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**Response of the Turkish authorities
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 2 to 14 September 2001

The Turkish authorities have requested the publication of this response. The CPT's report on its visit in September 2001 was published in April 2002 (cf. document CPT/Inf (2002) 8).

Strasbourg, 24 January 2003

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Note: The Appendices to the response can be obtained upon request to the CPT's Secretariat.

**REPORT BY THE TURKISH GOVERNMENT IN REPLY TO THE
RECOMMENDATIONS AND REQUESTS MADE IN THE REPORT ON THE VISIT TO
TURKEY CARRIED OUT BY THE EUROPEAN COMMITTEE FOR THE PREVENTION
OF TORTURE FROM 2 TO 14 SEPTEMBER 2001**

20 SEPTEMBER 2002

The Turkish Government's views on the issues raised in the report on the visit to Turkey carried out by the European Committee for the Prevention of Torture (CPT) from 2 to 14 September 2001 are set out below in the order followed in the report.

Paragraph 6

Enquiries on the subject have established the following: members of the CPT delegation (President Silvia CASALE, Ales BUTALA, Gisela PERREN-KLINGER, Michael NEURAUTER, Zeynep BEKDİK (interpreter) and Belgin DOLAY (interpreter)) arrived at the Anti-Terror Department of Ankara Police Headquarters on 02.09.2001 at about 10.10 pm and said that they wished to conduct investigations there; they asked whether any accused persons were held in the Anti-Terror Department detention facilities, whether any offenders were held in other departments, where the accused persons taken into custody by Ankara Police Headquarters on 1 September 2001 had been placed, which department was conducting the procedures and what the outcome was; they were told that a person named U. T., who had been apprehended at Esenboğa airport on 02.09.2001 while being sought by Kocaeli Police Headquarters, was being held in the Anti-Terror Department detention facilities, and that the procedures concerning the accused persons taken into custody on 1 September 2001 were being conducted by the Security Department; whereupon the delegation thanked the staff and left the Anti-Terror Department without conducting any investigations.

Furthermore, on 22.08.2001, a 7-member organising Committee headed by HADEP Ankara Provincial Chairman Veli AYDOĞAN had applied for permission to hold a public meeting on 1 September 2001 to mark World Peace Day; the planned public meeting and demonstration were banned under section 17 of Law No.2911 on Assembly and Demonstrations, with the approval of the Ankara Provincial Governor's Office dated 28.08.2001; however, although permission had not been granted, it was considered likely that an attempt would be made to hold the public meeting; the necessary measures were therefore taken and 35 persons considered to be in suspicious circumstances were accordingly taken to Çankaya Central Police Station and 114 persons to Çankaya Yıldızevler Police Station, while 306 persons were placed by the Security Department in the Police Headquarters gymnasium; as three of the persons taken into custody were found to be currently sought by the police, they were handed over to the appropriate units by Çankaya District Police Headquarters; the others were released at 3pm on the same day.

As a result of the contact established with Istanbul Provincial Governor's Office and the enquiries conducted, it was ascertained that no such incident as preventing the detained persons from being interviewed by the delegation members had taken place; on the second floor of the Eminönü District Police Headquarters, which the delegation was visiting, is the Identification and Scene-of-Crime Bureau, where persons apprehended by all the units attached to the district police headquarters or brought before the courts are fingerprinted under statutory procedure; these persons were brought to the bureau and when the procedures concerning them were completed, they were taken to the appropriate places. It is believed that the delegation members may have thought the persons brought to this bureau had been taken elsewhere in order to prevent them from meeting the delegation.

Paragraph 11

The recommendation made by the Committee in this paragraph is in fact provided for in Article 10 of the Regulation on Apprehension, Police Custody and Interrogation: "For offences falling under the jurisdiction of the State Security Courts, if the detention period is extended, provided that the period between two medical checks does not exceed four days, the apprehended person's state of health will be determined by a medical report". Given that the state of emergency will be lifted in the near future (30 November 2002), the custody period will in all cases be no more than four days and this will cease to be a problem.

Other points raised in this paragraph will be brought to the attention of the relevant judicial authorities.

Paragraph 12

Note has been taken of the comment made by the Committee in this paragraph.

Paragraph 14

The Committee will be given information on the issues mentioned in this paragraph as soon as possible.

Paragraphs 17, 18, 19

On 13 September 2002 the Ministry of Justice issued a circular on the application of Article 3(c) of Legislative Decree No.430, and on 18 September 2002 the Regulation amending certain Articles of the Regulation on Apprehension, Police Custody and Interrogation came into force on publication in the Official Gazette. A copy of the circular and one of the Regulation are appended (**Appendix 1**) (**Appendix 2**).

Paragraph 20

Contact with the Istanbul Provincial Governor's Office and enquiries on the subject have established the following: the allegations of ill-treatment concerning the Anti-Terror Department of Istanbul Police Headquarters in paragraph 20 of the report are groundless; the persons taken into custody were held for the detention periods ordered by the relevant chief public prosecutors' offices and were brought before the courts at the end of that period; one taken into custody was ill-treated. It has also been established that the persons taken into custody in the Narcotics Department were neither tortured nor ill-treated; it has not been possible to find any evidence of ill-treatment in either the districts covered by the police or those covered by the gendarmerie, or any evidence corroborating the allegations that a person taken into custody in a police station in the Ümraniye district was subjected to falaka.

Paragraph 21

Enquiries on the subject have established that while action was taken by Elazığ Police Headquarters against 61 officials for "ill-treatment of persons and assault" between 1995 and 2000, no proceedings were brought against any officials for the same offences in 2001.

Paragraph 22

Contact with the Şanlıurfa Provincial Governor's Office and enquiries on the subject have established that neither the Provincial Human Rights Commission Section of the Provincial Governor's Office nor the Chief Public Prosecutor's Office have received any applications concerning these allegations and that no judicial or administrative investigations have been opened in respect of any officials.

Paragraph 23

Enquiries on the subject have established the following: at the time of the CPT delegation's visit, between 2 and 15 September 2001, no suspects or accused persons were held in the detention facility of the Anti-Terror Department of Van Police Headquarters; during an inspection of the Law and Order Department of Van Police Headquarters, the pages of the custody register ("Book of Admissions") concerning B. O. and A. B. were photocopied; these persons had been apprehended by the Theft Bureau of Van Police Headquarters in connection with thefts committed on various dates and had been taken into custody after the duty public prosecutor had been informed; B. O. was remanded in custody by the authorities before whom he was brought.

It has been established that the apprehension, taking into custody and taking of statements were conducted in accordance with the provisions of the Regulation on Apprehension, Police Custody and Interrogation and that the state of health of the detained persons was determined by medical certificates issued on admission and departure. The documents on the subject are appended (**Appendix 3**).

Paragraphs 26, 27

Our reply on the issues raised in these paragraphs was sent to the CPT in an appendix to our letter of 20 June 2002.

Paragraph 28

Between 1992 and 2001, as part of the in-service training provided by the Anti-Terror and Operations Division of the Directorate of Security, the basic courses on anti-terrorism and interrogation techniques, interrogation, psychological operations (seminar), search and interrogation (offences committed by persons unknown) and modern interrogation techniques, trainer training, human rights and modern interrogation techniques, anti-terrorism personnel and anti-terrorism duties were attended by a total of 8,474 police officers (915 senior officers and 7,559 constables).

TABLE OF CORE SUBJECTS TAUGHT AS PART OF THE BASIC TRAINING COURSES ON “INTERROGATION TECHNIQUES” AND “ANTI-TERRORISM DUTIES” PROVIDED BY THE ANTI-TERROR AND OPERATIONS DIVISION		
SERIAL NO.	TITLE OF SUBJECT	NUMBER OF HOURS
1	INTERROGATION TECHNIQUES	6
2	HUMAN RIGHTS	6
3	RIGHT-WING TERRORIST ORGANISATIONS	6
4	LEFT-WING TERRORIST ORGANISATIONS	6
5	SEPARATIST TERRORIST ORGANISATIONS	6
6	PSYCHOLOGICAL OPERATIONS	3
7	LEGAL BASIS OF THE FIGHT AGAINST TERRORISM	6
8	PREPARATION OF INVESTIGATION FILES	3
9	SCENE-OF-CRIME EXAMINATION	2
10	PUBLIC RELATIONS	1
11	EXPLOSIVES AND BOMBS	1

Paragraph 29

As a result of the discussions held at the 49th meeting of the Secretariat of the Higher Co-ordinating Council for Human Rights (İHKÜK) on 14.08.1998, it was decided that **“in order to prevent torture and reinforce the evidence collected, in the case of organised crime and terrorist offences, and in cases where public prosecutors and senior law enforcement officials considered this necessary, suspects’ and accused persons’ statements would be video recorded as far as possible in all provincial capitals”**.

Accordingly, a circular was issued on 01.09.1998 to the effect that statements given by persons taken into custody for organised crime, terrorist offences and other offences where this was considered necessary, were to be video recorded as far as possible.

Allegations of death in police custody, torture and ill-treatment frequently appear in the press and the audiovisual media and are used for propaganda purposes against the police force. Where death in custody, torture and ill-treatment are concerned, the fact that the issue is publicised at national and international level causes difficulties even where there has been no misconduct on the part of personnel. It is therefore considered advisable for custody units to be monitored by cameras as a means of preventing torture, ill-treatment and deaths in custody.

General standards have been determined for detention facilities and interrogation rooms as a result of the work done by the Directorate General of Security, as part of the effort to bring detention facilities and interrogation rooms into line with human rights rules and European standards (**Appendix 4**).

As part of these standards, the following standard was drawn up for interrogation rooms: "... must be designed as areas in which security measures are taken to ensure that the person giving a statement cannot harm themselves in any way, and in which the statement-taking process can be monitored from behind reflective glass and/or with the aid of technical equipment, recording can be effected by a closed-circuit TV system and what is said can be listened to with the aid of microphones placed in the room". The CPT was asked for its views on this subject. We are still awaiting them.

Paragraphs 30, 31

By Circular No.0100 of 23.05.2002, the provincial police headquarters were instructed to ensure that while statements are being taken from persons taken into custody on suspicion of terrorist and narcotics offences in particular, these persons are not blindfolded.

Paragraphs 32, 33

As part of the programme entitled "Police and Human Rights beyond 2000", a project entitled "Police, Professionalism and the Public" is being carried out jointly by the Council of Europe, the Ministry of Foreign Affairs, the National Committee for the 10th Anniversary of Human Rights Education, the Gendarmerie Central Command and the Directorate General of Security. As part of this project, the course entitled "Training the Trainer Trainers" is intended to set up a group of 36 trainers who will train the trainers to be appointed to the police training institutions and in-service training courses.

As a result of meetings with Council of Europe officials, it was decided to provide these 36 members of the police force with a total of six weeks' training - three weeks in Turkey and three weeks abroad.

This project, which is considered quite important in terms of trainer training and of the effective operation of the police force's training services as part of the reorganisation of initial and in-service training for police officers, has been drawn up by the Directorate General of Security in the light of existing needs and accepted by the Council of Europe. The project will cost approximately 700,000 euros, of which 650,000 will be borne by the Council of Europe and 50,000 by the Gendarmerie Central Command and the Directorate General of Security in the form of service provision for the project, such as translation, photocopying and urban transport.

The training course planned in Turkey as the first phase of the project was carried out between 11 February and 5 March 2002 at the Turkish International Academy against Drugs and Organised Crime (TADOC). It was attended by a total of eighteen trainees, nine from the Gendarmerie Central Command and nine from the Directorate General of Security, and by a seven-member delegation of trainers appointed by the Council of Europe.

Once the trainees had completed their training in Turkey, they took part in the second phase of the project in Denmark, the Netherlands and Germany between 6 and 23 March 2002.

At the evaluation meetings held after the training abroad, on 26 and 27 March 2002, the training courses provided in Turkey and abroad were assessed, but it was emphasised that a general assessment of the course would be made only after completion of the eight weeks of practical training.

This practical training was planned as an eight-week practical programme entitled "Seminar on Developing Police Practices relating to Human Rights". It took place in the Directorate of Security Training Division's training facility, in the form of two-week seminars, from 8 to 19 April 2002, 22 April to 3 May 2002, 6 to 17 May 2002 and 20 to 31 May 2002.

Paragraph 34

Circular No.0100 of 23.05.2002 instructed provincial police headquarters to emphasise in-service training to ensure that all personnel were apprised of the relevant texts and informed of any amendments (**Appendix 5**).

Paragraph 35

Enquiries on the subject have established the following: after completing their investigations at Eminönü District Police Headquarters Central Police Station, the delegation went up to the Law and Order and Anti-Terror Units on the upper floors; in the Identification Bureau on the second floor, the statutory procedure was being carried out with regard to an individual named H. U. (born 1985), who had been apprehended on 04.09.2001 for sodomy on a child named M. K. (born 1993); on 05.09.2001, during his transfer to court further to the instructions of the Istanbul Chief Public Prosecutor's Office, the accused H. U. was brought to the Technical Bureau on the second floor of the Eminönü Central Police Station for fingerprinting; meanwhile the delegation saw this person and, after finding out the nature of the incident from the personnel on duty, asked to interview the victim; Kumkapı Police Station was then contacted and the eight-year-old victim M. K. was brought with his father to the Central Police Station, where the members of the delegation interviewed first the accused, then the victim and his father; after the interview, the victim was sent to the court with his father, because he was a child, and the accused H. U. was remanded in custody by the Istanbul Chief Public Prosecutor's Office. Circular No.0100 of 23.05.2002 instructed provincial police headquarters to ensure that in the case of offences following which the parties may at any time use violence against each other, such as sexual offences, the victim and the suspect are not kept in the same environment (during the issuing of medical certificates and other procedures).

Paragraph 36

Work has been done on amending legislation in order to increase the remuneration of members of the police force, but the preliminary draft laws prepared for the purpose have not received the approval of the Ministry of Finance and the State Personnel Department; the reasons given are that arrangements covering only the police force would disrupt the existing balance and prompt similar demands from other categories of officials, and that the texts drawn up must be taken into consideration as part of an overall adjustment.

Preliminary draft laws that are not approved by the Ministry of Finance cannot be submitted to the Speaker of the Turkish Grand National Assembly as draft legislation. Therefore, it seems impossible at this stage to make improvements to our members' financial position.

Civil servants' working hours are regulated by sections 99, 100 and 101 of Civil Servants Law No.657, which provides for a 40-hour working week with Saturday and Sunday off. Provision is made for the beginning and end of the working day and the duration of the lunch break to be determined by the Cabinet on a proposal by the State Personnel Department as regards the central network and by the provincial governors as regards the provinces, while working hours are determined by special legislation or rules and regulations according to the specific features of the various institutions and services.

As police duties require work round the clock, it is not possible to provide for working hours parallel to those of other civil servants covered by the Civil Servants Law, but the Rules governing the Working Hours of Police Force Personnel were brought into force with the Minister's approval on 29.9.1995 to organise the working hours of the personnel of the police force according to human physical and psychological needs, except where police duties require otherwise, and to ensure uniform practice in the matter.

Paragraph 38

Despite all the efforts to improve the situation with regard to human rights violations, some allegations are still forwarded on the subject. Judicial and administrative investigations are conducted in respect of those claimed to have caused isolated incidents of this kind.

Persons found to have committed acts of torture are subjected to judicial investigation under Article 243 of the Turkish Criminal Code and those who have committed acts of ill-treatment under Article 245 of the Turkish Criminal Code; in addition, administrative investigations are initiated under the relevant articles of the Police Force Disciplinary Regulations in respect of those who commit such offences.

Officials in respect of whom action has been taken under Article 243 of the Turkish Criminal Code (Torture)

(Period from 01.01.1995 to 30.04.2002)

Number of officials in respect of whom a judicial investigation has been opened	640
Trial pending.....	139
Acquittal	278
Conviction	48
Decision not to commit for trial	81
Decision not to prosecute	77
Adjournment under Law No.4616.....	17

Number of officials in respect of whom an administrative investigation has been opened 380

No penalty considered necessary..... 371

Various penalties 8

Dismissal from the force..... 1

Officials in respect of whom action has been taken under Article 245 of the Turkish Criminal Code (Ill-Treatment of Persons)

(Period from 01.01.1995 to 30.04.2002)

Number of officials in respect of whom a judicial investigation has been opened 5404

Trial pending..... 956

Acquittal 1187

Conviction 255

Decision not to commit for trial 1572

Decision not to prosecute 834

Adjournment under Law No.4616..... 600

Number of officials in respect of whom an administrative investigation has been opened 4409

No penalty considered necessary..... 4093

Various penalties 316

Süleyman YETER

On 05.03.1999 Süleyman YETER was apprehended with two other persons; all three were sought on account of their activities in the terrorist organisation Marxist Leninist Communist Party/Liberation (MLKP/K).

On 07.03.1999 Süleyman YETER collapsed while his statement was being taken in police custody; he was taken to the nearest hospital, Vakıf Gureba hospital, but the doctors said that he might have had a heart attack and had died despite their intervention. A judicial investigation into his death was opened by the Fatih Chief Public Prosecutor's Office and an administrative investigation was opened by the police chief inspectors appointed by the Ministry of the Interior.

As a result of the administrative investigation conducted by the police chief inspectors, one assistant superintendent and two police constables were suspended from duty because it was considered inadvisable to allow them to remain in post.

1. As a result of the administrative investigation

The investigation report drawn up by the police chief inspectors to the effect that the officers should be punished by “dismissal from the force” was referred to the competent disciplinary board, but **the Central Disciplinary Board decided that no further action should be taken on the file because it was covered by Amnesty Law No.4455**, and the officers’ suspension from duty was rescinded with the approval of the Ministry of the Interior dated 10.03.2000.

2. On the judicial side

In the proceedings initiated and currently pending before the Istanbul 6th Assize Court against one assistant superintendent and two police constables, following the hearing held on 12.03.2001 **Police Constable Erol ERŞAN, who was detained on remand, was released and resumed his duties** with the approval of the Istanbul Provincial Governor’s Office dated 28.03.2001, while **Police Constable Mehmet YUTAR, who had been released on 19.11.2001, resumed his duties** with the approval of the Istanbul Provincial Governor’s Office dated 27.11.2001.

Assistant Superintendent Ahmet OKUDUCU, the accused who absconded, continues to be sought. He was deprived of civil servant status as from 30.03.2000, with the approval of the Ministry of the Interior dated 28.04.2000, and no longer has any ties with the police force.

The trial continues before the Istanbul 6th Assize Court. The Committee will be kept informed of any further developments in this matter.

Paragraph 39

Careful note has been taken of the comment made by the Committee in this paragraph. The information requested will be speedily obtained and forwarded to the CPT.

Paragraph 42

As regards the issues raised in this paragraph, the Regulation Amending certain Articles of the Regulation on Apprehension, Police Custody and Interrogation, dated 18 September 2002, provides that “as a rule, the doctor and the person being examined will be left alone and the examination will be conducted as part of the relationship between doctor and patient. However, the doctor or the suspect, accused or apprehended person may request, on the grounds of anxiety for his personal safety, that the examination be conducted under the supervision of the security forces. This request will be documented and complied with.” (**Appendix 2**).

Paragraph 44

The authorities concerned are taking the necessary care in the matter.

Paragraphs 45, 46

The recommendations made by the Committee in these paragraphs have been noted and will be assessed as appropriate.

Paragraph 47

A number of articles of the Constitution were amended by Law No.4709 of 03.10.2001 and, in parallel to these amendments, Law No.4744 amending certain laws was adopted by Parliament on 06.02.2002 and came into force on publication in issue No.24676 of the Official Gazette, dated 19.02.2002.

In the light of these legislative amendments, the following changes were made to law enforcement practices:

1. Custody periods:
 - A. Offences not dealt with by the State Security Courts
 - a. In the case of offences committed by fewer than three persons, the persons apprehended must be brought before the nearest magistrate's court within 24 hours;
 - b. In the case of offences committed jointly by three or more persons, the public prosecutor may give a written order for this period to be extended to a maximum of four days for reasons such as the difficulty of collecting evidence or the large number of offenders.
 - B. State Security Court offences
 - a. In the case of offences committed by fewer than three persons, the persons apprehended must be brought before the nearest magistrate's court within 48 hours.
 - b. In the case of offences committed jointly by three or more persons, the public prosecutor may give a written order for this period to be extended to a maximum of four days for reasons such as the difficulty of collecting evidence or the large number of offenders.
 - c. In state-of-emergency regions, this four-day period may be extended to a maximum of seven days by decision of a judge, at the public prosecutor's request. However, before deciding to extend the custody period, the judge shall hear the person apprehended.
2. Informing an apprehended person's relatives:

Where persons are apprehended for judicial purposes, whether the offence charged is covered by the State Security Courts or not, a relative of the apprehended person or a person designated by him shall be informed without delay of the apprehension or the extension of the custody period, by order of the public prosecutor.

3. Access to the legal assistance provided by a lawyer:

A. In the case of offences not dealt with by the State Security Courts, the apprehended person may benefit from a lawyer's legal assistance at all times during the custody period.

B. In the case of State Security Court offences, the apprehended person may benefit from a lawyer's legal assistance after the public prosecutor has extended the custody period (after the first 48 hours).

On this subject, provincial police headquarters were instructed by Circular No.0100 of 23.05.2002 to ensure that:

- detained persons' requests for access to a lawyer are complied with under the relevant legislation,
- police stations have a sufficient supply of forms setting out suspects' and accused persons' rights,
- the public prosecutor is informed without delay when a person is apprehended,
- attention is paid to the provisions of the relevant legislation as regards informing an apprehended person's relatives and granting the person access to a lawyer,
- in accordance with the above paragraphs, during apprehension, custody and statement-taking, all the relevant legislation such as the Code of Criminal Procedure, the Law on Duties and Competences of the Police and the Regulation on Apprehension, Police Custody and Interrogation is fully complied with,
- importance is attached to in-service training activities to inform personnel about the relevant legislation and keep them up to date with any amendments.

The points raised in this paragraph were also amended by the Regulation of 18 September 2002 amending certain Articles of the Regulation on Apprehension, Police Custody and Interrogation, and were brought to the attention of the relevant authorities (**Appendix 2**).

Paragraph 48

Circular No.0100 of 23.05.2002 gave provincial police headquarters the following instructions: "Under current practice, registering the admission of an apprehended person in the *Custody Register* ('Book of Admissions') means that the person has been placed in a holding cell; however, the apprehended person has also been deprived of his liberty for hours before being placed in the cell; this means that there is no record of the detention of persons released without having been placed in a holding cell; consequently, everyone taken into custody must be recorded in the *Custody Register* and the procedures carried out from the time when they are apprehended to the time when they are removed from the holding cell must be meticulously recorded in this register".

Paragraph 51

In accordance with Article 25 of the Regulation on Apprehension, Police Custody and Interrogation, the competent units of the law enforcement agencies and chief public prosecutors or public prosecutors appointed by them inspect detention facilities, interrogation rooms (if any) and all records and procedures relating to custody, as part of their judicial duties.

In addition, in accordance with Circular No.B.02.0.PPG.0.12-320-8689 issued on 25.06.1999 by the Personnel and Regulations Department of the Prime Minister's Office, provincial and district governors, public prosecutors, civil service inspectors, other officials empowered to conduct inspections, gendarmerie commanders and police chiefs carry out unannounced checks and inspections in connection with their own statutory areas of responsibility, in order to ensure that the provisions of the Regulation on Apprehension, Police Custody and Interrogation are fully complied with.

Under Law No.3686, which came into force on publication in issue No.20719 of the Official Gazette, dated 08.12.1990, "... **a Human Rights Enquiry Commission** [was set up] **in the Turkish Parliament** to monitor respect for human rights and developments in this area worldwide and in our country, to bring practice into line with these developments and to examine applications".

Section 5 of this law provides that "In connection with its duties, the Human Rights Enquiry Commission shall be empowered to request information from ministries, government departments under the general and ancillary budgets, local authorities, *muhtars*' offices, universities, other public institutions and organisations and private organisations, to conduct investigations on their premises and to summon their competent officials and obtain information from them". Under the terms of this provision the Parliament's Human Rights Enquiry Commission also carries out inspections. The issues raised in the inspection reports are taken into account and assessed.

Circular No.0100 of 23.05.2002 also instructed provincial police headquarters to ensure that law enforcement units are subjected to full, unannounced inspections at suitable intervals, that these inspections do not only cover material conditions of detention and that they also verify issues such as conditions of detention, custody records, whether suspects' rights are applied or not and whether medical certificates are issued in accordance with the rules or not (by interviewing persons in custody without revealing their identities or with the use of other names).

Paragraph 52

Circular No.0100 of 23.05.2002 also states that "for short custody periods (of a few hours) a holding cell of at least 7m² in size, 2.5m in height with a space of at least 2m between the walls is sufficient for five persons, but this area is inadequate for persons spending the night in custody; consequently, persons held overnight should as far as possible be placed in other custody facilities (the CPT considers an area of 7m² sufficient for two persons in cases where suspects are held overnight)". All suspects held overnight are provided with blankets and mattresses.

Paragraph 53

Enquiries on the subject have established the following: the detention facility of Eminönü District Police Headquarters Central Police Station (Istanbul Police Headquarters) was refurbished in accordance with Article 24 of the Regulation on Apprehension, Police Custody and Interrogation and brought into service on 08.02.2002; as a result of the inspections carried out, the detention facility at Fatih District Police Headquarters Çarşamba Police Station (Istanbul Police Headquarters) was found to be sub-standard and consequently withdrawn from service as from 09.11.2001. As the police station building is the property of a foundation, no material alterations can be made to it; where necessary, use is made of the nearest units possessing detention facilities meeting the required standards.

Paragraph 54

Particularly bearing in mind the criticism of sub-standard detention facilities, although many of them are empty, it is felt that the CPT's proposal might be useful and that the "scattered" arrangement used in the past might be reassessed accordingly. It is also felt that reducing the number of little-used detention facilities and setting up central detention facilities consistent with the required standards may be an economical measure for our country.

However, the custody procedure, besides preventing the suspect from absconding in any way before being brought before the judicial authorities, is the exercise of a statutory power provided for by the Code of Criminal Procedure to enable law enforcement officials to establish the evidence and take the suspect's statement during the preliminary investigation. Custody periods have been kept as short as possible in the context of human rights, but law enforcement officials have been assigned many investigative responsibilities within that period. In that short time the suspect's medical certificates have to be issued, a statement has to be taken from him, other evidence has to be established and assessed and the suspect's transfer documents have to be prepared. For this reason, particularly where incidents that take place in different areas of responsibility are concerned, there must be no scope for wasting time and no hitches in the procedures for taking statements and identifying locations.

In addition, it is considered useful to hold offenders who have committed different types of offence in separate places to prevent them from coming into contact. For example, it is thought necessary to create an environment in which it is impossible for young people suspected of minor offences (misdemeanours) to come into contact, in particular, with habitual professional criminals or with members of criminal organisations.

As you know, in many of our cities, police units work in different buildings. Holding all suspects in one place would therefore cause many difficulties in relation to the conduct of investigations.

It is felt that under present conditions, in view of the waste of time, transport difficulties and waste of labour power involved, setting up central detention facilities in our larger provinces, in particular, would reduce efficiency and disrupt the smooth functioning of police work. Furthermore, given that in the event of social unrest large numbers of people are taken into custody at the same time, taking them to see the doctor for their medical certificates, taking their statements and returning them to the central detention facility would be difficult. The responsibility of personnel working in a central detention facility unconnected with the custody procedure and the taking of statements, as a result of proceedings brought by persons taken into custody after the custody procedures have ended, also poses various problems.

Consequently, bearing in mind the geographical structure, population and crime rates of the various provinces and districts, it is considered advisable to set up central detention facilities in each province and district, in numbers and of a kind that will enable the procedures concerning suspects in custody to be completed within the statutory period. It is felt that the plan to reduce the number of police stations and set up police centres may also be a step in this direction.

Paragraph 55

Enquiries on the subject have established that a total of 652 foreign nationals from various countries who were residing illegally in Istanbul were taken into custody there on 07-08.07.2001. After statements had been taken from them, it became clear that these persons had entered our country illegally, on foot, from Iran and Greece; the "Interview Form for the Interrogation of Migrants" was fully and accurately completed in respect of these persons; after the judicial procedures concerning them had been completed, 426 were deported across the Van and Ağrı border, across which they had illegally entered, while 210 were deported via the İpsala border, in Edirne province, across which they had likewise illegally entered; a total of 14 persons were released, seven of them because they had applied to the UN High Commissioner for Refugees and seven because they had valid visas in their passports; two Senegalese nationals were handed over to the Senegalese honorary Consulate. In addition, until these persons' deportation procedures were completed, they were accommodated in the detention facility of Istanbul Police Headquarters Aliens Department; their food and other needs were met; they were issued with medical certificates to the effect that they had not been raped, subjected to sexual harassment or ill-treated, but some of them refused to have medical certificates issued, whereupon the law enforcement officials drew up records to that effect; eight of them, who wished to see a doctor on account of pre-existing illnesses, were given the necessary treatment and provided with medicines; and they were given access to lawyers.

Paragraph 58

Passport Law No.5682 specifies which persons are prohibited from entering Turkey, while Law No.5683 on Foreigners' Residence and Travel specifies which authority conducts deportation procedures under which circumstances.

The domestic law provision concerning deportation procedures, set out in section 19 of Law No.5683, to the effect that “Foreigners whose presence in the country is considered by the Ministry of the Interior to be contrary to public security or to political or administrative requirements shall be invited to leave Turkey within a specified time-limit. Those who do not leave Turkey by the expiry of this time-limit may be deported”, is worded as follows in the European Convention on Establishment: “Each Contracting Party shall facilitate the entry into its territory by nationals of the other Parties for the purpose of temporary visits and shall permit them to travel freely within its territory except where this would be contrary to *ordre public*, national security, public health or morality. Nationals of any Contracting Party lawfully residing in the territory of another Party may be expelled only if they endanger national security or offend against *ordre public* or morality”.

The “specified time-limit” in section 19 of Law No.5683, referred to above, is determined by the authorities in the light of circumstances such as the foreigner’s location, his health and transport facilities for leaving the country.

As may be seen from the above, under the Turkish legal system, the decision to deport and the enforcement of this procedure rest with the administrative authorities. They are therefore subject to judicial review by the administrative courts.

Deportation procedures begin with an invitation to leave the country in cases where, as a result of enquiries conducted in the light of the international agreements to which our country is party and of our existing legislation, it is not considered advisable for persons who have not been granted the status of asylum-seeker to remain in the country. At the same time, foreigners who are not granted this status are given a 15-day time-limit; they are informed that if they so wish, they may return to their country or, if they have obtained a visa, they may go to a third country of their choice, and meticulous care is taken to apply the principle of “non-refoulement” provided for in Article 33 of the 1951 Geneva Convention.

Foreigners who do not leave the country by their own means within that time-limit are subjected to compulsory residence by the provincial governors’ offices until they are deported by the competent authorities; when the procedures concerning them are completed, they are removed from the country.

The removal of foreigners via places where there is no border crossing takes the form of repelling and surrounding persons attempting to enter the country illegally, and directing them towards the neighbouring country from which they have come in order to prevent them from reaching the hinterland.

When these foreigners enter the country in some way, they are unable to prove that they have entered lawfully: they attempt to remain in the country illegally, without applying for asylum or refugee status, or to reach western countries via Turkey. In this case, the manner in which they entered the country is determined on the basis of their statements.

On the whole, it is impossible for most of these people to obtain travel documents from the embassies/consulates of the countries of which they are citizens. Under such circumstances, dangerous situations may arise from the point of view of public order, public health and general security in Turkey.

In removals of this kind, care is taken to ensure co-ordination with the authorities of the other country.

Paragraph 59

The Protocol signed between Greece and Turkey on 8 November 2001 was ratified by the Turkish Parliament on 24 April 2002. It establishes the readmission procedures to be carried out, and where and how persons to be readmitted are to be handed over, and our provincial governors' offices were notified accordingly by Circular No.84577 of 12.04.2002.

Under the terms of the Protocol, illegal immigrants will be handed over at three border crossings in Turkey and Greece. Accordingly, the Greek authorities have been informed to date that a total of 11 illegal immigrants will be readmitted.

Meanwhile, on 05.04.2002, on the coast near the village of Akyarlar in the Muğla/Bodrum district, three foreign nationals who were dropped overboard in [our] territorial waters by Greek coastguard boats from the Greek island of Kos, and who swam ashore, were apprehended; the corpse of another person of the same nationality was washed up along the shore.

The Africans in question said in their statements on the incident that they had been apprehended by the police on the Greek island of Kos; their identity papers had been confiscated, then they had been taken to the police station and ill-treated; in spite of their requests to the Greek authorities to be returned to Turkey or taken to Athens, at about 1am on 05.04.2002 they had been told that they were being taken to Athens, but the Greek coastguards had made them put on lifejackets and had thrown them into the water in the open sea.

This makes it plain that the provisions of the agreement have been violated and that inhuman treatment has been inflicted on these persons.

Paragraph 60

The recommendation in this paragraph will be assessed as appropriate.

Paragraph 61

Persons found not to meet the requirements for entering the country by air are returned in accordance with the relevant provisions of the International Civil Aviation Agreement (ICAA Appendix 9). Persons prohibited from entering our country are specified in section 8 of Passport Law No.5682. Under the agreement, these persons are as a rule returned immediately on the aircraft on which they arrived or on the next flight. Holding these persons in the asylum centre, although they have illegal status and have not made any form of asylum application, is therefore entirely contrary to their status.

Paragraphs 64, 65, 66

Before the refurbishment, men and women entered the holding facility of the Foreigners Department at Istanbul Police Headquarters through the same door, then went to the sections assigned to them. This state of affairs has been remedied with the refurbishment: there are now two separate sections, and men and women enter their own sections through separate doors.

The doors open outwards and the iron bars in the holding facility have been removed so that people can move around more easily. To enable the facility to provide healthier conditions of service, the walls of rooms used for various purposes have been demolished and these rooms have been included in the facility; in this way the living area of the women's section has been increased to 180m².

The number of toilets has been increased from one to four and the number of showers from one to three; a laundry room has been installed, with an automatic washing machine; and 12 new bunk beds, 24 mattresses and a sufficient number of blankets have been added.

A television set, two pay telephones and six wardrobes have been installed in the women's holding facility. A part of the facility has been turned into a cafeteria where people can sit and eat together and talk; it is equipped with five tables, 20 chairs, two refrigerators and a coffee machine.

A separate room next to the women's section of the facility has been fitted out for women with children, and equipped with bunk beds for six persons. The women's section is staffed by two women police officers.

The living area of the men's section has been increased to 220m². In the men's section the number of toilets has been increased from two to three, the number of showers from one to two, and nine wardrobes, 20 bunk beds, 40 mattresses and a sufficient number of blankets have been provided. The beds, sheets and blankets are cleaned every week.

As in the women's section of the holding facility, part of the men's section has been turned into a cafeteria, equipped with a television set, 8 tables, 40 chairs, two coffee machines and two pay telephones. The men's section of the facility is staffed by three male police officers.

An "interview room for lawyers and United Nations officials" has been set up next to the women's section of the holding facility to enable detainees to talk to United Nations officials, lawyers and visitors.

The entire facility has been repainted and the floors have been covered with linoleum ("*minofle*"). Foreign nationals are examined by a doctor every Monday; the cafeterias in the men's and women's sections include bookcases; ventilation is secured by two split ventilators, three room ventilators and two vacuum ventilators.

Foreign nationals are monitored by five closed-circuit TV cameras linked to four monitors.

Under the Immigrants Law all foreign nationals held overnight in police facilities (including those at international airports) are provided with blankets and mattresses.

Turkey does not as yet have any return centres where foreign nationals can be held for long periods pending deportation. However, steps have been taken to set up the legal infrastructure and start the technical work on these installations, and initiatives are in progress to secure international co-operation. As regards the planned centres in Van, for which the Directorate of Security has purchased the land, an application was made to the EU for funds to be earmarked for the construction of these centres under the EU's 2002-2004 budget; however, the EU did not accept this project, which is designed both to prevent illegal immigration and to accommodate illegal immigrants in more suitable and more modern facilities. At this stage, therefore, it has not been possible to implement the plans to set up these centres.

Paragraph 67

The places where foreigners are held pending completion of deportation procedures should not be seen as straightforward detention facilities. They are held under section 23 of Law No.5683 on Foreigners' Residence and Travel in Turkey. Section 23 includes the provision that "persons in respect of whom it has been decided that they must leave the country, but who are unable to do so because they have not obtained a passport or for other reasons, shall reside at the location designated by the Ministry of the Interior".

Consequently, as foreigners are held as guests in police station facilities pending deportation, they are not considered to be held under guard and in custody as provided for by the Regulation on Apprehension, Police Custody and Interrogation published in issue No.23480 of the Official Gazette on 01.10.1998.

Paragraph 70

As you know, F-type prisons possess communal activity areas for the benefit of prisoners and the basic purpose of this type of prison is to rehabilitate remand and sentenced prisoners belonging to terrorist or profit-oriented criminal organisations and return them to society as useful, productive individuals who will not re-offend.

Considerable emphasis has been placed on this purpose in the reports on Turkey published by the CPT.

Under Ministry of Justice Circular No.2-7 of 18.01.2002, remand and sentenced prisoners taking part in at least one of the communal activities are allowed to come together in groups of no more than ten persons for up to five hours' conversation a week (**Appendix 6**).

Prisoners who are to take advantage of this opportunity must first and foremost have the will to be trained and rehabilitated. This may be defined as the will to take part in activities such as learning an occupation by working in the prison workshops, going to the library and reading, doing sports activities in the gymnasium and outdoor sports area and other activities, and thus to take a sincerely positive attitude to the prison regime and the training and rehabilitation provided and to take part in them willingly.

Bringing together solely for conversation purposes a number of persons who refuse to take part in educational and rehabilitation activities and try to disrupt prison discipline for ideological purposes will undermine the educational and rehabilitation activities provided in the prison. That is why prisoners are required to have taken part at least in one of the activities in question. This requirement has been imposed entirely to encourage prisoners to take part in communal activities, because breaking down the organisations' resistance to participating in the activities will be perceived as a sign of goodwill.

Since the circular in question came into force, there has been an increase rather than a drop in the number of people using the communal areas. This shows that the circular is an incentive to use these areas (**Appendices 7-8, number of persons making use of the communal areas at 18.01.2002 (when the circular came into force) and at 3.09.2002**).

On the other hand, although the Ministry of Justice has not received any requests for this requirement to be lifted from anyone leading the organisation members in F-type prisons, nor any statements to the effect that if it is lifted they will make use of the communal areas, the CPT's insistence on the subject and the fact that it presents this as a problem in its reports is being exploited by a number of ill-intentioned individuals and organisations, and is prompting misguided comments to the effect that the solitary confinement system actually applied by the terrorist organisations stems from the prison management. The CPT's insistence on this sole issue overshadows the communal areas in F-type prisons and the activities provided there, and focuses attention on the false impression that no one is allowed to take advantage of the communal areas in these prisons.

In our view, bringing together solely for conversation purposes members of terrorist organisations in F-type prisons who, by order of their organisations, do not enter the communal areas, do not even agree to have a television set in their rooms, do not read the daily newspapers or books in the library and are therefore not considered well-intentioned, will serve only to ensure that these persons hold ideological and organisational talks among themselves and to endanger the security and good order of the prison and the safety of the other prisoners; it will place obstacles in the way of those currently using the communal areas and may ultimately result in these remaining empty.

This attitude may be regarded by the CPT as an excessively cautious approach. However, most west European prisons have not experienced the problems such as riots, escapes, fires, murders, woundings and hostage-takings that have occurred in Turkish prisons over the past ten years, resulting in various tragic events. These bitter experiences demonstrate that prison security is at least as important as education and rehabilitation. Our prison system, which has substantial experience of fighting terrorism, is determined to take every measure required to ensure that the painful events of the past are not repeated.

Paragraph 71

In each F-type prison, prisoners are taking part, according to their skills and wishes, in educational and cultural activities and studies in the library and classroom, in football, volleyball, basketball, table tennis and other sports activities in the gymnasium and outdoor sports area, in vocational training and skills development courses in the prison workshops and in other social and cultural activities. They also have access to the barber's shop, the prison shop and pay telephones. The workshops and work stations provide occupational activities such as garment-making, metal- and copper-work, carpet-weaving, musical instrument-making, china plate manufacture, hammock-making, painting and drawing, woodwork and photography.

Prisoners are allowed out of their rooms from sunrise to sunset and all of them exercised that right. However, as many of them do not make use of other communal areas in these prisons, it is not possible to determine how many hours on average a prisoner spends in the communal areas each week. However, the communal facilities are in operation all day, every day of the week. Detailed lists are appended showing which communal facilities prisoners use (according to category of prisoner) and which ones they make the most intensive use of (**Appendix 7**) (**Appendix 8**).

Paragraph 73

The headcount rules applying in all prisons require prisoners to come down to the ground floor and be visible in order to be counted. The problem to which the Committee drew attention in this connection stemmed from the terrorist offenders' resistance to the headcount in the early days after their transfer to the F-type prisons, but since that time there has been no problem whatsoever with the headcount.

Paragraph 74

Of the 1,142 staff who have taken up their duties in F-type prisons, 933 were given a two-month initial training course at the Staff Training Centre in Ankara. Training of the other staff members continues. All F-type prison staff continue to receive in-service training at intervals. In addition, 81 persons have been trained for the post of prison governor and 12 for the post of deputy governor.

Law No.4769 on Prison Staff Training Centres, drawn up by the Ministry of Justice for staff training purposes, was adopted by Parliament on 29.07.2002. It provides for staff training centres to be set up in five regions and for prison staff to be trained there.

Paragraph 75

A substantial proportion of prisoners make use of the telephones in F-type prisons. Some refuse to make use of them on account of pressure from their organisations. The current number of telephones in F-type prisons is sufficient for the prison population and there is no overcrowding as regards the use of these telephones. In many member states dangerous offenders are not granted access to the telephone or have very limited access; in our country ten minutes a week is considered sufficient. No complaints have been received from prisoners on this point.

Remand and sentenced prisoners are entitled to have contact visits with all their relatives on religious and public holidays, and under the terms of Ministry of Justice Circular No.9/51 of 08.04.2002, they are entitled to have contact visits from their mothers, fathers, spouses and children once a month (**Appendix 9**).

Paragraph 76

The walls of the exercise yards in F-type prisons, which are kept open all day, are the prison's own walls. Once a peaceable atmosphere and feelings of trust have been established in the prisons, these walls may be painted different colours.

Paragraph 77

Ministerial Circular No.15-74 of 28.05.2002 has been drawn up and sent to all chief public prosecutors' offices, requesting that remand and sentenced prisoners arriving at F-type prisons for the first time be given a medical examination by the prison doctor, that the medical reports on the subject be kept in the prisoners' files and that, unless otherwise requested, no staff be present during the examination, or if they are present, that they remain out of earshot (**Appendix 10**). Most recently, the Regulation amending certain Articles of the Regulation on Apprehension, Police Custody and Interrogation, dated 18 September 2002, has clarified this issue (**Appendix 2**).

Paragraphs 82, 83, 84, 86

Abdullah Öcalan, the inmate of İmralı Closed Prison, is an extremely dangerous international terrorist responsible for the widespread terrorist acts and violence that took place in Turkey between 1984 and 2000, causing approximately 30,000 deaths. He has access to daily newspapers, books and a radio broadcasting on the FM waveband, and enjoys the other basic prisoners' rights laid down by international rules such as the right to submit petitions, to receive visitors, to meet with his lawyer, to take open-air exercise and to receive health care and psycho-social welfare services.

There is no requirement that this prisoner be given a television set. Neither the European Prison Rules nor the United Nations Minimum Standard Rules contain such a provision. Furthermore, there is no provision whatsoever in our domestic legislation requiring prisoners to be provided with television sets. Under Article 8, paragraph 2(d), of the Convention, the Committee is obliged to take account of our domestic law. In addition, consideration must be given to the impact on the general public and on other prisoners who are in the same position if an offender who has caused so much damage to society were to be granted a right not provided for in national and international rules. It is known that in many west European countries offenders of the same type do not have access to television. In the United Kingdom, for example, only well-behaved prisoners, most of them with the status of vulnerable prisoners, are entitled to watch television. In Germany, under section 69 of the Sentence Enforcement Law, some prisoners can be banned from watching television. The same applies in prisons in Italy and France.

It is not planned to give a television set to Abdullah Öcalan, who continues to act as leader of a terrorist organisation in terms of his behaviour and his statements to the press and media, who has not expressed regret for any of the murders he caused to be committed and who is not, therefore, a "well-behaved" prisoner. This is entirely a matter for the discretion of the prison management board, and the board has not yet formed a positive opinion.

The right of access to a telephone granted to prisoners under Article 155/A of the Enforcement Regulations is not a definite or mandatory right, but a discretionary one. It may be restricted in respect of persons whom it is inadvisable to allow to make outside telephone calls from prison. The CPT's recommendation that Abdullah Öcalan, who is responsible for so many bloody events in our country, be granted access to a telephone is most surprising. This right is not granted to high-risk prisoners under the prison systems of any civilised countries.

The prisoner has not made any request to speak to his lawyers or relatives by telephone, and this issue gives rise to serious concern.

The CPT's recommendation to this effect has prompted strong reactions from the press concerned and the general public; newspaper cuttings setting out these reactions are appended (**Appendix 11**).

The prisoner is seen and examined once a day by a doctor temporarily appointed to the prison, who changes every fortnight, and his medical reports are drawn up on a regular basis. He has no health problems.

The Committee's recommendation that he be allowed to circulate freely between his room and the adjoining visiting area was also made in previous reports. However, this recommendation is not viewed in a positive light for reasons relating to the security of the institution and staff and the safety of the prisoner. An argument or even a fight might break out between the prisoner and staff in this area at any moment. Moreover, dangerous prisoners do not circulate freely between their own rooms and the adjoining visiting areas in any prison in the world. Visiting areas are used only for visits; they are set aside for that purpose. The prison system is a set of principles and rules. The prisoner is free to walk around twice a day, for reasonable periods, in the open-air exercise yard to which he has access. He cannot be granted a privilege beyond this. It would also amount to privileged treatment from the point of view of other dangerous prisoners holding the same status.

The Committee's view that the prisoner cannot be held indefinitely in this prison is considered doubtful. Bearing in mind his position, status and safety, the indignation he arouses among the public and other factors, it is considered advisable, in his own interests, for him to remain in the prison where he is currently held. Of course, if and when a place is found where his safety can be fully guaranteed and the other concerns listed above can be met, his transfer to another high-security institution may be discussed.

The toilet in the prisoner's room is not in the prison staff's direct line of vision. It is located behind the door of the room, to the left. Staff can only see this area if they make a special effort to do so. Nevertheless, the Ministry of Justice will consider how a fairly low partition which would not allow the prisoner to cause himself any injury might be manufactured.

Paragraphs 89, 90, 91

The necessary meetings have been held between the Elazığ, Şanlıurfa and Van chief public prosecutors' offices and gendarmerie commands to discuss the question of the gendarmerie personnel responsible for the external security of those prisons behaving more respectfully towards the prisoners in the performance of their duties.

In 2001 and 2002 proceedings were brought before the criminal courts in various locations against six deputy governors, one administrative official, 11 chief prison officers and 25 prison officers on charges of ill-treating prisoners.

Since the beginning of 2002, 33 members of the prison personnel of various grades serving in 536 prisons have been given various disciplinary penalties for ill-treatment of prisoners contrary to the law and regulations.

The draft Law on the Organisation and Duties of the Prisons Directorate, which provides for the “administrative duty” performed by the gendarmerie personnel attached to the Ministry of the Interior and responsible for the external security of prisons to be transformed into a “judicial duty”, has not yet been tabled before Parliament.

Paragraphs 93, 94, 96

The necessary measures have been taken to enable prisoners at Şanlıurfa Closed Prison to engage in more sports training and vocational training. Basically, these activities were hampered in the past by overcrowding in the prison. However, following the entry into force of the latest amnesty law, the overcrowding has been alleviated and better resources have been secured in terms of both activities and food.

All the room-system prisons are being equipped with an activity unit consisting of a gymnasium and work stations, similar to that built at Istanbul Kartal Prison. The construction of these activity units has started in 18 prisons where the conversion to the room system has been completed.

In Şanlıurfa Prison the work on conversion to the room system has been completed and special attention has been paid to giving each prisoner a reasonable space (in square metres) in which to feel at ease.

The prison management has also been asked to pay special attention to prison hygiene.

Paragraphs 98-102

- The third, recently renovated dormitory in the prison has been brought into service.
- All prisoners and children have their own beds to sleep in.
- The necessary hygiene has been secured in all sections of the prison.
- In 2002 a substantial food allocation is provided for prisoners (2,000,000 TL) and various 3,000 calorie dishes are offered in the prisons. In addition, special attention is paid to pregnant and breast-feeding women, who are provided with milk and protein-rich food.
- As far as possible, children in prison are provided with a day nursery and educational materials. Under the protocol drawn up with the Child Welfare Institution, prisoners’ children in prisons where there is no day nursery are taken to the Institution’s nurseries for the day and brought back to the prison in the evening.

- The management authorities of Elazığ, Şanlıurfa and Van prisons have been encouraged to make efforts to provide women with activities such as literacy classes, sewing, embroidery, knitting or dressmaking.

Paragraphs 104, 105

The necessary exchange of information to bring the juvenile units of Elazığ, Şanlıurfa and Van prisons into line with the Ministry of Justice circular of 3 November 1997 has taken place, but as the three prisons have limited budgetary resources, it has not yet been possible to secure sufficient funds. Efforts are being made to secure these funds by 2003.

There are two remand prisons for juveniles in Turkey, one in the Elmadağ district of Ankara and the other in the Bakırköy district of Istanbul, as well as three reformatories for juveniles in Ankara, Elazığ and Izmir. Though there are very few juvenile offenders in the prisons, work is continuing with a view to opening a remand prison for juveniles in Izmir and another in Diyarbakır.

Paragraphs 107, 110

- A protocol was signed between the Ministry of Justice and the Ministry of Health on 6 January 2000 with a view to increasing the role of the Ministry of Health in prisons and the efficiency of health care provision, and came into force on 17 January 2000. Under the terms of the protocol, the Ministry of Health will conduct regular screenings in prisons, increase the number of health care staff in prisons where there is a shortage and provide assistance to those prisons.

- The circular of 28.05.2002 issued on the subject of the medical examination of newly-arrived prisoners is appended (**Appendix 10**).

Paragraph 108

In order to remedy the shortage of doctors in prisons, the conscription of doctors by the Ministry of Health now includes a limited number of prison doctor conscriptions. In addition, a number of doctors serving in the Ministry of Health have been appointed to prisons. The shortage of health care staff is much less marked than in previous years. In the past, many health care staff preferred not to work in prisons on account of the prevailing atmosphere of violence, but they are now applying to work in our prisons. Prison doctors are provided with the in-service training required for their duties at the training centre in Ankara.

Paragraphs 109-115

Şanlıurfa, Van and Elazığ prisons each have a full-time doctor. When these doctors are on leave or on sick leave, the provincial health directorates are contacted and they are replaced by doctors working on a temporary basis.

- The circular requiring newly-arrived prisoners to be given systematic medical examinations has been sent both to the Ministry Inspections Board, to the chief public prosecutors' offices and to the members of the monitoring boards.

- Women in Elazığ, Şanlıurfa and Van prisons are given their normal day-to-day examinations by the prison doctor, but in cases requiring women's or mothers' health care or gynaecological services, they are transferred by the prison doctor to outside state hospitals. Adding a gynaecologist and a mother-and-child health care specialist to the existing prison doctor in a prison accommodating a total of 15-20 women inmates is incompatible with Turkey's budgetary resources and prison economics. Today, no prisons employ so many doctors. However, these specialists may be brought in from outside.

- Among the sick prisoners who need to be transferred to outside hospitals, those whom the prison doctor identifies as being in very urgent need of care are transferred as a matter of priority; the other patients therefore await their turn. This may give rise to complaints. As prison overcrowding has decreased, the complaints have also decreased. According to the rule laid down by ministry circulars, sick prisoners must be transferred to outside hospitals in the shortest possible time.

- Although our prisons have posts for psychiatrists, there are none working in the prisons because psychiatrists have a higher level of education than prison governors and therefore do not want to work under their orders. Under our legislation, prisoners are sent to a psychiatrist by decision of the prison doctor. They also have access to the services of the psychologists working in prisons. However, if the prisoner's location makes it inadvisable to send him to an outside hospital, as in the case of İmralı Prison, an outside psychiatrist can be called in.

- Mentally ill prisoners are sent to a mental hospital as soon as possible by decision of the prison doctor, but in the meantime they are held in the observation unit for their own safety and that of the prison's other inmates. Prisons do not have any other place to hold such persons. Depending on their state of health, these persons are sent to hospital by normal means of transport or in a suitably equipped ambulance.

- The Ministry of Justice circular of 28.05.2002 has been brought into force to further improve the application of the circular of 6 May 1999 (**Appendix 10**).

Paragraphs 117, 119

As the Committee knows, the inmates of all prisons are able to go outside all day. Persons held in disciplinary cells or being assessed in observation units are allowed to take at least one and a half hour's open-air exercise per day. This point has been brought to the attention of all chief public prosecutors' offices and is applied in all prisons. In severely overcrowded prisons, however, there may be some restrictions in terms of the duration of the exercise period.

Prisoners likely to commit acts of self-harm are taken from their crowded dormitories and placed in individual rooms in the observation units, where the prison doctor and psychologist will assess them; a decision is then taken concerning them and, if necessary, they are referred to outside hospitals.

Paragraphs 118, 120, 121

- The observation units in Elazığ and Şanlıurfa prisons will be reviewed and refurbished. However, it is not possible to instal windows in some observation units in the old E-type prisons, because of their architecture. Ways and means of setting up new observation units in this type of prison are being explored.
- The reason why persons who are to be sent to the Institute of Forensic Medicine for psychological assessment are held in the observation units is that there are no individual rooms in the prisons concerned and prisoners with psychiatric problems do not want to remain with the other prisoners. This problem will be resolved when the conversion to the room system is completed.
- Under Article 163 of the Enforcement Regulations, prisoners who are to be given a disciplinary penalty are heard before the decision is taken, and they submit their written defence. They are given sufficient time to do so. Prisoners may appeal to the enforcement magistrate (supervisory judge) against a disciplinary penalty. They may also speak to the chair and members of the monitoring board when they visit the prison.

Paragraph 123

The Enforcement Magistrates Law and the Monitoring Boards Law are appended (**Appendix 12**). Information on the application of the legislation brought into force on the enforcement magistrates and the prison monitoring boards is provided below.

I. Prison Monitoring Boards

1. Monitoring boards have been set up in 129 towns under Prison Monitoring Boards Law No.4681 of 14.06.2001. The chairs and members of the boards include 137 lawyers, 109 doctors, 61 pharmacists, 44 teachers, 26 head teachers, 12 engineers, 11 psychologists, 10 retired teachers and 231 persons of other professions.

The bill in question was drawn up on the basis of the United Kingdom's boards of visitors system; in the United Kingdom these boards are composed of individuals meeting the requirements for this type of duty rather than members of other NGOs.

Paragraph 37 of the CPT's report on Turkey of 17 June 2001 (CPT(2001)38) states that "the CPT feels that it would not be compatible with the nature and functions of the supervisory boards for any of their members to be a formal representative of an NGO. Members of such boards should be appointed, and exercise their functions, in an individual capacity".

Consequently, anyone meeting the requirements listed in section 3 of Law No.4681 can be appointed to the monitoring boards. Persons who are members of NGOs can also serve on the boards. There are no statutory obstacles to this.

2. Between 15.01.2002 and 06.05.2002 the monitoring boards drew up 309 reports, which included 1,438 separate proposals relating to human rights; 411 of these proposals concerned construction work and refurbishment, 287 budgets and appropriations, 176 education and rehabilitation and 104 staff shortages; 460 of them are proposals that must be implemented by the local chief public prosecutor's office. Under section 6 of Law No.4681, the monitoring boards' reports cannot be disclosed without the competent authorities' permission. As in the United Kingdom, the reports will be published on a yearly basis by the Ministry of Justice in such a way as to cover both the criticism and proposals received and the work done on the subject.

As the prison monitoring boards' remit only covers prisons, they are not empowered to take any steps with regard to law enforcement agencies.

3. In connection with the findings set out in the reports, any matters constituting an offence are reported to the local chief public prosecutor's office both by the monitoring boards, by the enforcement magistrates and by the General Directorate's Monitoring Boards Office.

To date the monitoring boards have reported four incidents to chief public prosecutors' offices, on the following subjects: the fact that staff were compelling prisoners to go to sleep early by turning out the lights early; the arbitrary treatment of visitors while they were being searched; the fact that a prisoner was insulted because he did not turn to the wall while being searched; and failure to remove the handcuffs from a person held in the secure ward of a hospital.

The monitoring boards have not encountered any complaints of torture in prisons.

4. The reports sent by the monitoring boards to the General Directorate to date do not contain any matters requiring proceedings to be brought before the courts. However, it is for the chief public prosecutors' offices to decide whether proceedings will be brought as a result of the investigation of the matters referred to in the above paragraph and reported to them.

5. No court decisions have as yet been published on the subject.

6. The law provides that monitoring boards may visit prisons whenever they wish. The maximum statutory interval is two months: monitoring boards must visit prisons at least once within this period.

7. The monitoring boards' task is to investigate enforcement practices, educational and rehabilitation activities, health conditions, internal security services and living conditions in prison. In performing this task they may interview prisoners in private, hear prison management staff, study all registers and documents and take a copy of each one. At least once every three months they draw up a report setting out their views and proposals. A copy of each report is sent to the Ministry of Justice, to the relevant chief public prosecutor's office, to the enforcement magistrate's office (on matters falling within the enforcement magistrate's jurisdiction) and, where the monitoring board considers it necessary, to the Chair of the Turkish Parliament's Human Rights Enquiry Commission.

The issues referred to in the monitoring boards' [reports] are assessed by the Ministry of Justice, the General Directorate of Prisons and Detention Houses and the relevant chief public prosecutor's office, and proposals that are not unlawful are implemented. Proposals calling for amendments to legislation or for substantial funds are assessed by the Minister of Justice.

8. The members of monitoring boards include members of public organisations, NGOs and other target groups. For example, a monitoring board member who has headed a sports club not only performs his monitoring duties, but at the same time plays an active part in providing sports equipment for prisoners. Likewise, a monitoring board member who is also a member of a women's association plays an active part in the setting up of a sewing and embroidery workshop for women in the prison. Monitoring board members who work in public organisations are seen to make efforts to make a number of facilities offered by their organisations available to prisoners.

9. Law No.4681 prohibits monitoring boards from disclosing information obtained in the performance of their duties without the competent authorities' permission. This provision is also included in the United Kingdom's regulations on boards of visitors, on which the law was modelled. The law requires monitoring boards to meet at least once every two months and to take their decisions by an absolute majority. The chair may convene the monitoring board whenever he or she considers it necessary. Monitoring boards have no publications as yet. However, their annual reports will be published by the Ministry of Justice.

Prisoners have been informed of the monitoring boards' duties, powers and responsibilities and a leaflet encouraging them to exercise their statutory right has been distributed.

Newly-admitted prisoners are informed of their rights and obligations on entering the prison and given a Ministry of Justice booklet entitled "Guidelines for Remand and Sentenced Prisoners". The booklet sets out prisoners' rights, obligations and complaints procedures; it also provides information on the monitoring boards.

The head offices of the judicial commissions periodically hold in-service training courses to provide monitoring board members with vocational training. Tuition covers the Council of Europe Prison Rules and United Nations Minimum Standard Rules, human rights, sentence enforcement legislation, the Enforcement Regulations, remand and sentenced prisoners' basic rights and other legislation on prisons.

A monitoring boards training seminar was held in Istanbul on 13 and 14 June 2002, with presentations by various experts from the United Kingdom and Turkey.

10. To ensure that monitoring board members perform their duties in a spirit of complete independence, they have not been placed under the supervision of any Ministry of Justice unit. However, under section 8 of Law No.4681, the Judicial Commission may dismiss board members who no longer meet the requirements for appointment to membership, those who fail without good reason to attend two meetings in a year, those who cannot continue to perform their duties because of illness or for any other reason, and those whose conduct is incompatible with membership of a monitoring board or with the principle of independence.

II. Enforcement magistrates (supervisory judges)

1. Under Enforcement Magistrates Law No.4575, 140 enforcement magistrates' offices (122 single and 9 double offices) have been set up in Turkey.
2. By 30.04.2002, remand and sentenced prisoners had submitted 2,801 applications on various subjects, including human rights, to the enforcement magistrates' offices; 650 of the applications were accepted, 54 partially accepted and 2,097 rejected.

The applications cover topics such as admission to prison, placement in the prisoner's room, accommodation, heating, food, cleanliness, health, relations with the outside world, work, observation, leave, transport, sentence enforcement, disciplinary penalties, release, training and medical treatment.

3. Under section 4 of Enforcement Magistrates Law No.4675, enforcement magistrates study the reports sent to them by the monitoring boards within their territorial jurisdiction under section 6 of Monitoring Boards Law No.4681, and may decide on any matters falling within their jurisdiction. To date, however, no such decisions have been given by enforcement magistrates.

A list of the topics covered by applications to the enforcement magistrates and their outcomes is appended (**Appendix 13**).

Paragraph 126

The text of Law No.2253 on the Organisation and Trial Procedures of Juvenile Courts and the Ministry of Justice circular on juveniles are likewise appended (**Appendix 13**).

The Ministry of Justice is also drawing up a wide-ranging regulation on juveniles, in co-operation with the bar associations.

Paragraph 127

Disciplinary offences committed by juveniles in reformatories are normally punished by penalties such as verbal warnings, reprimands and withdrawal from activities. However, some of these juveniles commit acts of violence in the institution or disrupt its life with their aggressive attitudes. Keeping them in the reformatory sets a bad example for the other children. They are subjected to intensive education by the institution's psycho-social welfare service, but if this fails, they are returned to closed juvenile prisons. Where disciplinary penalties are concerned, sending a juvenile to a closed prison is always regarded as a last resort.

The Ministry of Justice applies to juveniles those sections of the circular on prisoners' transfers and observation, issued at the beginning of every year, which are not incompatible with their status.

Paragraph 129

It is absolutely prohibited for children in juvenile institutions to be given slaps, whether hard or otherwise, even for educational purposes. This is regarded as ill-treatment and the institutions' staff are frequently reminded of the fact. The chief criterion in the selection of juvenile institutions' staff is kindness and qualification.

Paragraph 131

By the end of 2002, work will be completed in all the prisons being converted to the room system. Temporary capacity problems have arisen as a result of overcrowding during the works, and this has also temporarily affected hygiene in the juvenile sections; however, the institution's management has been told to ensure the necessary standards of hygiene.

Paragraphs 130, 132, 134

- The conversion of Ankara Reformatory to the room system has been completed and the institution now has an extremely modern and hygienic appearance. The rooms accommodate four to six juveniles. There are no capacity problems or overcrowding.
- The project for refurbishing Elazığ Reformatory and converting it to the room system has not received the support of the European Union. It will be carried out by the Ministry of Justice to the extent permitted by budgetary resources.
- It is planned to provide this reformatory with a sports facility, various workshops and recreational areas.

Paragraph 136

- Under the Law on Prison Staff Training Centres, which has been adopted by Parliament and come into force, prison staff will receive both initial and in-service training for longer periods than previously and will be better trained.
- The necessary steps are being taken to reinforce the number of specialist staff at Elazığ Reformatory.

Paragraphs 138, 139, 140, 141

- The necessary request has been made to the State Personnel Department of the Prime Minister's Office for the appointment of full-time psychologists and social workers to Elazığ Reformatory and other institutions.
- The necessary representations will be made to the Ministry of Health for a psychiatrist to visit Ankara and Elazığ reformatories. However, the law requires juveniles with psychiatric problems to be transferred to hospital by decision of the reformatory doctor.
- Under the Ministry of Justice circular of 28.05.2002 referred to above, juveniles newly admitted to Elazığ Reformatory are given a medical examination.

- Juveniles in all reformatories have personal, confidential medical files in which the medical information and reports concerning them are kept. The poor quality of the documents is due to the use of straw paper as a result of cost-cutting measures.

Paragraph 137

The health care unit at Elazığ Reformatory has been refurbished and modernised without awaiting the modernisation programme.

Paragraph 143

In all reformatories, juveniles who do not receive visits are regularly visited by the institution's staff, ministry officials and members of NGOs. Families who live far away or are unable to visit for financial reasons receive help. Juvenile prisoners who are unable to purchase telephone cards are given cards by the reformatory management.

Paragraph 144

- Under Article 163 of the Enforcement Regulations, juveniles who are to receive a disciplinary sanction are heard before the decision is taken, and they submit their written defence. They are given sufficient time to do so. They may appeal to the enforcement magistrate against a disciplinary penalty. They may also speak to the chair and members of the monitoring board when the latter visit the institution.

The regulations on juveniles currently being drawn up by the Ministry of Justice and the bar associations detail the disciplinary process and juveniles' rights in disciplinary matters, but the draft regulations have not yet come into force.

Paragraph 145

Remand and sentenced prisoners in all prisons and reformatories are entitled under the Enforcement Magistrates Law to lodge objections and complaints against disciplinary penalties or other enforcement measures with the enforcement magistrates. They can also explain their problems to monitoring board members, talking to them in private. To improve the exercise of these rights, the Ministry of Justice is revising the handbooks for prisoners and including in them an explanation of prisoners' rights in relation to monitoring boards and enforcement magistrates. When printing is completed, the booklets will be distributed to prisons.

A handbook on the subject in Turkish and English, for foreign prisoners, has been printed and distributed.

There are no statistics distinguishing between enforcement magistrates' decisions in respect of juveniles and those in respect of adults. The overall figures for these decisions are given above and in **Appendix 14**. The monitoring boards' and enforcement magistrates' work in relation to juveniles is the same as that regarding adults. Where juveniles are concerned, however, in addition to prisoners' basic rights, special attention is paid to matters relating to the higher interests of children, in accordance with the Convention on the Rights of the Child and domestic legislation.

There are no special monitoring boards for reformatories; the Ankara Monitoring Board, for example, also covers the reformatory. It includes a child welfare expert and a doctor.

The Elazığ Monitoring Board comprises one pharmacist, two university lecturers, one deputy director of civil defence and one public employee; the Ankara Monitoring Board, one paediatrician, one retired judge, one retired public prosecutor, one retired pharmacist member of an NGO; and the İzmir Monitoring Board, one retired member of the Court of Cassation, one retired chief public prosecutor, one deputy head consultant of a hospital, one law professor and one lawyer.