the relevant persons through hearing. Nothing to the contrary of this shall ever be possible.*

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 21st General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28) (para. 142);

The first, second and third paragraphs of Article 48, titled “Repetition of acts that call for a disciplinary penalty, execution and lifting of disciplinary penalties”, of the Law No. 5275 on the Execution of Sentences and Security Measures, reads as follows:

“Article 48-(1) (Annulled: with the Decision of the Constitutional Court dated 3/10/2013, Docket no: 2013/28, Decision no: 2013/106)

(2) A convict who again commits an act punishable by a disciplinary penalty within the period at the end of which a previous finalized disciplinary penalty may be lifted shall be liable to the next heavier penalty each time.

(3) Execution of disciplinary penalties:

a) The penalty of confinement in a cell shall be started after it is approved by the execution judge. Without prejudice to the other provisions concerning the penalty of confinement in a cell, the execution of other finalized disciplinary penalties shall be started immediately. If several disciplinary penalties are imposed, they shall be executed separately in order of their dates of finalization. Before the execution of one penalty is completed, the execution of the next one shall not be started.

b) There shall be no conditional release before all disciplinary penalties are executed and lifted, but the date of the deserved release shall not be exceeded.

c) Before and during the execution of a penalty of confinement in a cell, the convict shall be examined by the doctor. If it is found that the convict would not be able to sustain this penalty, the execution shall be postponed until later or take place with such intervals as the doctor shall determine. If it is established by the health committee of a fully-equipped State or university hospital that the convict would not become able to sustain the penalty by the date of conditional release, the penalty of confinement in a cell shall not be executed; instead, the term of penalty of depriving him of accepting visitors shall be doubled. The report of the health committee shall be placed in the execution file.

...”

Before the execution of a penalty of confinement in a cell, it is followed up by the doctor of the institution whether the convict would be able to sustain the execution of this penalty considering his/her health and the required supervisions and controls are carried out during the execution of the penalty. On condition that a medical board report, stating that the convict is not able to sustain the penalty, is issued by the state or university hospitals, the penalty shall not be executed, instead the term of next lesser penalty (the penalty of depriving the convict of seeing the visitors) shall be doubled. If the convict’s health deteriorates within the period between initiation and continuation of the execution of the penalty, execution of the penalty is postponed, and executed at intervals deemed appropriate by the doctor.

The CPT recommends that steps should be taken to remedy these shortcomings (para. 143);

After the receipt of the CPT's report disciplinary cells were controlled and required repair work and painting were carried out. Additional allowance request has been submitted. The instructions for general hygiene and cleaning have been reminded to the relevant personnel.

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 (para. 144);

As per the Article 150 titled "Confinement in a Cell" in the Regulation on the Management of Penal Execution Institution of Penalties and Security Measures; every detainee and convict serving disciplinary penalty in cell is given the opportunity to stay in open air for one hour a day:

"Article 150- (1) The penalty of confinement in a cell is keeping the convict in a cell by himself/herself, for night and day, and depriving him/her of all contact, without prejudice to his/her right to go in the open air, for one day to twenty days according to the nature and seriousness of his acts.

(2) The penalty of confinement shall be applied for the actions stated in the second and third paragraph of Article 43 of the Law No. 5275.

(3) The cell at the size of at least nine or ten meter square shall be arranged so as to meet vital needs and especially to include a window in dimensions of 100x75 cm at the level of waist, with ventilation at least at the width of the room and to include shower and toilet.

(4) The convict confined in a cell shall be allowed to meet the official competent authorities and his/her lawyer.

(5) During the execution of penalty confinement in a cell, the convict shall certainly be allowed to enjoy his/her right to stay in open air for one hour in a day and allowed to read a book."

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 (para. 145);

The handbook, including the rules required to be followed by the detainees and convicts coming to the penitentiary institutions, their rights and responsibilities, disciplinary penalty and sanctions, legal means and methods of making official requests and complaints and rewarding, is handed out to all the detainees and convicts coming to the penitentiary institutions without any discrimination among them. The registration of handing-over is kept in their folders.

[] 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 (para. 146);

The Article 68 of the Law on the Execution of Sentences and Security Measures reads as follows:

"ARTICLE 68-(1) Subject to the restrictions specified below, the convict shall have the right to receive letters, fax messages and telegrams sent to him/her, and to send letters, fax messages and telegrams at his/her own cost and expense.

(2) Letters, fax messages and telegrams sent by the convict or arriving for him shall be inspected by the letter-reading committee or, if this committee does not exist, by the highest authority of the Institution.

(3) Letters, fax messages and telegrams endangering the order and security of the Institution, holding up officers as a target, serving for communication between members of terrorist or interest-seeking criminal organisations or other criminal organisations, containing false and untrue information which would lead to panic, or containing threats or insults, shall not be delivered to the convict, or shall not be sent if they are written by the convict.

(4) Letters, fax messages and telegrams sent by the convict to official authorities or to his/her lawyer for the purpose of defence shall not be subject to inspection."

Article 91 of the Regulation on the Management of Penitentiary Institutions of Penalties and Security Measures, is as follows:

"Article 91 - (1) The convict shall have the right to receive letters, fax messages and telegrams sent to him/her, and to send letters, fax messages and telegrams at his/her own cost and expense.

(2) The letters, fax messages and telegrams sent by the convict or arriving for him/her shall be inspected by the letter reading committee or, if this committee does not exist, by the highest authority of the Institution.

(3) The letters, fax messages and telegrams endangering the order and security of the Institution, holding up officers as a target, serving for communication between members of terrorist or interest-seeking criminal organizations or other criminal organisations, containing false and untrue information which would lead to panic, or containing threats and insults, shall not be delivered to the convict or shall not be sent if they are written by the convict.

(4) The letters, fax messages and telegrams sent by the convict to the official authorities or to his/her lawyer for the purpose of defense shall not be subject to inspection. However, if the condition stated in the sub-clause (2) of clause (c) of paragraph 2 of Article 84 occur, basics and procedures stated in the sub-clause (2) of

clause (c) of paragraph 2 Article 84 shall be applied regarding the letters, fax messages or telegrams sent to the lawyer for defense."

As per the Articles of the abovementioned Law and the Regulation, the letters sent to official authorities and international institutions and organizations (such as ECtHR, CPT) which have been granted monitoring authority by Turkey shall not be subject to any examination.

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 (para. 147);

As per the paragraph 4 of Article 68 of the Law No. 5725, the letters, fax messages and telegrams addressed to the ECtHR and CPT (European Committee for Prevention of Torture and Inhuman Degrading Treatment or Punishment) shall not be subject to any inspection under any circumstances and shall be directly sent to the relevant authorities. It has been recalled once more with the circular dated 16 April 2018 (No: 82586135-010.07 (2018)-E.2748/54046).

**Response provided by the Turkish authorities to the specific
recommendations under paragraph 93**

GENERAL REMARKS

Prison overcrowding is one of the major challenges faced by many countries, including Council of Europe (CoE) member States.

According to most recent SPACE statistics from 2015 published by the CoE, a comparative study among all CoE member States related to prison overcrowding, Turkey ranks second in terms of total capacity of penitentiary institutions offering 171.267 for 173.522 inmates. SPACE figures put Turkey at an average ranking compared to other CoE member States.

In the management and the regulation of the penitentiary institutions Turkey ultimately aims to accommodate inmates corresponding to the actual capacity of penitentiary institutions. This fundamental principle applies to each and every penitentiary institution throughout the country. The Turkish authorities assumes the relevant CoE Committee of Ministers' Recommendations, setting minimum standards for penitentiary institutions, as main guiding principles while designing and constructing prison establishments and also in the allocation of inmates.

Information with regard to the number of inmates between 15 July 2016 and 31 January 2018 is as follows:

<u>Date</u>	<u>Total Number of Inmates</u>
15 July 2016	191.423
31 January 2018	235.080

This significant increase in total number of inmates at Turkish prison establishments, occurred in a rather short time span, relates to the high number of detentions under the investigations carried out against FETO terrorist organization, the perpetrator of the failed coup attempt on 15 July 2016.

Since 15 July 2016, the total capacity of prison establishments in Turkey has increased by approximately 20%.

Turkey continuously elaborates on adequate measures with a view to reducing imprisonment rates. To this end, relevant Turkish authorities review the existing international rules and standards, assess good practices and carry out projects.

At present, the measures that are implemented to reduce the current level of prison overcrowding and to manage effectively the national penitentiary system are summarized below under the relevant sub-headings:

Legislative work

As per the legislative amendment of 5 April 2012 to Law on the Execution of Sentences and Security Measures (Law No. 5275), probation regime is introduced into the Turkish penitentiary system. This regime allows those inmates with good conduct to serve the rest of their imprisonment term outside penitentiary institutions if their conditional release date is due within one year or less.

Decree Law No. 671, dated 17 August 2016, amended two provisions of the Law No. 5275 in respect of the convicts or of those to be convicted for the crimes committed until 1 July 2016.

With the abovementioned amendment, the condition of a one year term for eligibility to probation under Article 105/A of Law No. 5275 is raised to a term of two years.

Secondly, the eligibility criteria for conditional release under Article 107/2 of Law No. 5275 was changed and those convicts who served 1/2 of their terms, instead of 2/3 of their term, as previously stipulated, have become eligible for conditional release.

According to this new procedure, certain inmates may benefit from probation and serve the rest of their terms outside penitentiary institutions if their conditional release date is due within two years, instead of one year.

Between 5 April 2012, when the probation regime is legally introduced, and 15 July 2016, a total number of 311.132 inmates were put under probation.

Between 15 July 2016 and 1 February 2018, a total number of 192.140 inmates benefitted from the probation regime.

After the abovementioned amendments as per the Decree Law No. 671, a total number of 44.800 inmates were conditionally released from penitentiary institutions between 17 August 2016 and 12 October 2016.

Decree Law No. 694, dated 25 August 2017, further amended Law No. 5275 and introduced disciplinary remission, for actions that took place before 1 August 2017 under certain conditions and with certain exceptions related to the nature of the crime committed. Remissions are applicable subject to a decision by the respective Administrative and Monitoring Board on good conduct of the inmate.

By way of this amendment the total number of inmates was reduced by 3.582 from 188.721 to 185.139 between 25 August 2017 and 11 October 2017. This amendment also allowed many convicts accommodated in closed prisons to serve their terms in open prisons which directly contributed to the decline of overcrowding in closed prison establishments. This arrangement has increased the total number of inmates in open prisons by 3.424 from 40.995 to 44.419 between 25 August 2017 and 11 October 2017.

Measures alternative to detention

Naturally, detention is not considered as the only measure in all judicial cases. Judicial control is also applied as an alternative to detention. The Article 109/3 of the Criminal Procedure Law No. 5271 permits for a judicial control decision even if conditions necessary for detention are present for a suspect.

In case detention is prohibited by law judicial control measure also becomes applicable.

Currently, there are 346.732 individuals who are under judicial control.

Recruitment of new prison staff

Given the rise in the number of inmates, there is a need for proportionate increase in prison staff in order to sustain the effective functioning of penitentiary services. Plans for personnel recruitment exams for new penitentiary establishments are completed.

In this framework, penitentiary institutions employed 32,803 prison staff in total during the last eight years in various positions such as medical doctor, dentist, psychologist, social worker, teacher, administrative staff, sociologist, architect, engineer, veterinary doctor, dietitian, guardian and correction officer, technician, prison clerk, health officer, driver, chef.

The Ministry of Justice plans to recruit a significant number of additional prison staff in 2018.

Multi-year projects

There are some ongoing multi-year projects aimed at reducing imprisonment rate. In cooperation with the Council of Europe the project entitled "Strengthening the Penitentiary Regime and Improving the Conditional Release Implementation in the Turkish Penitentiary System to Prevent Recidivism" is being implemented between 2017-2020. It aims to improve conditional release practices with a view to preventing recidivism as well as establishing an effective statistical system.

Another project is in progress for "Improving the Disciplinary and Award Procedures for Inmates and Enhancing the Effectiveness of Civil Monitoring Boards" between 2017-2020. The project is designed to improve the standards for award and disciplinary practices for inmates, to prevent the violations in this field and to increase the efficiency of independent monitoring boards.

RESPONSE TO THE RECOMMENDATIONS UNDER PARAGRAPH 93 OF THE REPORT

3. Conditions of detention of adult prisoners

[...]

a. Material conditions

93. [...] 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 4m² of living space per prisoner (not counting the area taken up by the sanitary facilities). Steps should be taken at Diyarbakır D-Type Prison to meet this objective throughout the establishment.

The CPT defines the minimum standard for personal living space at prison establishments as 6 m² for a single-occupancy cell and qualifies a cell with a living space of 9 m² as being of a good size; while the international standard for living space per inmate in a multiple-occupancy cell is set at 4 m².

In Turkey the living space of single-occupancy cells ranges between 11m² and 16 m² in penitentiary institutions. In multiple-occupancy cells, utmost attention is paid to provide 4m² of living space per inmate.

At Batman M-Type Closed Prison, the actual capacity of multiple-occupancy cells is for 8 inmates offering a total space of 90 m², made up of 30 m² of adjacent open air area, 30 m² of dormitory, 27 m² of dining area, 3 m² of sanitary facility. These multiple-occupancy cells currently accommodate between 10 to 14 inmates.

New prison establishments are being built in the provinces visited by the CPT Delegation. A table summarizing the ongoing construction works is as follows:

Province	Quantity	Type of Prison Establishment	Capacity	Envisaged Date of Completion
Batman	1	T-Type	1.000	2018
Batman	1	High Security	492	2018
Batman	1	Open Prison	800	2018
Diyarbakır	2	T-Type	2.000	2019
Diyarbakır	2	High Security	984	2019
Trabzon	1	T-Type	600	2018
Trabzon	1	Open Prison	400	2018
İstanbul (Silivri)	1	Closed Prison (for women)	526	2018
İzmir (Buca)	1	High Security	487	2019
İzmir (Buca)	1	Open Prison	400	2019
Siirt	1	L-Type	1.322	Planned
Siirt	1	Open Prison	400	Planned
TOTAL			9.411	

The capacity of these prison establishments is designed in a way to accommodate the possible transfer of inmates from neighboring provinces, if it is needed. With the completion of these new projects, the overall capacity of prisons in Turkey will be substantially improved.

The Government allocates necessary finances for infrastructure and other requirements and the regular demands of the prison establishments. The Turkish authorities also try to address any occurrence of overcrowding, which may occasionally arise due to significant increase in total number of inmates, by transferring of inmates to other prison establishments.

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.

Admission, registration, monitoring, classification, grouping as well as the orderly placement and accommodation of inmates are carried out in conformity with Articles 21, 23, 24, 63, 113 and 115 of the Law No. 5275.

By-Law on Administration of Penitentiary Institutions and Execution of Sentences and Security Measures regulates the duties and powers of Administrative and Monitoring Boards of Prisons. The placement of inmates is carried out in accordance with the legislation in force. In doing so, utmost care is exerted to place inmates in a balanced and equitable manner while considering the capacity of the relevant living space.

At their admission to the prison establishment, inmates are individually provided with a bed, a sufficient quantity of blankets, pillows and bed sheets, basic sanitary items and cleaning products for their living spaces. Areas open to common use are sufficiently equipped with tables, chairs and lockers. However, inmates occasionally refuse to accept some of the materials provided to them with a view to open more room for their living space or opt for only basic items.

The prison administration and respective organizations also provide personal cleaning products such as toothbrushes, toothpaste, soap, shampoo and detergent for inmates who cannot afford such items.

In the event that inmates would not like to use the items provided by the prison administration, they also have the possibility to purchase blankets and other items from canteens located at the prison establishments. At their own cost, the inmates can also benefit from the laundry service at the prison establishment for washing blankets, bed sheets and other clothes which are not convenient for hand wash. The cells and the dormitories are heated with the central heating system. The cell or dormitory temperature is kept constant between 22-24 degrees both during day and night.

The relevant Turkish authorities continue to take all necessary measures to prevent any unexpected occurrence of overcrowding at prison establishments.

