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Report to the Turkish Government

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

from 4 to 17 June 2009

The Turkish Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2011) 14.

Strasbourg, 31 March 2011

CONTENTS

Copy of the letter transmitting the CPT's report

Mr Kaan Esener
Deputy Director General for the
Council of Europe and Human Rights
Ministry of Foreign Affairs
TR - Ankara

Strasbourg, 16 December 2009

Dear Sir

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Turkish Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Turkey from 4 to 17 June 2009. The report was adopted by the CPT at its 70th meeting, held from 2 to 5 November 2009.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Turkish authorities to provide **within six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Turkish authorities to provide, in their response, reactions to the comments formulated in this report as well as replies to the requests for information.

The CPT would ask, in the event of the response being forwarded in Turkish, that it be accompanied by an English or French translation. It would also be most helpful if the Turkish authorities could provide a copy of the response in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours faithfully

Mauro Palma
President of the European Committee
for the prevention of torture and inhuman
or degrading treatment or punishment

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Turkey from 4 to 17 June 2009. The visit formed part of the CPT's programme of periodic visits for 2009. It was the Committee's fifth periodic visit to Turkey.

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

- Aleš BUTALA, Head of delegation
- Sonja KURTÉN-VARTIO
- Marc NÈVE
- Jean-Pierre RESTELLINI
- Antonius Maria VAN KALMTHOUT.

They were supported by Michael NEURAUTER, Head of Division, and Elvin ALIYEV of the CPT's Secretariat, and assisted by:

- Timothy HARDING, former Director of the University Institute of Legal Medicine, Geneva, Switzerland (expert)
- Michael KELLETT, former Detective Chief Inspector in the Lancashire Constabulary, United Kingdom (expert)
- Zeynep BEKDİK (interpreter)
- Belgin DÖLAY (interpreter)
- Kudret SÜZER (interpreter)
- Canan TOLLU (interpreter)
- Serra YILMAZ (interpreter).

B. Establishments visited

3. The CPT's delegation visited the following places of detention:

Law enforcement establishments

- Batman Police Headquarters (Anti-Terror Department and Organised Crime Department)
- Batman-City District Gendarmerie Headquarters
- Bismil District Gendarmerie Headquarters
- Bismil District Police Headquarters
- Diyarbakır Police Headquarters (Anti-Terror Department and Law and Order Department)
- Diyarbakır-Çarşı Police Station
- Edirne Police Headquarters (Law and Order Department)
- Erzurum Police Headquarters (Anti-Terror Department and Law and Order Department)
- Erzurum Provincial Gendarmerie Headquarters
- Hamur District Gendarmerie Headquarters, Ağrı Province
- Istanbul Police Headquarters (Anti-Terror Department and Common Detention Facility)
- Istanbul-Fatih Şehit Tevfik Fikret Erciyes District Police Headquarters
- Istanbul-Fatih Sirkeci Police Station
- Istanbul-Gayrettepe Police Headquarters (Law and Order Department)
- Konya Police Headquarters (Anti-Terror Department)
- Karatay District Gendarmerie Headquarters, Konya Province
- Mardin Police Headquarters (Anti-Terror Department, Law and Order Department and Juvenile Department)
- Mardin-City District Gendarmerie Headquarters
- Nusaybin Police Headquarters (Anti-Terror Department and Law and Order Department), Mardin Province
- Nusaybin District Gendarmerie Headquarters
- Van Police Headquarters (Anti-Terror Department and Juvenile Department)
- Iskele Police Station, Van Province

Detention/holding facilities for foreigners

- Ağrı Detention Centre for Foreigners
- Edirne Detention Centre for Foreigners
- Istanbul-Kumkapı Detention Centre for Foreigners
- Istanbul-International Airport – Passport Police holding facilities (transit zone)
- Kırklareli Detention Centre for Foreigners
- Konya Aliens Police Department temporary holding facility for foreigners
- Van Detention Centre for Foreigners

Prisons

- Erzurum E-type Prison
- Erzurum H-type Prison
- Kırıkkale F-type Prison
- Konya E-type Prison
- Istanbul-Hasdal Military Prison

In addition, the delegation went to the following prisons, in order to interview recently-arrived remand prisoners:

- Batman M-type Prison
- Bismil K2-type Prison
- Diyarbakır D-type Prison
- Diyarbakır E-type Prison
- Mardin E-type Prison
- Van F-type Prison
- Van M-type Prison.

C. Co-operation and consultations held by the delegation

4. The degree of co-operation received by the delegation, at all levels, was on the whole very good. The CPT is very grateful for the time devoted to discussions with the delegation by Mr Osman GÜNEŞ, Deputy Minister of the Interior, Mr Ahmet KAHRAMAN, Deputy Minister of Justice, and Mr Turan BUZGAN, Deputy Under-Secretary of State at the Ministry of Health. The delegation also had fruitful consultations with senior officials from the Ministries of Foreign Affairs, Health, the Interior, Justice and National Defence and with representatives of the Turkish Armed Forces, as well as with the Director General for Social Services and Child Protection. Discussions were also held with representatives of the Ankara Office of the United Nations High Commissioner for Refugees (UNHCR) and non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities and organisations met by the delegation is set out in Appendix II to this report.

5. The CPT wishes to express its appreciation for the assistance provided before and during the visit by the CPT's liaison officer, Ms Füsun ARAMAZ, from the Ministry of Foreign Affairs.

6. With a few exceptions, the delegation enjoyed rapid access to all the places visited (including those which had not been notified in advance), was provided with the information necessary for carrying out its task and was able to speak in private with persons deprived of their liberty.

7. An important exception was the Chief Prosecutor's Office in Diyarbakır, where the delegation was denied access to two investigation files relating to the alleged ill-treatment of detained persons by police officers[1]. The Chief Prosecutor stated, on the one hand, that investigations were still ongoing in both cases and that, pursuant to Section 157 of the Code of Criminal Procedure (CCP), the related investigation files were thus confidential and, on the other hand, that the complaints in question were unfounded; this appears to be a contradiction.

In this connection, the CPT wishes to stress that assessing the effectiveness of action taken by the competent investigatory authorities when ill-treatment may have occurred constitutes an integral part of the CPT's mandate, given the implications that such action has for future conduct by law enforcement officials[2].

In order to be able to make such an assessment, it is essential for the CPT to have access to detailed information on the investigative steps taken (including a full list of all the documents included in the investigation file – e.g. reports on the use of force at the time of apprehension; testimony statements from eye-witnesses; forensic medical reports, etc.) in the cases concerned. By virtue of Article 8, paragraph 2 (d), of the Convention, Parties are obliged to provide the Committee with such information. The most straightforward way of meeting this obligation – and the way followed in the past by other States Parties to the Convention – is for the CPT to have access to the relevant files held by the authorities responsible for the investigation.

When seeking information, the CPT is obliged to have regard to rules of national law and professional ethics. This might have implications as regards the precise manner in which the information sought is provided to the Committee. However, nothing can justify an outright refusal to grant access to information which is relevant to the Committee's activities, or access under conditions which would be tantamount to a refusal.

The CPT trusts that the relevant authorities will make the necessary arrangements to ensure that the Committee is provided detailed information on the content of the above-mentioned investigation files.

More generally and having regard to Article 8, paragraph 2 (d), of the Convention, **the Committee recommends that appropriate steps be taken by the relevant authorities to enable the Committee to have effective access in future to any criminal investigation files which are related to the alleged ill-treatment of detained persons.**

8. Further, at Ağrı Detention Centre for Foreigners, repeated attempts were made by police officers to obstruct the delegation's work by providing explanations which subsequently proved to be incorrect. By way of example, misleading information was given on the number of detainees held during the previous weeks, and on the availability of outdoor exercise. Upon arrival at the centre, the delegation was told that the register of detainees held in the centre had been sent to the police headquarters to be checked. Further, despite repeated promises that the register was being sent to the centre and could be examined by the delegation, it had not been produced by the end of the visit some three hours later.

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1 In both cases, the prisoners concerned alleged that the injuries they displayed on admission to Diyarbakır D-type Prison had been inflicted by police officers. Subsequently, the medical reports drawn up by the prison doctor had been notified by the director of the prison to the prosecutor's office.

2 Cf. also the Section "Combating impunity" of the CPT's 14th General Report (CPT/Inf (2004) 28).

At Batman Police Headquarters, access to the detention area of the Organised Crime Department was delayed for almost one hour. The police officers present stated that two detained persons had been transferred to the hospital and that the only key to the detention area was kept by the officers accompanying those persons. However, when the delegation was eventually able to enter the detention area (which contained no detained persons), it found a document which, according to the time indicated on it, had been issued by the local hospital and deposited in the detention area while the delegation was still kept waiting for the key.

The CPT trusts that the Turkish authorities will take the necessary steps to prevent any repetition of such situations in the future. Further, **the Committee would like to receive a copy of the custody register of Ağrı Detention Centre for Foreigners, covering the month of June 2009.**

D. Immediate observations under Article 8, paragraph 5, of the Convention

9. At the end-of-visit talks with the Turkish authorities on 17 June 2009, the delegation made two immediate observations under Article 8, paragraph 5, of the Convention.

The first immediate observation was made in respect of the detention centres for foreigners in Edirne-Tunça and Istanbul-Kumkapı where male adult detainees were usually denied outdoor exercise for weeks or even months on end, and the detention centres in Ağrı, Konya and Van which had no outdoor exercise facilities at all. The delegation called upon the Turkish authorities to take the necessary measures to ensure that all immigration detainees at the detention centres in Ağrı, Edirne-Tunça, Istanbul-Kumkapı, Konya and Van are able to benefit from at least one hour of outdoor exercise per day.

The second immediate observation was made concerning the provision of outdoor exercise to prisoners at Erzurum E-type and H-type Prisons and Konya E-type Prison. At Erzurum E-type Prison, some prisoners had been held in "observation cells" (*Müşahede*) for several months without having any possibility of going out into the open air. Further, prisoners held in admission cells at Erzurum H-type and Konya Prisons (for up to three days) had no access to the open air. At Konya, prisoners held in the "Hobi" units and the infirmary and disciplinary punishment cells, as well as in some of the living units in E block, were not offered outdoor exercise at weekends. The delegation called upon the Turkish authorities to take measures at Erzurum E- and H-type Prisons and Konya E-type Prison to ensure that all prisoners are offered at least one hour of outdoor exercise per day, including at weekends.

10. The above-mentioned immediate observations were subsequently confirmed in a letter of 20 July 2009 from the Executive Secretary of the CPT, in which the Turkish authorities were requested to provide, within two months, detailed information on the steps taken in response.

By letter of 23 September 2009, the Turkish authorities provided information on various issues raised by the delegation during the end-of-visit talks, including on the measures taken in response to the above-mentioned immediate observations. These measures will be assessed later in the report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Monitoring of places of deprivation of liberty

11. The CPT attaches great importance to regular visits to all places of deprivation of liberty by an independent body (for example, a visiting committee) with authority to receive – and, if necessary, take action on – complaints from detained persons and to visit the premises. During such visits, members of the monitoring body should make themselves "visible" to the management and staff of the establishment as well as to the detained persons. They should not limit their activities to seeing detained persons who have expressly requested to meet them, but should take the initiative by visiting the establishments' accommodation areas and entering into contact with detained persons.

The CPT welcomes the fact that several of the establishments visited by its delegation (for instance, the detention centres for foreigners in Istanbul-Kumkapı and Kirklareli) have received regular and, on occasion, unannounced visits by members of the relevant Provincial Human Rights Board (under the auspices of the Human Rights Presidency of the Prime Minister's Office)[3].

In order to obtain a nationwide picture, the CPT would like to receive a list of all places of deprivation of liberty which have been visited by provincial/district human rights boards in every province since January 2008 (if possible, with an indication as to whether a visit had been announced in advance or not).

Further, **the Committee wishes to obtain, for each type of establishment (including a detention facility of a law enforcement agency, a detention centre for foreigners, a prison and a psychiatric hospital), one representative example of a visit report drawn up by a human rights board.**

12. On 16 September 2005, Turkey signed the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), which provides, inter alia, for the setting-up of one or several independent monitoring bodies (National Preventive Mechanisms – NPMs), which would carry out visits to all types of places of deprivation of liberty (including detention facilities of law enforcement establishments). This is a welcome development.

During the 2009 visit, the delegation was informed that a draft law had been drawn up and preparations were being made which would enable Turkey to ratify the OPCAT in the near future. **The CPT would like to receive more detailed information on this subject, especially as regards the NPM(s) envisaged.**

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[3] The composition, mandate and working methods of provincial and district human rights boards are summarised on pages 11 and 12 of the Turkish authorities' response to the December 2005 visit to Turkey (CPT/Inf (2006) 31).

B. Law enforcement agencies

1. Preliminary remarks

13. The general legal framework governing the detention of persons who are suspected of having committed a criminal offence remains unchanged since the 2005 visit. The maximum authorised period of police/gendarmerie custody is generally 24 hours[4]. In the cases of certain offences specified by law, the custody period can be extended to 48 hours, and in the case of terrorism-related or other "collective" offences, the custody period can be extended to a maximum of four days[5].

The 24-hour time limit also applies to persons who have been deprived of their liberty for identification purposes or for reasons of public order[6].

2. Ill-treatment

14. The CPT is pleased to note that the downward trend seen in recent years in both the incidence and the severity of ill-treatment by law enforcement officials appears to be continuing. In the course of the visit, more than 250 persons who were or had recently been detained by the police or gendarmerie were interviewed[7]. The great majority of them indicated that they had been treated correctly whilst in custody. Several persons who had been detained before stated that the situation today was much improved compared with the past.

That said, the delegation received a number of allegations of excessive use of force at the time of apprehension (such as kicks or blows after the person concerned had been brought under control), as well as of threats or verbal abuse during police questioning.

The situation still appears to be problematic in the Diyarbakır area, where most of the above-mentioned allegations of ill-treatment were received. Several remand prisoners, who were interviewed separately, gave consistent accounts of beatings during transportation in a police vehicle, blows with batons and threats of sodomy in police establishments and, in a few cases, of cigarette burns[8]. Some of the allegations made were supported by medical or other evidence.

The CPT recommends that a formal statement emanating from the relevant authorities be delivered to all law enforcement officials in the Diyarbakır area, reminding them that they should be respectful of the rights of persons in their custody and that the ill-treatment of such persons will be the subject of severe sanctions.

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4 Section 91, paragraph 1, of the CCP and Section 13 of the 2005 Regulation on Apprehension, Detention and the Taking of Statements (hereinafter: "Detention Regulation").

5 Sections 91, paragraph 3, and 251, paragraph 5, of the CCP and Section 14 of the Detention Regulation.

6 Section 5 of the Detention Regulation.

7 The delegation visited more than 20 law enforcement establishments and interviewed remand prisoners in twelve different prisons throughout Turkey.

8 It was repeatedly alleged that instances of physical ill-treatment occurred in parts of the premises of the police headquarters which were outside the viewing field of CCTV cameras.

Further, **law enforcement officials throughout Turkey should be reminded, at regular intervals, that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be punished accordingly. Police officers should also be reminded that no more force than is strictly necessary is to be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them.**

15. The delegation also received a number of credible allegations that criminal suspects detained in the Anti-Terror Department at the Diyarbakır Police Headquarters had repeatedly been subjected to sleep deprivation during their stay in police custody[9]. This practice appeared to be combined with an almost systematic application of the provisions of the anti-terror legislation which allow access to a lawyer to be denied during the first 24 hours and the custody period to be extended to four days (see also paragraphs 13 and 22). Neither the use of sleep deprivation nor the regular resort to the above-mentioned legal provisions were found by the delegation in any of the other Anti-Terror Departments visited.

It would appear that the practice observed at the Diyarbakır Police Headquarters was primarily used as a tool designed to wear down the resistance of suspects to questioning and to obtain confessions from them. The allegations made were also corroborated by written records found in the Anti-Terror Department. The delegation examined the records relating to several persons who were being held in the department's detention facilities at the time of the visit. According to these records, the persons concerned were being taken from their cells to be interviewed during the night – as late as 3 or 4 o'clock in the morning – after having already been interviewed for most of the previous day. One man had been interviewed for more than six hours between 2.05 a.m. and 8.17 a.m. on 4 June. His next interview started at 8.40 a.m. and he was then subjected to a further nine interviews for a total of eight hours and fifty minutes between that time and 8.50 a.m. the following day, 5 June, including one interview that began at 3.19 a.m. and lasted until 5.02 a.m.

Any resort to deliberate sleep deprivation of detained persons is not acceptable. It should also be noted that such a practice is prohibited under Turkish legislation[10].

The Committee recommends that appropriate steps be taken by the relevant authorities to put an immediate end to the resort to sleep deprivation at Diyarbakır Police Headquarters. As a rule, a detained person should be allowed within a given period of 24 hours a continuous period of at least eight hours for rest, free from questioning or any activity in connection with the investigation.

16. As stressed in previous visit reports, one of the most effective means of preventing ill-treatment by law enforcement officials lies in the diligent examination by the competent authorities of all relevant information regarding alleged ill-treatment which may come to their attention, whether or not that information takes the form of a formal complaint; failing to do so will contribute to creating a climate of impunity (see also paragraph 7).

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[9] One detained person alleged that he had been interviewed almost constantly by rotating teams of investigators for a period of approximately twenty hours (and that he had been subjected to physical ill-treatment during questioning). He said that he was finally allowed to return to his cell and go to sleep but about ten minutes later was woken up by police officers who demanded that he sign some papers there and then.

[10] Section 148, paragraph 1, of the CCP and Section 24 of the Detention Regulation.

17. In particular in the Diyarbakır area, several detained persons met by the delegation claimed that they had verbally complained to a prosecutor and/or judge about instances of ill-treatment by law enforcement officials, but that their interlocutors had shown little interest and had taken no further action on the matter.

In this connection, the CPT wishes to recall that, whenever criminal suspects brought before prosecutorial or judicial authorities allege ill-treatment, those allegations should be recorded in writing, a forensic medical examination should be immediately ordered, and the necessary steps taken to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible injuries.

It is also noteworthy that, under Turkish criminal legislation, any public official who fails to report to the police or a public prosecutor's office an offence of which he has become aware in the course of his duties is liable to imprisonment[11]. A public prosecutor who is informed by any means whatsoever of a situation that gives rise to suspicion that an offence has been committed is obliged to investigate the facts in order to decide whether or not there should be a prosecution[12].

Further, the European Court of Human Rights has repeatedly ruled that a failure to conduct an effective investigation into allegations of ill-treatment constitutes a violation of Article 3 of the European Convention on Human Rights[13].

The CPT recommends that the prosecutorial and judicial authorities in the Diyarbakır area be reminded of their obligations to initiate preliminary investigations and to take resolute action within their powers when any information indicative of ill-treatment emerges.

18. Finally, in order to obtain a nationwide picture of the situation, **the CPT would like receive the following information, in respect of the period from 1 January 2007 to the present time:**

- **the number of complaints of ill-treatment made against law enforcement officials and the number of criminal/disciplinary proceedings which have been instituted as a result;**
- **an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by law enforcement officials.**

3. Safeguards against ill-treatment

a. notification of custody

19. Section 95, paragraph 1, of the CCP and Section 8 of the Detention Regulation stipulate that, whenever a criminal suspect is apprehended or arrested, or the detention period is extended, a relative or another trusted person shall be informed "without delay" upon the order of the prosecutor. According to Section 8 of the Detention Regulation, the right of notification also applies to persons who have been apprehended for other reasons than being suspected of having committed a criminal offence.

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11 Section 235 of the Penal Code.

12 Section 153 of the CCP.

13 See, for instance, *Ahmet Özkan and Others v. Turkey* (6 April 2004, application no. 21689/93) and *Dikme v. Turkey* (11 July 2000, application no. 20869/92).

The information gathered during the visit indicates that the above-mentioned legal provisions were generally respected in practice. However, a number of allegations were received that detained persons had not been informed of the right of notification at the very outset of their deprivation of liberty (see, in this regard, paragraph 25) or that the exercise of this right was delayed for several hours or, on occasion, even more. Due to the poor state of the custody registers in various law enforcement establishments visited (see paragraphs 29 and 30), the delegation was often not in the position to verify the credibility of the allegations made.

The CPT recommends that law enforcement officials throughout Turkey be reminded of their legal obligations regarding the implementation of the right of notification of custody.

b. access to a lawyer

20. The CPT welcomes the fact that, with the entry into force of the new CCP (on 1 July 2005), the right of detained persons to contact and meet a lawyer in private and to have a lawyer present during questioning by law enforcement officials is formally guaranteed as from the outset of custody[14] (see, however, the exception referred to in paragraph 22 regarding persons who are suspected of having committed a terrorism-related offence). Further, indigent persons are entitled to free legal aid by a lawyer appointed *ex officio* (through the Bar Association). In cases where a detained person is suspected of having a committed a criminal offence punishable by a maximum of at least five years' imprisonment, the appointment of a lawyer is obligatory. It is also noteworthy that statements taken by law enforcement officials in the absence of a lawyer cannot constitute the basis for a judgment unless they are confirmed by the suspect or accused before the court[15].

21. The information gathered during the visit would suggest that in the great majority of cases the implementation in practice of the above-mentioned legal safeguards did not pose any particular problems.

However, once again a number of allegations were received from detained persons (in particular in Diyarbakır) to the effect that they had been subjected to informal questioning by law enforcement officials without the presence of a lawyer, prior to the taking of a formal statement (in the lawyer's presence). Further, several detained persons claimed that they had not been allowed to meet their lawyer in private before the first questioning.

The CPT reiterates its recommendation that the Turkish authorities take the necessary steps to ensure that the right of access to a lawyer for persons in police/gendarmerie custody is fully effective in practice as from the very outset of custody.

22. The CPT has serious misgivings about certain amendments[16] which were made in 2006 to the 1991 Law on the Prevention of Terrorism (Law No. 3713). According to the new Section 10 (b), persons who are suspected of having committed a terrorism-related offence may be denied access to a lawyer during the initial 24 hours of custody (by order of a public prosecutor). Further, Section 10 (e) of the law stipulates that, if there is evidence that the defence lawyer might be "liaising" between the detainee and a terrorist organisation, at the request of the prosecutor and following a decision by a judge, an officer can be present during meetings between the suspect and his lawyer".

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14 Sections 149, 150 and 154 of the CCP; see also Sections 20 and 21 of the Detention Regulation.

15 Section 148, paragraph 4, of the CCP.

16 Law No. 5532 of 29 June 2006 amending the Law on the Prevention of Terrorism.

The Committee must stress once again that its objective of guaranteeing an effective right of access to a lawyer – from the outset of police/gendarmerie custody – is not linked to issues of due process or the right to a defence; it is aimed at preventing ill-treatment. In the CPT's experience, it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is at its greatest.

Admittedly, under Section 10 of the Law on the Prevention of Terrorism, no statement may be taken from persons suspected of terrorism-related offences as long as they are denied access to a lawyer. However, that does not mean that the risk of intimidation and ill-treatment no longer exists. Indeed, most of the allegations of ill-treatment received during this visit related to the moment of apprehension or the period immediately following it.

The CPT acknowledges that it may exceptionally be necessary to delay for a certain period during police/gendarmerie custody a detained person's access to a particular lawyer chosen by him/her. However, there can be no reasonable justification for the right to contact and meet a lawyer in private being totally denied during the period in question. In such cases, access to another, independent, lawyer who can be trusted not to jeopardise the legitimate interests of the investigation should be arranged.

The Committee recommends that the Turkish authorities take all necessary steps – including of a legislative nature – to ensure that every person detained by law enforcement agencies under anti-terror legislation has the right to talk in private with a lawyer, as from the very outset of deprivation of liberty, it being understood that, whenever there are reasonable doubts about the professional integrity of the lawyer chosen by the detained person, another lawyer will be appointed *ex officio*.

Further, **steps should be taken to ensure that, whenever the access of a detained person to the lawyer of his/her own choice is delayed/denied, the reasons for the decision are recorded and a written copy of the decision and the reasoning are provided to the person concerned.**

c. medical examinations of persons in police/gendarmerie custody

23. Over the years, the CPT has stressed the importance of medical examinations of persons held in police/gendarmerie custody to detect any signs of ill-treatment or other injuries. The Turkish authorities have responded positively by putting in place a system of obligatory examinations, as soon as possible after apprehension and again after any extension of the period of custody, as well as at the end of custody (prior to the transfer to prison or the release of the person concerned). In addition, the Detention Regulation has been amended in the light of specific recommendations previously made by the Committee[17].

The visit offered an opportunity to review in-depth the operation of this system. For this purpose, the delegation interviewed many detained persons and held consultations with several hospital doctors involved in such examinations, as well as with various law enforcement officials. In addition, it examined many medical reports drawn up by doctors and was also able to directly observe some of these examinations.

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17 See Section 9 of the Regulation.

The CPT wishes to stress that the delegation's findings were disturbing. In the vast majority of cases, law enforcement officials were present during the examinations; the person concerned had no opportunity to speak with the doctor in private; the actual examination was cursory or non-existent[18]; and the conclusions were often summarised in two or three words on the form supplied by the law enforcement agency requesting the examination. In the CPT's view, this state of affairs is not primarily due to the refusal of law enforcement officials to allow the doctor to make a full examination in private. It is the emergency doctors themselves who are not motivated to do this work properly. They give priority to their "real patients" and take as many shortcuts as they can concerning the persons brought by the police/gendarmerie. Moreover, some doctors even talked of being afraid of criminal suspects or expressed a clear prejudice against such persons.

Further, in a number of cases, the requirement that the report drawn up at the end of custody be transmitted to the public prosecutor in a closed and sealed envelope was not complied with. It is also a matter of concern that it was not uncommon for detained persons to remain handcuffed during medical examinations (on occasion, even handcuffed to the escorting police officer).

The CPT recommends that appropriate steps be taken by the relevant authorities to ensure that medical examinations of persons in police/gendarmerie custody are carried out in full compliance with the requirements set out in Section 9 of the Detention Regulation. Further, **steps should be taken to put an end to the use of handcuffs during such examinations.**

24. More generally, the CPT considers that the time has come to review the current system, with the aim of developing a more simplified approach in the longer term.

The number of allegations of ill-treatment at the time of apprehension or during police/gendarmerie custody has continued to fall, thus confirming the positive trend already observed over the past years. Undoubtedly, the system of medical examinations has contributed to the disappearance of widespread ill-treatment which dominated the work of the CPT in Turkey during the 1990s. However, the underlying change of attitude among the great majority of law enforcement officials implies that Turkey might no longer need such a complex system, in which detained persons may undergo up to five separate medical examinations in the space of four days (including medical screening upon admission to a prison).

In the CPT's view, **there needs to be reflection by all relevant parties (justice, health, police and gendarmerie) on the way forward, with a view to developing a system of medical examinations which is more simplified but still effective in terms of prevention of ill-treatment by law enforcement officials; the Committee is ready to take part in this process.**

d. information on rights

25. The CPT is pleased to note that the Suspects Rights Form (SRF), as reproduced in Annexe A to the Detention Regulation, was in use in all the law enforcement establishments visited.

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[18] Usually, detained persons were not requested to undress themselves, and hardly any physical examinations wereperformed.

That said, the manner in which detained persons were informed of their rights varied considerably from one law enforcement establishment to another. In a number of establishments, detained persons were usually informed of all their rights promptly, while in other establishments delays of several hours (and, on occasion, even more) were observed by the delegation. In one establishment, police officers indicated that, upon arrival at the establishment, detained persons were only informed of their right to notify a family member or another trusted person and that the SRF was given to them only at the start of formal questioning.

Further, the delegation received many allegations from detained persons that they had been compelled to sign the SRF without having been able to read it beforehand or without having understood its contents. Evidence which corroborates the allegations made was found in some establishments where entries in the sections relating to lawyers in the custody register bore only the signatures of detained persons, without any indication as to whether or not they indeed wanted to contact a lawyer. This would suggest that they were just told to sign and not informed as to what they were signing.

Moreover, in virtually all the establishments visited, it seemed to be common practice not to provide detained persons with a copy of the SRF, despite the explicit requirement in the Detention Regulation[19] and despite the fact that law enforcement officials were required to sign a declaration (pre-printed on the SRF) that they had handed a copy of it to the person concerned.

The CPT recommends 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 information given orally at the very outset, and supplemented at the earliest opportunity (that is, immediately upon their arrival at a law enforcement establishment) by the provision of the SRF. Further, the persons concerned should always be given a copy of the form.

26. On a positive note, it should be added that, in a number law enforcement establishments visited, notices setting out the rights of detained persons were displayed prominently in several languages in the detention area. **The CPT encourages the Turkish authorities to extend this practice to all law enforcement establishments.**

e. specific issues related to minors

27. Turkish legislation[20] contains important procedural safeguards for minors detained by law enforcement agencies. In particular, whenever minors who are suspected of having committed a criminal offence are apprehended by law enforcement agencies, the parents and a lawyer must be contacted. Further, minors may only be questioned in the presence of a lawyer and statements can only be taken by a public prosecutor.

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19 Section 6 of the Regulation.

20 Section 19 of the Law on the Establishment, Duties and Trial Procedures of Juvenile Courts, Section 150, paragraph 2, of the CCP and Section 19 of the Detention Regulation.

The information gathered during the visit suggests that the above-mentioned requirements were by and large met in all the law enforcement establishments visited. However, a number of allegations were received from detained minors that they had been subjected to informal questioning by law enforcement officials about the offence of which they were suspected without a lawyer being present. **The CPT recommends that appropriate steps be taken to put a stop to any such practice.**

28. Further, it is regrettable that, despite the specific recommendation made by the Committee in previous visit reports[21], minors were still not provided with a specific version of the SRF that set out the particular position of detained minors. **The CPT calls upon the Turkish authorities to implement this long-standing recommendation without delay.**

f. custody registers

29. In every law enforcement establishment visited, a custody register was kept in the format laid down in the Detention Regulation[22].

The quality of the record keeping varied considerably from one establishment to another. The situation appeared to be generally satisfactory in the police and gendarmerie establishments visited in the Erzurum, Konya and Van Provinces, while, in many of the establishments visited in other provinces, custody records were found to be in a poor or even very poor state. Entries were often incomplete (e.g. no systematic recording of the time of apprehension and the time of placement in the cell; no indication as to whether or when family members or lawyer had been contacted) or inaccurate. Further, long delays were on occasion observed in completing the registers[23].

The CPT recommends that law enforcement officials be reminded of the importance of opening custody records promptly in every case and of ensuring full, accurate and timely record keeping.

30. In virtually all the law enforcement establishments visited, a custody register only existed for the recording of persons who were physically placed in a custody cell. Thus, no record was usually kept of persons who had been deprived of their liberty without being formally detained (e.g. for identification purposes).

The CPT recommends that steps be taken to ensure that a record is made and kept in every law enforcement establishment of every instance of a person being deprived of his/her liberty on the premises of that establishment.

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21 See paragraph 26 of the report on the September 2003 visit (CPT/Inf (2004)16) and paragraph 33 of the report on the 2004 visit (CPT/Inf (2005) 18).

22 See Section 12 and Annexe B to the Detention Regulation.

23 For instance, when visiting the Common Detention Facility at Istanbul Police Headquarters on the morning of 12 June 2009, the custody register in respect of twelve persons who had been apprehended on 9 June had still not been completed, other than their names and the times of their arrival at the police headquarters.

g. monitoring and recording of interviews by law enforcement officials

31. At the outset, it should be stressed that none of the law enforcement establishments visited had intimidating interrogation facilities of the kind which had been criticised by the Committee after previous visits[24]. This is a most welcome development.

32. The monitoring and recording of interviews by law enforcement officials represents an important additional safeguard against the ill-treatment of detained persons. Such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated and of law enforcement officials confronted with unfounded allegations that they have engaged in physical ill-treatment or psychological pressure. Electronic recording of such interviews also reduces the opportunity for defendants to later falsely deny that they have made certain admissions.

33. In the Anti-Terror Departments visited, interview rooms were equipped with CCTV cameras which enabled interviews to be monitored remotely by senior officers and others involved in the investigation. The interview rooms were also equipped with recording equipment enabling interviews to be both sound and video recorded.

The delegation observed that CCTV cameras were usually fixed on the detained person, and it was not possible to operate the camera and rotate it or to increase the viewing field so as to be able to monitor every person present in the interview room. Thus, it would for example be possible for threatening gestures to be made towards the detained person by others present without them being seen by those monitoring.

It would be desirable for CCTV cameras in the interview rooms of Anti-Terror Departments to be adjusted so as to provide an image of the entire room and of all persons present in it; the Committee has no objections if law enforcement agencies deem it necessary to have an additional camera installed which is fixed on the person being interviewed.

34. In the various Anti-Terror Departments visited, the delegation received conflicting information as to when interviews were actually recorded. In some establishments, the delegation was told that it was a matter for the prosecutor to decide. In one Anti-Terror Department, police officers stated that interviews were recorded only when a formal statement was taken and/or when a lawyer was present, while in another establishment it was explained that recording usually took place when a lawyer was not present. In yet another establishment, officers indicated that interviews would be recorded only at the request of the detained person concerned.

Furthermore, there appeared to be different practices adopted concerning the retention and storage of recordings. In Van, DVDs of interviews were stored at the police headquarters whilst in other places the delegation was told that all recordings were retained by the prosecutor.

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[24] As regards Istanbul and Van Police Headquarters, the CPT already observed significant improvements in the report on the 2005 visit (CPT/Inf (2006)30, paragraph 34).

It is the Committee's view that the benefits of recording interviews, outlined in paragraph 32, are best assured if a consistent and systematic approach is taken to the subject and that both police officers and prosecutors operate according to set rules. The default position should be that all interviews with terrorist suspects are recorded and that the recordings are retained securely for a reasonable period and are available to the court and to other parties with a legitimate interest in viewing them, including those responsible for monitoring and inspecting detention facilities and those charged with investigating allegations of ill-treatment.

The CPT recommends that the Turkish authorities take steps to ensure that all interviews of detained persons in Anti-Terror Departments are electronically recorded (by audio and video recording) and that recordings are kept for a reasonable period and are made available to be viewed by appropriate persons. The Committee also invites the Turkish authorities to consider the possibility of introducing recording of interviews in other law enforcement departments.

h. inspection procedures[25]

35. In previous visit reports[26], the CPT called for "more robust on-the-spot checks" of law enforcement establishments by public prosecutors.

The information gathered during the 2009 visit would suggest that there is all too often a striking discrepancy between theory and practice. Although all law enforcement establishments received inspection visits by the competent public prosecutor on a more or less regular basis[27], the quality and thoroughness of such inspections frequently left much to be desired. By way of example, in a number of establishments, visiting prosecutors had certified by signature the accuracy of custody registers, without apparently having detected flagrant omissions and errors present in them. Further, it would seem that visiting prosecutors only rarely interviewed detained persons in private. To sum up, inspections by public prosecutors often appeared to be an empty gesture[28].

The CPT recommends that prosecutors in all provinces be encouraged to carry out more robust on-the-spot checks of law enforcement establishments, in line with the criteria set out by the Committee in paragraph 40 of the report on the 2003 visit[29].

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25 See also paragraphs 11 and 12.

26 Most recently, in paragraph 27 of the report on the 2005 visit (CPT/Inf (2006)30).

27 In many establishments, such visits took place two to four times per year, while some establishments (e.g. Batman-City District Gendarmerie Headquarters and the Common Detention Facilty at Istanbul Police Headquarters) were visited on a monthly basis.

28 The explanation given by the head of one of the Anti-Terror Departments visited about the role of visiting prosecutors ("*We work closely together and he is our superior in investigations. He does not record his visits. He uses the place like his office*"), is symptomatic of the situation observed by the delegation.

29 "The situation in all law enforcement establishments must continue to be thoroughly checked at appropriate (and irregular) intervals. Senior officials and public prosecutors carrying out those checks must examine all issues related to the treatment of persons in custody; those issues concern not only material conditions of detention but also questions such as the recording of detention, information on rights and the actual exercise of those rights (in particular the rights of access to a lawyer and to notify a relative of one's custody), and compliance with the rules governing the medical examination of persons in police/gendarmerie custody. To explore these different issues in an effective manner will involve interviewing in private persons who are in detention".

4. Conditions of detention

36. The CPT acknowledges the efforts made by the Turkish authorities in recent years to improve conditions of detention in law enforcement establishments. Indeed, material conditions in all short-term custody cells were on the whole adequate. The cells were sufficiently large for the intended level of occupancy, were equipped with a means of rest (plinths or benches) and had adequate artificial lighting; some of them also benefited from access to natural light. Further, the custody facilities were generally clean and well ventilated, and detained persons held overnight were provided with a mattress and blankets (and, in gendarmerie establishments, also with beds). The delegation gained a favourable impression of the new Common Detention Facility at Istanbul Police Headquarters, **although it is regrettable that no provision had been made for outdoor exercise.**

37. As regards the detention facilities of the Anti-Terror Departments visited (where suspects may be held for periods of up to four days), conditions of detention varied considerably from one establishment to another. Material conditions were generally satisfactory in the cells of the anti-terror departments at Batman, Diyarbakır, Erzurum, Mardin and Nusaybin Police Headquarters, in terms of their state of repair, access to artificial lighting, ventilation and equipment.

That said, detention facilities in all the Anti-Terror Departments visited suffered from major structural deficiencies. Firstly, with the notable exception of Erzurum Police Headquarters, there was either no or inadequate access to natural light[30]. Secondly, none of the establishments visited had secure facilities to enable detained persons to take outdoor exercise[31].

Additional shortcomings were found in the detention facilities of the Anti-Terror Departments in Istanbul and Van, which rendered the situation as a whole unacceptable in both establishments. At Istanbul Police Headquarters, cells had only very limited access to artificial lighting (from the corridor), and sanitary facilities and showers for female detainees were dilapidated and in a poor state of hygiene. At Van Police Headquarters, detained persons held overnight were not provided with mattresses, and there was neither hot running water nor a shower.

The CPT recommends that material conditions of detention be improved in all the Anti-Terror Departments visited, in the light of the above remarks.

Further, **the CPT recommends 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.**

Finally, **the Committee reiterates its recommendation that the Turkish authorities explore the possibility of offering outdoor exercise on a daily basis to persons held for 24 hours or more by law enforcement agencies; the need for outdoor exercise facilities for detainees should also be taken into account in the design of new premises.**

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30 At Konya and Nusaybin Police Headquarters, cells had small windows which only provided limited access to natural light. In all the other establishments visited, cells had no windows at all.

31 At Van Police Headquarters, detained persons were usually allowed to walk around for half an hour per day in the corridor of the detention area.

38. In previous visit reports[32], the CPT already highlighted the potential advantages of having in police headquarters a centralised detention facility administered by dedicated custodial staff which is organisationally independent of the investigating departments.

It is indeed a positive development that, as the first establishment of its kind, a large common detention facility was opened in 2007 at Istanbul Police Headquarters[33]. However, apart from the commander of the detention facility, police officers working there still came from the departments carrying out the investigations. Each department provided staff to guard "their" suspects and each department maintained its own custody register.

It would be desirable for the current system at Istanbul Police Headquarters to be further developed by deploying dedicated and specially trained custodial officers to the common detention facility, as well as by establishing a single custody register.

Further, **the Committee encourages the Turkish authorities to create common police detention facilities also in other provinces of the country.**

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32 See, in particular, paragraph 54 of the report on the September 2001 visit (CPT/Inf (2002)8).

33 The Anti-Terror Department retained its own detention facility.

C. Foreign nationals held under aliens legislation

1. Detention centres for foreigners

a. preliminary remarks

39. In the course of the visit, the delegation visited a total of six "detention centres" for foreigners in different provinces. The CPT prefers to use this term rather than the misleading euphemism "guest houses", since the persons held in these centres are undoubtedly deprived of their liberty[34].

Ağrı Detention Centre is located on the premises of Ağrı Police Headquarters. With an official capacity of 30 places, the centre was accommodating three male foreign nationals at the time of the visit. The examination of the daily report book revealed that in 2008, over 90 foreign nationals were held there on several occasions, and in 2009 there was a period of 14 days when there were never less than 68 foreign nationals and, on one occasion, 86.

Edirne-Tunça Detention Centre is situated on the premises of former military barracks and had an official capacity of some 450 places. At the time of the visit, 47 foreign nationals were present (including six women and five children). One week earlier, the total number of inmates had been 150[35].

Istanbul-Kumkapı Detention Centre, which was opened in March 2007, is the largest detention facility for immigration detainees in Turkey, with an official capacity of 560 places (for 360 male and 200 female detainees). At the time of the visit, the centre was accommodating 124 foreign nationals (including one woman who had been detained there for more than two years).

Kirklareli Detention Centre consisted of two blocks previously used as a reception centre for Bosnian refugees during the war in former Yugoslavia. With an official capacity of 400 places, the centre was accommodating 26 foreign nationals (including six women and three children) at the time of the visit. Almost all the detainees had been recognised as refugees by UNHCR and were waiting for the outcome of complaints they had lodged with the European Court of Human Rights against their deportation, after their refugee status had been contested by the Turkish authorities[36] (see, in this regard, paragraph 62).

The *temporary detention facilities for foreigners at Konya* comprised a "multi-purpose hall" on the premises of Konya Police Headquarters (capacity: 150 places). At the time of the visit, 47 detainees were being held in the establishment.

Van Detention Centre is located on the premises of the Van Police Headquarters and had an official capacity of 65 places. On the day of the visit, there was only one foreign national present, who was waiting for the outcome of a complaint lodged with the European Court of Human Rights.

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34 This has also been confirmed by the European Court of Human Rights in the judgment *Abdolkhani and Karimnia v. Turkey* dated 22 September 2009 (application no. 30471/08).

35 The delegation was informed that during "peak periods" such as summer 2007, more than 1,100 had been held in the centre.

36 In all these cases, the Turkish authorities had suspended the deportations after the European Court of Human Rights had indicated an interim measure under Rule 39 of the Rules of Procedure of the Court.

40. As regards the legal situation of foreign nationals held in detention centres, reference is made to the remarks made in paragraphs 60 to 64.

b. ill-treatment

41. The delegation heard no allegations of deliberate physical ill-treatment of foreign nationals by custodial staff (police officers) at the detention centres in Istanbul-Kumkapı, Konya and Van.

However, at Edirne-Tunça Detention Centre, the delegation received consistent accounts from several detainees of instances of collective beatings of male foreign nationals[37], and some allegations of physical ill-treatment (slaps and beatings) were also heard at Ağrı and Kırklareli.

The CPT recommends that police officers at the detention centres in Ağrı, Edirne-Tunça and Kirklareli be reminded that all forms of ill-treatment of immigration detainees are not acceptable and will be punished accordingly.

42. Since the 1990s, the CPT has repeatedly received reports from various sources that foreign nationals had been deported from Turkey to a neighbouring country (in particular, Greece, Iran or Iraq) by being compelled by law enforcement officials to cross the border to that country illegally in rural areas. The issue of "informal deportations" was examined by the CPT in detail during the September 2001 visit, in the course of which the Turkish authorities also acknowledged that deportations of this kind did occur from time to time[38]. In the report on that visit, the CPT called upon the Turkish authorities to give clear instructions to all agencies concerned that foreign nationals are to be removed to neighbouring countries only through official border crossings and only upon completion of all relevant procedures.

43. During and after the 2009 visit, the CPT again received accounts of informal deportations of foreign nationals from Turkey to Iran and Iraq. By way of example, the Committee recently received a communication from an Iranian national who claimed that, despite the fact that he had been recognised as refugee by UNHCR and that the procedure for resettlement to a third country was pending with the consulate of that country, he was subjected to an informal deportation to Iran. At the beginning of September 2008, he and a group of some 100 Pakistani nationals were allegedly transferred in five minibuses in the late evening from Van to a military station close to the Iranian border. From there they were allegedly transported in jeeps to a mountainous area nearby and forced one by one to cross the border illegally under constant threat of being shot at by the soldiers. It is also alleged that the border area in question was covered with landmines and that none of the persons concerned had been provided with proper clothes, food or water.

Although the CPT is not in the position to verify the allegations made, **it calls upon the Turkish authorities to take the necessary steps to prevent any such situations from occurring in the future.**

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37 In the meantime, the detention facility for male detainees at Edirne has been closed down (see paragraph 46).

38 See paragraphs 57 to 60 of the report on the September 2001 visit (CPT/Inf (2002)8).

c. conditions of detention

44. As regards material conditions in the detention centres visited, the delegation noted a sharp reduction in the number of detained persons during the two preceding weeks in several establishments visited (in particular at Istanbul-Kumkapı and Edirne-Tunça), where apparently up to 50% of all detainees had been released. This had obviously had a beneficial effect on the living conditions prevailing in the establishments at the time of the visit.

By letters of 23 September, 22 October and 23 November 2009, the Turkish authorities provided monthly statistics on the number of immigration detainees in all the detention centres in Turkey. According to these statistics, the inmate population had remained more or less stable in nearly all the detention centres visited. However, it is a matter of grave concern that the detention centre in Van was apparently accommodating as many as 289 detainees at the end of August, and 118 detainees at the end of September 2009[39]. Given the limited space available and the poor material conditions prevailing in the centre (see paragraphs 39 and 46), such levels of overcrowding are totally unacceptable. **The CPT calls upon the Turkish authorities to prevent any repetition of such overcrowding.**

45. At Istanbul-Kumkapı, material conditions in the new detention facility were generally much better than those found in the past in the former detention facilities in Istanbul[40]. In particular, most detention rooms were spacious, well lit (with good access to natural light) and very clean[41].

That said, it is clear that the centre's current official capacity of 560 places is far too high, given the space and facilities available. In particular, the living space in the detention rooms is insufficient (e.g. 58 m² for 30 beds), and communal rooms are inadequate in terms of size and equipment (e.g. on the ground floor with a total of 120 beds, the communal room was equipped with eight tables and 23 chairs). **The CPT recommends that steps be taken to significantly reduce the official capacity of Istanbul-Kumkapı Detention Centre and to ensure that future occupancy levels are always kept within the limits of the new capacity.**

46. As regards the other detention centres visited, conditions of detention were generally acceptable in the units for female detainees and children in the detention centres at Kırklareli and Edirne-Tunça.

However, they left to be desired in the detention facility at Konya (large hall with no beds, only mattresses on the floor), and were even poor in the unit for male adults in Kırklareli (dilapidated conditions in some parts; poor hygiene; several rooms infested with cockroaches) and in the detention centre at Van (only mattresses on the floor; limited access to natural light; very humid).

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39 At the end of October 2009, the number of detainees at Van Detention Centre stood at 69.

40 Though some improvements were made only very shortly before the visit (e.g. painting of walls, contracting of external cleaning staff, etc.).

41 The doors of many detention rooms had recently been removed, following an incident in which a group of detainees had blocked the door of the detention room from the inside and had caused severe damage to furniture and equipment as a protest against their prolonged detention.

Further, material conditions were quite simply deplorable in the detention centres in Ağrı and Edirne.

At Ağrı, the detention facilities were located below ground level with limited access to natural light and no natural light at all in the detention room for women and children. Further, already on the basis of the centre's official capacity of 30 places, conditions were cramped (24 beds in 39 m² for men; six beds in 12 m² for women, not counting accompanying children), and the centre was repeatedly affected by severe overcrowding[42]. Moreover, ventilation was poor (in particular in the room for women and children), and beds, mattresses and blankets were soiled and in a poor state of repair. **The Ağrı Detention Centre should under no circumstances operate above its official capacity. Further, it is in any event totally unsuitable as a place to hold young children with their mothers.**

At Edirne, the unit for male adults was in an advanced state of dilapidation, and the hygienic conditions of the premises – including the mattresses – were dreadful. In their letter of 23 September 2009, the Turkish authorities informed the Committee that the unit for male adult detainees at Edirne-Tunça had been withdrawn from service. The CPT welcomes this development.

47. It is of particular concern that, with the exception of Kırklareli and, as regards women and children, Istanbul-Kumkapı[43], foreign nationals held in the detention centres visited were offered no outdoor exercise at all. Such a state of affairs is unacceptable.

During the end-of-visit talks, the delegation made an immediate observation and called upon the Turkish authorities to take the necessary measures to ensure that all immigration detainees at the detention centres in Ağrı, Edirne-Tunça, Istanbul-Kumkapı, Konya and Van are able to benefit from at least one hour of outdoor exercise per day.

By letter of 23 September 2009, the Turkish authorities informed the Committee that foreign nationals held at Istanbul-Kumkapı Detention Centre "are allowed to open air for an *average of one hour per day*[44] and benefit from outdoor activities. Moreover, children can also use the children's playground when accompanied by a family member". The authorities also indicated that, at Van Detention Centre, foreign nationals were now offered at least two hours of outdoor exercise in the garden area of the Security Directorate. Further, at Ağrı Detention Centre, detainees were now "allowed to use the garden of Ağrı Police Headquarters, which is adequate in terms of capacity and space", and, at Konya, "work is already underway for the construction of an outdoor exercise and play garden area".

The CPT welcomes the steps taken thus far and **would like to receive confirmation that all foreign nationals held at Ağrı and Istanbul-Kumkapı Detention Centres are able to benefit from at least one hour of outdoor exercise per day**.

Further, **the Committee would like to be informed of the progress made in constructing an outdoor exercise area at the detention facilities at Konya Police Headquarters.**

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42 See paragraph 39.

43 At Kumkapı, the existing courtyard was primarily used as a parking area for police vehicles. Due to the limited space available, only female detainees and children benefited from daily outdoor exercise, whereas male adult detainees were usually denied outdoor exercise for weeks and months on end.

44 Emphasis added.

48. The delegation was informed that there were plans to construct several regional detention centres for foreigners, to replace many of the establishments currently in use. This is a welcome development.

The CPT acknowledges that, pending the construction of new detention facilities, it is pointless to invest in major structural changes to the existing detention centres. That said, **the Committee recommends that urgent steps be taken to ensure that the detention centres at Ağrı, Kırklareli (unit for male adults), Konya and Van are kept in an acceptable state of repair and hygiene.**

Further, **the Committee would like to receive detailed information on the implementation of the above-mentioned construction plans as well as on the out-of-cell activities which will be offered to persons held in the new detention centres.**

49. The CPT is also seriously concerned by the fact that immigration detainees, including those who had been held in detention for very long periods, were not provided with any recreational activities, or with reading material. Further, no attention was paid to the particular needs of children.

The Committee recommends that the Turkish authorities take steps at all the detention centres visited to ensure that foreign nationals are offered a greater number and broader range of activities.

50. On a positive note, it should be added that television sets had (recently) been provided in most of the detention centres visited. **The same approach should be followed in all detention centres for foreigners.**

51. In several detention centres visited, many complaints were received about the quality and/or quantity of the food provided. The director of one of the centres visited affirmed to the delegation that, in his experience, the budgetary allocation of 4.60 TLR per person and day was clearly insufficient. **The CPT recommends that the provision of food to immigration detainees be reviewed in all the detention centres for foreigners, to ensure that it is adequate in terms of both quantity and quality.**

d. health care

52. As regards health care, the CPT welcomes the fact that acute medical conditions, even fairly minor ones, were responded to effectively in all the detention centres visited by calling an ambulance, which arrived promptly. Medication was provided free of charge.

However, it is a matter of concern that there was no systematic medical examination on entry in any of the detention centres visited. Thus, persons with contagious diseases could be placed in the detention area alongside others. The risks involved were accentuated by the severe overcrowding and unhygienic conditions which often prevailed in these centres. Further, due to the lack of nursing staff, prescribed medicines were usually distributed by police officers.

It should also be added that medical confidentiality was not guaranteed in any of the detention centres visited, as non-medical staff had access to medical data.

Clearly, many of the above-mentioned deficiencies could be remedied by having qualified nursing staff present on a regular basis in every detention centre for foreigners. At Istanbul-Kumkapı, the delegation was informed that there were already plans to ensure the presence of a nurse on the premises of the centre.

The CPT recommends that the necessary steps be taken in all the detention centres for foreigners to:

- **ensure that all newly-arrived detainees are promptly examined by a doctor or by a fully-qualified nurse reporting to a doctor;**

- **arrange for the daily presence of a person with a recognised nursing qualification, the length of time of that presence depending on the number of immigration detainees; a nurse should be present on a full-time basis at Istanbul-Kumkapı. Such nursing staff could in particular perform the initial medical screening of new arrivals, receive requests from foreign nationals to see a doctor, ensure the provision and distribution of prescribed medicines, keep the medical documentation (thus ensuring confidentiality of medical data) and supervise the general conditions of hygiene.**

e. other issues

53. In most of the detention centres for foreigners visited, the entire premises, including all accommodation areas, were fitted with video surveillance cameras, allowing police officers in the central office to monitor the movement of all foreign nationals on a 24-hour basis.

The CPT acknowledges that in-room video surveillance may be justified for security reasons in individual cases and under exceptional circumstances, provided that there are appropriate safeguards in place (such as regular review of the measure and recording of events in a logbook at regular intervals).

However, given the intrusive nature of such constant monitoring, the systematic use of such surveillance inside detention rooms appears to be disproportionate, all the more so when female detainees are constantly monitored in their rooms by male police officers.

The Committee would like to receive the Turkish authorities' views on this point.

54. At Konya, the delegation was told that the temporary detention facilities had no custody register for immigration detainees (in practice, only the number of detainees present every day was recorded in a logbook). **Steps should be taken to remedy this shortcoming.**

55. Further, at Istanbul-Kumkapı Detention Centre, the delegation was informed that, on occasion, foreign nationals were subjected to disciplinary sanctions (including solitary confinement for several days). Due to the lack of any regulatory framework, such decisions were taken by the director without any formal procedure.

The delegation was informed that the Ministry of the Interior was preparing formal rules on disciplinary procedures in detention centres for foreigners. **The CPT trusts that these rules will be in compliance with the criteria indicated by the Committee in paragraphs 132 and 133; it would like to receive a copy of the rules once they have been adopted.**

56. As regards contact with the outside world, foreign nationals had unrestricted access to a telephone in all the detention centres visited. It is praiseworthy that, at Edirne and Kirklareli, detainees were also allowed to keep their mobile phones[45]. **The CPT invites the Turkish authorities to extend this practice to all other detention centres for foreigners.**

57. The delegation was puzzled to learn that in several detention centres visited (in particular, at Istanbul-Kumkapı and Kirklareli), all correspondence was systematically censored[46]. For this purpose, letters written in foreign languages were first translated into Turkish before they were passed on to the addressee. In the CPT's view, there can be no reasonable justification for such a systematic practice. **Steps should be taken to review the current procedures in all detention centres for foreigners accordingly.**

58. The arrangements made for visits by relatives were adequate in all the establishments visited. However, foreign nationals were not allowed to receive visits from non-family members. Bearing in mind that immigration detainees often have no relatives in Turkey, **the CPT invites the Turkish authorities to remove this restriction.**

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45 At Istanbul-Kumkapi, the delegation was told that it was planned to introduce such a possibility in the very near future.

46 The delegation also received several allegations that letters had been withheld and destroyed, because no translator could be found.

59. In virtually all the detention centres visited, the delegation noted that police officers working as custodial staff had received no special training in dealing with immigration detainees. The need for such training was acknowledged by the directors of several centres visited[47]. **The CPT recommends that steps be taken in all detention centres for foreigners to ensure that police officers working in direct contact with immigration detainees receive appropriate initial and continuous training (including in interpersonal communication skills).**

2. Legal situation of immigration detainees

60. In the course of the visit, the delegation paid particular attention to the legal situation of immigration detainees and the procedures applied to them[48]. Following consultations with senior officers of the aliens police and the examination of numerous individual files, it became evident that immigration detainees were being deprived of their liberty in detention centres for foreigners without benefiting from basic legal safeguards.

61. Firstly, Turkish legislation does not provide for a clear legal basis for the detention of foreign nationals in detention centres for foreigners[49]. Section 23 of the Law on Residence and Travel of Foreigners in Turkey[50] (Law No. 5683), is habitually invoked by the immigration authorities not only as the basis for detention pending deportation, but also for authorising foreign nationals to reside temporarily within the boundaries of a specific geographic area (so-called "satellite city") or to release foreign nationals from detention, if they commit themselves to leave the territory on a "voluntary" basis within a certain deadline.

Secondly, immigration detainees were usually deprived of their liberty – for an indefinite period – without receiving an individual detention order and without being informed of the reasons for the deprivation of liberty. Thus, they were *de facto* deprived of the possibility to lodge an appeal against their detention. The delegation observed that, in some detention centres visited, foreign nationals had been provided very recently with a form stating the reason(s) for their stay in the detention centres (which was also countersigned by the person concerned). However, the forms made no reference to any existing legal remedies.

Thirdly, foreign nationals were frequently deported without any individual assessment as to whether they ran a risk of ill-treatment in the country to which they were being sent. More specifically, the absolute character of the prohibition of torture and inhuman or degrading treatment or punishment under Article 3 of the European Convention on Human Rights was apparently not always taken into account. By way of example, in the case of a Tunisian asylum seeker, the Ministry of the Interior rejected the asylum application by mere reference to national security grounds and the exclusion clause under Article 33, paragraph 2, of the Geneva Convention. No mention at all was made in the decision of the situation in the country of origin.

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47 One director stated that "police officers see someone behind bars and they automatically think that he is a criminal and behave accordingly".

48 As regards, more specifically, the procedures applied to asylum seekers and refugees, reference is made to the remarks made by the Commissioner for Human Rights of the Council of Europe in his report on the June/July 2009 visit to Turkey (see CommDH (2009)31, paragraphs 8 to 48).

49 See also paragraph 87 of the report on the visit to Turkey by the Working Group on Arbitrary Detention of the Human Rights Council of the United Nations dated 7 February 2007 (A/HRC/4/40/Add.5).

50 Section 23 reads as follows: "Persons who are to be deported and who cannot leave Turkey due to their inability to obtain passports or other reasons are obliged to reside at places determined by the Ministry of the Interior".

Fourthly, the delegation received many complaints from immigration detainees that they had not been able to meet a lawyer and/or a representative of the Office of UNHCR. In one case, the delegation even found a letter, which had been sent by the General Directorate of Security of the Ministry of the Interior to the management of one of the detention centres visited, instructing immigration police officers not to allow the person concerned to contact a lawyer or a representative of UNHCR and not to disclose to the Office of UNHCR the reasons for the rejection of the asylum application made.

62. The CPT notes that the above-mentioned deficiencies have in the meantime been addressed by the European Court of Human Rights in the recent judgment of *Abdolkhani and Karimnia v. Turkey*[51]; **it trusts that the Turkish authorities will take all necessary steps of a legislative and administrative nature to ensure that these deficiencies are remedied as a matter of priority.**

Further, **the CPT invites the Turkish authorities to introduce a maximum period for the administrative detention of foreign nationals under aliens legislation.**

Finally, **every effort should be made to avoid resorting to the deprivation of liberty of minors in detention centres for foreigners. In line with Articles 3 and 37 (b) of the United Nations Convention on the Rights of the Child, detention of children is rarely justified and, in the Committee's view, can certainly not be motivated solely by the absence of residence status. When, exceptionally, a child is detained, the deprivation of liberty should be for the shortest possible period of time.**

63. As regards in particular the provision of legal assistance to immigration detainees, the delegation was informed by the management of Istanbul-Kumkapı Detention Centre that contacts had recently been established with the Istanbul Bar Association to explore the possibility of setting up a legal counselling service and of arranging the regular presence of a lawyer in the detention centre. This is a most welcome initiative. **The CPT would like to receive updated information on this matter.**

More generally, **the Committee recommends that the Turkish authorities take steps to ensure that <u>all</u> immigration detainees are able to have unrestricted and confidential access to a lawyer throughout their detention.**

64. In their letter of 23 September 2009, the Turkish authorities indicated that "UNHCR has been given access to the foreigners guesthouses. UNHCR officials have also been given permission to meet the applicants who are at the guesthouses, in the UNHCR Office, if requested". The CPT welcomes this development and **would like to receive the Turkish authorities' confirmation that <u>all</u> foreign nationals held in detention centres are now informed that they are allowed, if they so wish, to contact and receive visits by representatives of UNHCR.**

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51 Judgment dated 22 September 2009 (Application no. 30471/08).

3. Holding facilities for foreign nationals in the transit zone of Istanbul International Airport

65. The holding facilities of the Passport Police in the transit area of Istanbul International Airport comprised two rooms for persons who, upon arrival by airplane, are being denied entry into the territory of Turkey. The premises were managed by a private security company under the supervision of the Passport Police.

On the day of the visit, there were 13 foreign nationals present (seven women and six men). According to the custody book, more than 3,400 foreign nationals had been held in these facilities since the beginning of 2009. The vast majority of them stayed there only for very short periods, pending their departure on the next possible flight. Only in exceptional cases were persons held there for more than 24 hours.

66. Material conditions were generally adequate for short periods of stay. The two detention rooms (one for male and one for female foreign nationals) were equipped with armchairs (which could be converted into beds), tables and chairs. Showers and sanitary facilities were also available.

67. The delegation was informed by police officers that, in principle, it was possible for foreign nationals to apply for asylum upon arrival in the transit area, but that such a situation had so far never occurred.

In this connection, it is a matter of grave concern that police officers were apparently instructed to prevent foreign nationals kept in the holding facilities in the transit zone from contacting UNHCR and to prevent representatives of UNHCR from having access to the holding facilities in the transit zone. **The CPT recommends that the Turkish authorities take the necessary steps to ensure that foreign nationals held in the transit zone are allowed to contact and meet representatives of UNHCR.**

4. Deportation of foreign nationals by air

68. The CPT also attaches great importance to the manner in which deportations of foreign nationals are carried out by air.

In this regard, the delegation was informed that special teams of police officers had been trained in carrying out deportations by air, and that the use of means of restraint was within the discretion of the police. The delegation was further told that no specific, detailed instructions existed concerning the forcible removal of foreign nationals (including under escort). The only relevant legal provisions were those contained in the general police legislation.

The delegation was not in the position to get a clear picture of the means used in practice during such operations. Some officers indicated that handcuffs were never used during the flight, while others stated that handcuffs were on occasion applied on board an airplane. In addition, the delegation was told that, in exceptional cases, resort may be had to the administration of medication, which, in the CPT's opinion, is a highly questionable practice.

69. **The CPT recommends that the Turkish authorities draw up detailed instructions on the procedure to be followed and, more particularly, on the use of force and/or means of restraint authorised in the context of deportations by air. Those instructions should take into account the principles set out in the CPT's 13th General Report[52] and Guidelines 15 to 20 of the Guidelines on Forced Return (adopted by the Committee of Ministers of the Council of Europe on 4 May 2005).**

The Committee also wishes to stress that the administration of medication to persons subject to a deportation order must always be carried out on the basis of a medical decision taken in respect of each particular case; the taking of such a decision necessarily involves the person concerned being physically seen and examined by a medical doctor. Save for clearly and strictly defined exceptional circumstances, medication should only be administered with the informed consent of the person concerned. Further, all instances of administration of medication in the context of deportation procedures should be duly recorded by the services involved.

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52 CPT/Inf (2003) 35, paragraphs 27 to 45.

D. Establishments under the Ministry of Justice

1. Preliminary remarks

70. The CPT's delegation carried out full visits to Erzurum H-type and E-type Prisons and Konya E-type Prison, as well as a targeted visit to Kırıkkale F-type Prison where it focussed on communal activities for prisoners. In addition, the delegation went to several other prisons in the provinces of Batman, Diyarbakır, Mardin and Van, mainly in order to interview newly-arrived remand prisoners (see paragraph 3).

71. *Erzurum E-type Prison* has been in operation since 1989 as part of a complex comprising three different establishments (together with the H-type prison and an open prison) situated on the outskirts of Erzurum. With an official capacity of 700 places, the prison was accommodating 818 prisoners at the time of the visit (including 35 women and 39 juveniles); 325 of them were sentenced and the rest on remand. The main prisoner accommodation consisted of duplex multi-occupancy units.

Erzurum H-type Prison, which was opened as a high-security prison in 1989, has an official capacity of 316 places. At the time of the visit, it was accommodating 227 prisoners. Slightly more than half of the prison population were on remand, and many of the sentenced prisoners were serving a life-sentence. Most prisoners were accommodated in duplex living units for four persons. There were no female prisoners or juveniles in the prison.

Konya E-type Prison, located some 20 km outside Konya, was constructed in the late 1980s. The establishment's initial capacity of 650 places was later expended to 800 by increasing the number of beds in the existing living units. At the time of the visit, the prison was holding 919 prisoners, including 40 adult women and 36 minors (34 male and 2 female). Sentenced (264) and remand prisoners (655) were held separately and were mostly accommodated in duplex multi-occupancy units.

Kırıkkale F-type Prison entered into service in 2007. With an official capacity of 368, the establishment was holding 285 prisoners at the time of the visit, mostly sentenced adult male prisoners serving long-term sentences (including life imprisonment) for terrorism-related or organised crimes, and those who had been transferred from other establishments for repeated regime violations. The great majority of prisoners were accommodated in duplex living units for three persons, while some fifty inmates were held alone in either single cells or three-bed duplex units.

72. Many of the prisons visited by the delegation were overcrowded, barely coping with the ever-increasing prison population. This often led to cramped and unhygienic accommodation, reduced out-of-cell activities, overburdened health-care services, and increased tension – and hence potentially more violence – between prisoners and between prisoners and staff (see paragraph 81).

73. More generally, the CPT is alarmed by the dramatic rise in the prison population in recent years which has resulted in overcrowding in many Turkish prisons. At the time of the visit, the total number of prisoners in Turkey was double that of January 2006, reaching 112,000, while the official capacity of the entire prison estate was 104,323. At the same time, the proportion of remand prisoners had further increased to some 54%.

To a large extent, the sharp increase in the prison population appears to be the result of various recent legislative measures, such as the adoption of new Criminal and Criminal Procedure Codes and the Law on the Execution of Sentences and Security Measures. In this connection, the waiting period for conditional release has been increased from 2/5 to 2/3 of the prison term and, more generally, longer prison terms have been introduced for certain types of offence. Further, the maximum period of remand detention for ordinary offences has been extended from 10 to 18 months. The delegation also noted that the slow pace of judicial proceedings often led to extremely long periods of remand detention[53].

74. During the visit, the delegation was informed by the Turkish authorities of various measures being taken to combat the problem of overcrowding, such as the construction of new prisons (which also enabled the closure of old prisons) and the enlargement of existing establishments[54]. Further, in their letter of 23 September 2009, the authorities indicated that "[t]he process of constructing new prisons and additional facilities in prisons has been accelerated in order to meet the needs of an increasing number of convicts and prisoners in the short term. The 5-year investment plan covering the years 2009-2014, prepared by the Ministry of Justice, aims at reaching a capacity of 142,099 people by the end of 2014."

In this regard, the CPT wishes to stress that providing additional accommodation is not likely, in itself, to provide a lasting solution to the problem of overcrowding. Addressing this problem calls for a coherent strategy, covering both admission to and release from prison, to ensure that imprisonment really is the measure of last resort. This implies, in the first place, an emphasis on non-custodial measures in the period before the imposition of a sentence and, in the second place, the adoption of measures which facilitate the reintegration into free society of persons who have been deprived of their liberty.

The CPT recommends that the Turkish authorities vigorously pursue the adoption and implementation of a coherent strategy designed to combat prison overcrowding, in the light of Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe 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) and Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse.

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53 For instance, at Diyarbakır D-Type Prison, the delegation met a group of some 20 prisoners who had spent more than 14 years on remand on suspicion of having committed a terrorist offence (see the judgment of the European Court of Human Rights *Tunce and Others v. Turkey (No. 1)* of 13 October 2009, in which the Court held that in the cases of the above-mentioned prisoners the duration of criminal proceedings was excessive and did not meet the requirements of the right to trial within a reasonable time under Article 6, paragraph 1, of the European Convention on Human Rights).

54 Between 2006 and 2008, 28 new prisons were built in different provinces of the country, with a total capacity of 21,010.

75. The CPT is pleased to note that the Turkish authorities have engaged themselves in several international co-operation programmes on prison reforms. Particular reference should be made to the joint European Commission/Council of Europe Project on Dissemination of Model Prison Practices and Promotion of Prison Reform in Turkey"[55]. Launched in March 2009, this 30-month project aims at further improving the Turkish penitentiary system in line with the European Prison Rules and other international standards. The main activities within the framework of this project include, inter alia, the creation of 270 vocational training workshops in 90 medium- and high-security prisons, the provision of specialised training to staff (covering some 15,000 prison officers, 450 prison health-care staff and 350 prison educators), and the strengthening of the external monitoring of prisons[56].

2. Ill-treatment

76. The vast majority of prisoners interviewed by the delegation at Erzurum E-type and H-type Prisons, Konya E-type Prison and Kırıkkale F-type Prison indicated that prison officers behaved correctly towards them, and made no allegations of physical ill-treatment by staff. In particular, in the two E-type prisons, the delegation observed a rather relaxed atmosphere.

77. That said, at *Konya E-type Prison,* several allegations of physical ill-treatment (such as punches or kicks) were received from prisoners detained under anti-terror legislation and juveniles. One juvenile met by the delegation claimed that he had been punched in the face by a prison officer three days previously. Upon examination by a medical member of the delegation, the prisoner concerned displayed erythema and discrete swelling on the bridge of his nose.

Further, some allegations were heard at Konya of verbal abuse of prisoners (especially those detained under anti-terror legislation and sex offenders) by certain prison officers.

78. In their letter of 23 September 2009, the Turkish authorities informed the CPT that "[…] a special meeting was organized [by the management of Konya Prison] to warn all prison personnel and ask them to adopt a more attentive and humane approach vis-à-vis the inmates." The CPT welcomes this development; **it recommends that staff at Konya E-type Prison be firmly reminded at regular intervals that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions.**

79. At *Erzurum H-type Prison*, the delegation received only one credible allegation of physical ill-treatment by staff. A prisoner alleged that, some four weeks prior to the CPT's visit, he had been beaten by four prison officers in a disciplinary cell for having refused to remove his shoes during a body search. Allegedly, he displayed several bruises for about a week, but was not seen by a doctor. The delegation was informed that the prisoner concerned had submitted a formal complaint to the prison director, which was then transmitted to the public prosecutor's office. **The CPT would like to receive detailed information on the action subsequently taken.**

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55 This project is a continuation of the Joint Council of Europe/ European Commission Programme on Judicial Modernisation and Penal Reform, which was implemented from 2004 to 2007.

56 For more detailed information see: http://www.jp.coe.int/CEAD/JP/Default.asp?TransID=140

80. Overall, the delegation observed that contacts between custodial staff and prisoners in this high-security establishment were limited to a strict minimum. In this connection, the CPT must emphasise that building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation; this will have the additional benefit of enhancing control and security in the prison. Therefore, **custodial staff at Erzurum H-type Prison should receive further encouragement to interact with prisoners.**

81. At *Konya E-type Prison*, the delegation gained the impression that incidents of inter-prisoner violence were a rather frequent occurrence[57]. Particular reference should be made to a prisoner who sustained a serious head injury after having been hit on the head during the night by another prisoner in October 2008[58]. Reportedly, at the time of the incident, prison officers were called but took no further action, and an ambulance was only called the following morning. The delegation was informed that, following an internal inquiry, four prison officers received disciplinary punishment. The existence of the problem of inter-prisoner violence was also acknowledged by staff working in the establishment. The prison management, in their turn, indicated that violence among prisoners was in part the result of overcrowding and that they were doing their best to take the necessary preventive measures (e.g. through identifying upon arrival prisoners potentially at risk and accommodating them separately).

Staff shortages undoubtedly made it difficult to control the situation in the prisoner accommodation areas, in particular at night, and increased the risk of inter-prisoner violence[59]. Further, it would appear that suspected cases of inter-prisoner violence were not routinely reported by health-care staff to the Director or prosecuting authorities, and there was no procedure, nor a specific register for recording injuries observed during medical examinations.

82. The CPT wishes to stress that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. Any strategy aimed at solving the problem of inter-prisoner violence, if it is to be effective, should seek to ensure that prison staff are placed in a position to exercise their authority in an appropriate manner. Consequently, the level of staffing must be sufficient (including at night-time) to enable prison officers to supervise adequately the activities of prisoners and support each other effectively in the exercise of their tasks. Of course, the implementation of the recommendation made in paragraph 74 is an essential part of any strategy to address inter-prisoner violence. Further, both initial and ongoing training programmes for staff of all grades must address the issue of managing inter-prisoner violence.

Another important tool in the prevention of inter-prisoner violence lies in the diligent examination by the prison administration of all relevant information regarding alleged incidents of violence among prisoners which may come to their attention, whether or not that information takes the form of a formal complaint and, where appropriate, the instigation of proceedings. Prison health-care staff also have an important part to play in this context, as they are often the first people to whom prisoners turn after being ill-treated by fellow inmates.

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57 The examination of the register for medical consultations over the previous six months revealed 63 cases of injuries indicative of possible inter-prisoner violence.

58 He probably sustained the permanent consequences of a subdural hematoma and was still in hospital at the time of the CPT's visit.

59 The prison employed 146 prison officers working in four shifts.

83. **The CPT recommends that the Turkish authorities develop a strategy with a view to addressing the problem of inter-prisoner violence at Konya E-type Prison, in the light of the above remarks. The Committee also recommends that a centralised system for recording injuries be introduced at Konya E-type Prison and, where appropriate, in other prisons in Turkey** (see also paragraph 128).

3. Conditions of detention of adult prisoners at Erzurum E-type and H-type Prisons and Konya E-type Prison

a. material conditions

84. In all three prisons visited, the majority of prisoners were accommodated in units of a duplex design, with a living area on the ground floor (also used as a refectory) and a sleeping area on the upper floor. The former opened onto a courtyard which was accessible during daylight hours. Material conditions in the units were on the whole satisfactory in the three establishments, in terms of state of repair and access to light (both natural and artificial) and ventilation. Further, ground-level living areas were normally equipped with an open kitchen, tables, chairs/benches, a TV set, a fridge and a sanitary annexe, and sleeping areas with bunk-beds[60] and lockers.

85. That said, some of the living units seen by the delegation at Erzurum H-type and Konya E-type Prisons were demonstrating the first signs of wear and tear (e.g. stained walls, peeling paint, etc.). In this connection, the delegation noted ongoing refurbishment at Konya E-type Prison (e.g. painting of walls, tiling on the floor)[61] and was shown hundreds of new bunk-beds and mattresses that the establishment had received shortly before the CPT's visit. This is a welcome development.

Further, at Erzurum H-type Prison, the delegation was informed that the necessary repairs would be made in most of the living units during the summer of 2009 and that financial resources had already been allocated for that purpose. **The CPT would like to receive updated information on this matter.**

86. As is apparent from the information contained in paragraph 71, both Erzurum and Konya E-type Prisons were affected by overcrowding at the time of the visit, which inevitably had a negative impact on the living conditions of prisoners. It was evident that conditions in living units could on occasion be cramped, especially after the locking of the courtyard door or during inclement weather[62]. Further, several living units at Konya Prison were found to be holding more prisoners than the number of beds available, with some inmates having to sleep on mattresses on the floor[63].

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60 In the two E-type prisons, living units generally had no more than 13 bunk-beds.

61 This was also a way of providing occupation for a limited number of prisoners.

62 For example, in one unit at Erzurum E-type Prison, 32 inmates shared a lower level living area of some 38 m^2 with only one toilet (the adjoining outdoor yard measured some 50 m^2).

63 In the two main living units of the female section, four women had to sleep on mattresses on the floor, one of them even with her baby.

The CPT recommends that the Turkish authorities take immediate steps to ensure that every prisoner at Konya E-type Prison is provided with his/her own bed. More generally, the necessary steps should be taken to ensure that occupancy rates in all prisoner accommodation units of Erzurum and Konya E-type Prisons are kept at a reasonable level.

87. Material conditions of detention were particularly poor in the living units for sex offenders ("Hobi-1" and "Hobi-2") at Konya E-type Prison[64]. Both units were grille-fronted and divided into small rooms which were cramped[65] and unhygienic, with very little access to natural light (due to metal shutters fixed to the windows) and poor artificial lighting. Further, the units had no adjoining outdoor area and the prisoners did not benefit from outdoor exercise on a daily basis (see paragraph 100), their main area for movement being narrow corridors. It is all the more worrying that some prisoners had been held under such conditions for several months.

During the end-of-visit talks, the delegation indicated that, in its view, the conditions of detention in the above-mentioned living units could be considered as inhuman and degrading, and requested the Turkish authorities to take immediate measures to find more suitable accommodation for the prisoners concerned.

By letter of 23 September 2009, the Turkish authorities indicated that "[…] "Hobi-1" and "Hobi-2" wards in Konya Prison […] were closed. In line with the new planning of reclassification of inmates on the basis of crimes groups and age, settlements in the wards were rearranged and room capacities were increased. As a result, the convicts and prisoners kept in these wards due to sexual crimes were placed in rooms with better conditions."

The Committee welcomes the closure of the above-mentioned two units and **would like to receive more detailed information on the measures taken to find new accommodation for the prisoners concerned.**

88. The conditions of detention found in the two admission cells at Konya Prison (where newly-arrived prisoners were usually held for the first three days), are yet another source for concern. Apart from being in a poor state of repair, the cells were dark, poorly ventilated, extremely dirty and infested with cockroaches. Their only equipment consisted of a table (with no chairs), metal bunk-beds, many of which were decrepit, and dirty mattresses and blankets with no linen[66].

By letter of 23 September 2009, the Turkish authorities informed the Committee that "[t]he mattresses in admission cells […] were replaced with new ones. These rooms were painted, lacking items were provided and a hygienic environment has been provided." The Committee welcomes the measures taken. **Steps should also be taken to improve the state of the beds in the admission cells.**

89. In none of the three prisons visited were inmates supplied with basic hygiene items and cleaning products for their living units. Further, bed linen was not provided, and prisoners (except for juveniles) had to purchase it from the prison shop. As a result, newly-arrived prisoners often had to spend several days without bed linen, sleeping on a bare (and sometimes soiled) mattress.

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64 At the time of the visit, there were about 40 prisoners in these units.

65 For example, rooms with six or seven beds measured some 15 m^2 and had very low sloping ceilings.

66 Some prisoners used their T-shirts as a pillow-case.

As a matter of fact, prisoners had to pay for everything (including electricity for domestic appliances used) except for accommodation and food, while the vast majority of them did not have any opportunity to earn money. Thus, they had to rely on the support of their families or the generosity of fellow inmates, for basic necessities.

Further, the establishments did not possess proper laundry facilities and prisoners had to hand-wash their clothes and sheets in their cells with the means at their disposal.

90. **The CPT recommends that steps be taken at Erzurum E-type and H-type Prisons and Konya E-type Prison and, where appropriate, in other prisons in Turkey to ensure that all prisoners are provided with:**

- **a range of essential personal hygiene items and materials to clean their living units;**

- **bed linen which is cleaned by the prison at regular intervals.**

91. No major complaints were heard from inmates in the three prisons visited regarding either the quantity or the quality of the food provided. At Erzurum E-type Prison, the delegation was informed of plans to construct a new prison kitchen in 2010.

That said, at Konya Prison, female prisoners with children complained that children's needs were not adequately catered for. In particular, they apparently received milk only once a week. **Immediate steps should be taken to remedy this shortcoming.**

b. activities

92. The CPT has repeatedly emphasised the importance of ensuring that all prisoners (including those on remand) spend a reasonable part of the day outside their cells engaged in purposeful activities of a varied nature, such as work, preferably with vocational value, education, sport, and recreation/association. This is not only a fundamental part of the process of social rehabilitation, but it also contributes to the establishment of a more secure environment within prisons.

93. The Committee appreciates the efforts made by the management at *Erzurum and Konya E-type Prisons* to provide activities (such as vocational training, education or sport) to prisoners within the limited resources available.

At Erzurum, some 70 prisoners were participating in a primary education course five times per week. Further, 26 inmates were enrolled in distance learning courses for secondary education and 16 in distance learning university studies. In addition, six prisoners were occupied in a workshop for 6 hours a day producing prayer beads[67]. As regards sports activities, every prisoner could go to the prison's indoor sports hall once a month for approximately one hour.

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[67] Inmates were also able to practise handicrafts in their respective units (threading beads, leatherwork, etc.).

At Konya, 23 prisoners attended interactive reading/writing classes organised by a charity association. Further, English language and computer courses were provided to 18 and 20 inmates respectively. All these courses took place three times per week, totalling ten hours. In addition, 20 inmates attended courses in religion and culture four times per week for twelve hours in total. The prison also had bookbinding, tailoring and shoemaking workshops, altogether occupying some 20 inmates for six hours per day.

Indoor sports activities at Konya Prison were apparently offered in the establishment's fitness room. However, in addition to being small, the room in question had very little sports equipment and gave the distinct impression that it was hardly ever used, if at all. The delegation also saw an outdoor sports area where volleyball tournaments were organised from time to time.

Both establishments possessed a library as well as a multi-purpose hall (with a capacity of 80 and 200 respectively) in which events[68] were occasionally organised.

94. Nevertheless, it is clear that the available organised activities fell far short of the needs of the two large prisons with a population of over 800 inmates. Further, it is regrettable that very few work opportunities existed in the two prisons, and – apart from the above-mentioned small workshops – they were usually limited to the 20 to 30 inmates involved in the establishments' general services (kitchen, food distribution, cleaning, etc.).

95. As already indicated in paragraph 71, prisoner accommodation at *Erzurum H-type Prison* was provided in smaller living units. This is, in principle, a positive development, provided that prisoners also benefit from an adequate programme of activities outside their living units. However, as the CPT has pointed out in previous reports, the detrimental effects of the absence of an organised programme of activities will be felt more acutely in smaller living units than in dormitories. The Committee is therefore concerned by the facts found by its delegation.

The delegation observed that the provision of activities was rather limited in this H-type establishment. A few courses (musical instruments, chess, darts, etc.) were offered once a week to some 40 inmates, and 19 inmates were involved in the bookbinding, painting and handicraft workshops for three hours per week. The frequency of the three regular forms of activity offered to all prisoners, namely association/conversation, sports and library sessions, left much to be desired. Inmates could normally benefit from six to seven conversation sessions (1.5 hours each), three sports sessions (3 hours each) and three library sessions (1.5 hours each) within a three-month period[69]; in other words, a total of some eight hours of out-of-unit time per month.

As regards conversation sessions, they took place in two rooms (each with an adjoining outdoor yard) which were clearly too small for ten persons (some 8 m^2) and would be extremely cramped during inclement weather.

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[68] Such as theatre plays, movie sessions, seminars, etc.

[69] Programmes for these activities were drawn up every three months for groups of up to ten inmates. This often led to situations where newly-arrived inmates would wait for several weeks or months before they could be involved in any kind of activity.

In this connection, the Turkish authorities informed the CPT, by letter of 23 September 2009, that "[r]ooms (30 m^2 including the gardens) in the blocks for prison officers have been designated as conversation places." It is also indicated that works have started in the prison to establish two additional association rooms and two handcraft workshops. The CPT welcomes these measures.

96. The prison did not possess an indoor sports hall, and the only outdoor sports yard was devoid of any shelter, which rendered it unusable during the long winter season[70].

97. The delegation also noted with concern the practice observed in the three prisons visited of not offering any sports activities or association periods during the first week of every month (that being the week of open visits). This meant that there were only 15 days per month for the two most popular forms of activity.

98. The limited range of out-of-unit activities on offer, the manner in which they were arranged and the lack of staff qualified to organise such activities resulted in a seriously deficient regime for prisoners at Erzurum H-type Prison. Out-of-unit time for a prisoner was never more than four to five hours per week, and often much less.

99. To sum up, in all the three establishments visited the possibilities for organised activities were limited for the vast majority of prisoners; thus, they had to spend a good part of the day inside their living units, the principal means of distraction being walking in a courtyard and watching television.

The CPT therefore recommends that the Turkish authorities take steps at Erzurum E-type and H-type Prisons and Konya E-type Prison to improve facilities for organised activities and to significantly increase the number of prisoners who benefit from such activities. As regards more particularly conversation periods, **the recommendation made on this subject in paragraph 111 should be read as applying also to Erzurum H-type Prison.**

100. As already indicated in paragraph 84, the great majority of prisoners in the three prisons visited had access to an outdoor yard, attached to their living units, during daylight hours. However, the delegation noted that, in Erzurum E-type Prison, some prisoners had been held in "observation cells" (*Müşahede*) for months without having any possibility of access to the open air. Further, inmates held in admission cells in Erzurum H-type and Konya E-type Prisons had no access to the open air. At Konya, prisoners held in the "Hobi" units and the infirmary and disciplinary punishment cells, as well as in certain living units of E block (which did not have an adjoining yard) were not offered any outdoor exercise at weekends.

During the end-of-visit talks, the delegation made an immediate observation and called upon the Turkish authorities to take measures at Erzurum E-type and H-type Prisons and Konya Prison to ensure that all prisoners are offered at least one hour of outdoor exercise per day, including at weekends (see paragraph 9).

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[70] Located at an altitude of 2,000 metres, the area is covered in snow for approximately three months during the winter.

101. By letter of 23 September 2009, the Turkish authorities informed the CPT that inmates held in the admission cells of Erzurum H-type Prison and in the infirmary, admission and disciplinary cells, as well as in the living units of E block in Konya Prison, were now being given access to the open air for at least one hour per day, including at weekends. The Committee welcomes this development.

As regards the prisoners kept in the "observation cells" of Erzurum E-type Prison, the authorities have indicated that these inmates "have been provided with access to open air". **The CPT would like to receive confirmation that the above-mentioned prisoners are offered at least one hour of outdoor exercise per day.**

4. Conditions of detention of juvenile prisoners

102. At *Konya E-type Prison*, the delegation also paid particular attention to the situation of juvenile prisoners. At the time of the visit, the prison was holding 34 male juveniles who were accommodated in two distinct units (see, however, paragraph 104), as well as two female juveniles. All juvenile prisoners were separated from adult inmates.

103. The material conditions in the juvenile units did not differ much from the rest of the prisoner accommodation. For example, one of the living units for male juveniles ("Çocuk-2") with twelve beds was housing 16 inmates, four of the juveniles having to sleep on mattresses on the floor. In this connection, reference is made to the recommendation in paragraph 86.

Further, the delegation heard many complaints from juveniles that the quantity of food served was not sufficient. **Steps should be taken to ensure that the quantity of food provided is adapted to the needs of growing adolescents.**

104. Particular mention should be made of a juvenile prisoner held in solitary confinement. He was detained on suspicion of having committed a terrorism-related offence and, when the delegation met him, had been on his own for nearly one month in a six-bed living unit. Upon the intervention of the delegation, the management indicated that it would take immediate steps to put an end to his isolation. Nevertheless, **the CPT considers that a juvenile should not be kept in solitary confinement for the sole reason that he is suspected of a terrorism-related offence.**

105. The CPT is concerned about the limited possibilities for juveniles to benefit from activities adapted to their needs. According to the information provided by the prison management, 11 inmates were attending reading/writing classes three times per week for ten hours in total; however, according to the juveniles themselves, each class lasted about one hour. Further, some inmates were involved in twice-weekly sessions of 30 minutes with a psychologist. There was also access to the multi-purpose hall four times per week for one to 1 ½ hours. The prison had no workshops or vocational training available to juveniles. Further, their access to sports activities was very limited. Juveniles were thus locked up in their units and left to their own devices for most of the time, without being offered any purposeful activities.

106. It should be stressed that juveniles have a particular need for physical activity and intellectual stimulation. Regardless of their period of detention, they should be offered a full programme of education, sport, vocational training, recreation and other purposeful activities. Physical education should constitute an important part of that programme.

The CPT recommends that the Turkish authorities take appropriate measures at Konya E-type Prison and, where appropriate, in other prisons in Turkey, to ensure that juveniles are provided with a programme of organised activities, in the light of the above remarks.

107. During its brief visit to *Batman M-type Prison*, the delegation was struck by the conditions under which juveniles were being held. 22 juveniles were crammed together in one living unit with only six beds and twelve mattresses placed on the floor. In addition, the unit was poorly ventilated.

At the end-of-visit talks with the Turkish authorities, the delegation expressed its concern about the above-mentioned situation and requested that urgent steps be taken to remedy this state of affairs.

By letter of 23 September 2009, the Turkish authorities informed the CPT that "[…] the problem was alleviated by transfer to nearby prisons, release, and opening of new wards. As of 06.08.2009, the number of juveniles in the relevant ward was 8. There is no problem in terms of beds and ventilation." The CPT welcomes these measures and **trusts that the Turkish authorities will take steps to ensure that there is no recurrence of overcrowding at Batman M-type Prison.**

108. The CPT has repeatedly emphasised that it would be far preferable for all juvenile prisoners, whether on remand or sentenced, to be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young. In this regard, the Turkish authorities informed the CPT of the opening in February 2008 of a special prison for juveniles in the Maltepe district of Istanbul, with a capacity of 950 places. The Committee understands that plans are afoot to set up a similar institution in Izmir. **The CPT would like to receive detailed information on this issue.**

5. Kırıkkale F-type Prison

109. Since the CPT's last visit to an F-type prison in Turkey in 2005, a new circular was issued by the Minister of Justice (No. 45/1, dated 22.01.2007) which brought about certain improvements concerning prisoners' access to communal activities outside their living units. In particular, the circular stipulates that prisoners designated by the prison management can be brought together for association (conversation) periods not exceeding a total of ten hours per week (instead of five hours as before). The 2009 visit provided an opportunity to re-examine the possibilities for association, as well as for work, education and sport, for prisoners in F-type prisons.

110. Kırıkkale F-type Prison had three well-equipped workshops (ceramics, drawing, and handicraft) which offered occupation for a total of some 70 inmates for three hours per week on average, in groups of up to 10 persons[71], in a pleasant and relaxed environment. Further, 20 inmates attended guitar courses for 12 hours per week, and 10 inmates took computer courses and another 10 English languages courses for 15 hours per week each. In addition, 35 prisoners attended classes in religion and culture on a weekly basis (for 1 ½ hours), and 18 inmates had access to the library once a week for up to one hour. The CPT is pleased to note that work was underway to increase the number of classrooms.

Conversation (association) sessions were scheduled from Mondays to Thursdays, and took place in two designated rooms. For instance, during the week of 8 June 2009, 25 sessions of this kind were planned, each lasting three hours. However, only four of these sessions were fully subscribed (with the permitted maximum of ten prisoners). Moreover, four of the sessions were only attended by two or three inmates, and two of the sessions were attended by inmates who were accommodated in the same unit. In total, it was planned that 164 prisoners would each have three hours of association during the week of 8 June. In this connection, the delegation noted that two more association areas were under construction; this will clearly offer considerable scope for expanding the association activity.

As for sport, 37 sessions, each lasting 75 minutes (both indoor and outdoor) were planned for the week of 8 June, from Monday to Friday. However, seven of them were scheduled for groups of two, and four of them for groups of three or four prisoners. Only six sessions were fully subscribed, with ten prisoners attending. In all, 219 inmates were scheduled to have a sports session during that week.

111. Overall, the delegation gained the impression that considerable efforts were being made at Kırıkkale to build up a programme of out-of-unit activities, which was very popular among the prisoners[72]. However, the programme of activities was flawed by a number of factors and, as a result, many prisoners could spend no more than five hours out of their units each week. In particular, there was no individual assessment of prisoners' needs which would render the content of the programme of activities better suited to the inmate population. Further, no mixing of prisoners from different blocks or of prisoners detained in relation to terrorist crimes with other prisoners was allowed, which on occasion resulted in very low numbers of prisoners in a given activity group. Moreover, as was the case in the other prisons visited, association and sports activities were suspended during open visit weeks.

The CPT is convinced that there needs to be a more tailored and flexible approach by the prison management to reduce the number of prisoners excluded from out-of-unit activities or reluctant to benefit from such activities. The prison authorities should take a more proactive, enterprising stance vis-à-vis this subject.

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[71] According to Circular No. 45/1, inmates in high-security prisons can participate in communal activities in groups of no more than 10 persons.

[72] It should be mentioned that some prisoners still refused to participate in communal activities, but the number was significantly lower than in the past.

In the light of the above, **the CPT recommends that the Turkish authorities step up their efforts to further develop communal activity programmes at Kırıkkale F-type Prison, as regards both the range of activities on offer and the number of prisoners engaging together in such activities. Steps should be taken as a matter of priority to increase the possibilities for sports activities and conversation periods (the goal being to reach the maximum duration of conversation periods permitted under the Ministry of Justice Circular No. 45/1).**

112. Among the prisoner population, there were 62 prisoners sentenced to aggravated life imprisonment[73]. Under Section 25, paragraph 1, of the Law on the Execution of Sentences and Security Measures (LESSM), such prisoners are subjected to a very restrictive regime[74].

The CPT is pleased to note that efforts were clearly being made, by exploiting the possibilities provided for in the legislation, to attenuate the regime for this category of prisoner. Most of the prisoners concerned were able to share an outdoor exercise yard with other inmates of the same category (where they could converse throughout the day) and/or could associate together, in groups of five to ten, during weekly sports sessions. Further, several of them were authorised, by decision of the establishment's management board, to take part in vocational courses and to attend a workshop and the library[75].

This is a welcome development and clearly a step in the right direction. Nonetheless, the CPT maintains its reservations about the isolation-type regime generally applied to prisoners sentenced to aggravated life imprisonment. As a matter of principle, the imposition of such a regime should lie with the prison authorities and always be based on an individual risk assessment, not the automatic result of the type of sentence imposed. The CPT wishes to stress that life-sentenced prisoners (as indeed all prisoners) are sent to prison as punishment and not to be punished within the prison. The Committee also wishes to draw the Turkish authorities' attention to Section 7 of Recommendation Rec (2003) 23 on the Management by Prison Administrations of Life-Sentenced and Other Long-Term Prisoners (adopted by the Committee of Ministers of the Council of Europe on 9 October 2003), which emphasises that life-sentenced prisoners should not be segregated from other prisoners on the sole ground of their sentence[76].

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73 Under Section 25(1)(a) of the Law on Execution of Sentences and Security Measures, prisoners sentenced to aggravated life imprisonment shall be held in an "individual room".

74 Under subparagraph c), prisoners serving aggravated life imprisonment may have their daily one-hour outdoor exercise and sports period extended and may be allowed to engage in limited contact with prisoners accommodated in the same unit, depending on the risk factors, security requirements and the efforts and good behaviour they demonstrate in rehabilitation and educational activities. Under subparagraph d), such prisoners may engage in a trade or occupational activity considered suitable by the administrative board, if conditions in the place where they are held so permit.

75 As indicated in Circular No. 45/1, "prisoners serving sentences of aggravated life imprisonment in high-security prisons may be allowed to take part in [activity and rehabilitation] programmes on a limited basis, exclusively with the sentenced prisoners accommodated in their unit."

76 The Explanatory Report of the afore-mentioned recommendation further states that:
"41. [t]he special segregation of life-sentenced or long-term prisoners cannot be justified by an unexamined characterisation of such prisoners as dangerous. As a general rule, the experience of many prison administrations is that many such prisoners present no risks to themselves or others. And if they do present such risks, they may only do so for relatively limited periods or in particular situations. In consequence, while it is fully recognised that time and resources are needed to implement this principle; these prisoners should only be segregated if, and for as long as, clear and present risks exist.
42. Life-sentenced and long-term prisoners are thought in some countries to pose serious safety and security problems in the prison. The violence and dangerousness manifested in the criminal act is considered to carry over to their lives in prison. Offenders who, for example, have committed murder are among those most likely to receive life or long sentences. This does not necessarily mean that they are violent or dangerous prisoners.

The CPT recommends that the Turkish authorities reconsider their policy vis-à-vis prisoners sentenced to aggravated life imprisonment, in the light of the above remarks, and amend the relevant legislation accordingly.

6. Health care

a. introduction

113. The 2009 visit came at a critical moment for the future of health care in Turkish prisons. A decision had recently been taken by the Government to transfer the responsibility for prison health care from the Ministry of Justice to the Ministry of Health and, for this purpose, a protocol was signed by the two Ministers on 30 April 2009. According to the protocol, the above-mentioned transfer was due to be fully implemented by 31 October 2009 (see in this regard paragraphs 124 and 125).

114. The delegation made a full evaluation of the health-care services in Erzurum E-type and H-type Prisons and Konya E-type Prison. Furthermore, information was gathered on medical staffing levels and medical screening in Batman M-type, Diyarbakır D-type, Kırıkkale F-type, Mardin E-type, and Van F- and M-type Prisons.

b. staff and treatment

115. The rapid rise in the prison population over recent years not only had serious consequences for the prisoners' living conditions, but also strained the capacity of all services provided for prisoners. In the case of health care, this factor was compounded by a dramatic shortage of health-care staff, and notably of doctors. The delegation noted with grave concern that, in the prison system as a whole, only 66 out of the 270 posts for prison doctors were filled at the time of the visit.

Indeed, prison authorities can refer to individual murderers with a life or long sentence as "good prisoners". They exhibit stable and reliable behaviour and are unlikely to repeat their offence. The likelihood of an offender engaging in violent or dangerous behaviour frequently depends not only on personality characteristics but also on the typical situations that permit or provoke the emergence of such behaviour.

43. Descriptions in terms of violence and dangerousness should, therefore, always be considered in relation to the specific environments or situations in which these characteristics may – or may not – be exhibited. In the management of long-term and life prisoners, a clear distinction should be drawn between safety and security risks arising within the prison and those that may arise with escape into the community. The classification and allocation of long-term and life-sentenced prisoners should take account of these differing kinds of risks (…)".

116. During the visit, the effects of this shortage were only too apparent. In six prisons out of the nine visited, there was not a single full-time doctor in post, and only at Konya Prison was there anything approaching the number of doctors needed[77]. Attempts to counter this dramatic shortage by calling on outside doctors from local health authorities proved to be insufficient – both in terms of the number of hours of consultation available[78] and in the quality of care – since the outside doctors changed frequently and lacked the requisite experience and training to take on the challenges of health care in prisons and to remain independent of the prison management[79]. Furthermore, newly-graduated doctors had been recruited, lacking specialised training in dealing with the specific needs of a prison population in terms of preventive health care and treatment.

117. Further, the responsibilities of the prison doctors were not limited to the inmates; they also had to provide health care to staff members and their families. In almost every prison visited, a certain amount of time was spent by doctors on consultations with staff, estimated at about ten percent of their total workload. Apart from resulting in a reduction of the time available for prisoners, this practice also represents a potential risk of conflict of interest (for example, when both inmates and prison officers are examined following a violent incident). **The CPT therefore invites the Turkish authorities to consider separating the responsibility for the health care of inmates and prison staff.**

118. In the course of the visit, numerous complaints were received about delays in gaining access to a doctor and the quality of treatment and care provided. It became apparent that consultations often lasted no more than one or two minutes and were sometimes carried out in the corridors of the prison.

Further, it appeared that many requests for a consultation were followed by a prescription for medicine without the prisoner being seen by a doctor. Moreover, it was a usual practice in prisons for medication to be distributed by prison staff with no training in health care.

119. Reference should be made to the situation of a prisoner met by the delegation at Erzurum H-type Prison, who suffered from severe physical disabilities and was confined to a wheelchair. Since the prison did not possess special facilities for disabled persons, he was accommodated in a normal living unit with a floor-level toilet and a sleeping area located upstairs. It appeared that the prisoner had applied for transfer to a prison with single-level accommodation, adapted for persons with disabilities, but the medical assessment of his case had been impeded by the absence of a prison doctor. The prison director indicated to the delegation that measures would be taken immediately to have the prisoner concerned transferred to a suitable establishment. **The CPT would like to receive confirmation that this has indeed taken place.**

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77 There were two full-time doctors at Konya Prison. Diyarbakir and Mardin Prisons each had one full-time doctor.

78 In the six prisons without full-time doctors, the consultations amounted to less than the equivalent of four full-time doctors for a total of some 2,900 prisoners.

79 In the prisons relying entirely on outside doctors, consultations were not infrequently cancelled or the doctor arrived late and left early because of other duties.

120. Dental care was provided by either regular (Erzurum E-type, Konya) or visiting (Erzurum H-type) dentists. However, free-of-charge dental treatment in these establishments was limited to extractions, while other dental care had to be paid for by the prisoners themselves. **The CPT recommends that steps be taken in the above-mentioned prisons and, where appropriate, in other prisons in Turkey to ensure that dental treatment provided to prisoners free of charge is not limited to dental extractions.**

121. As regards psychiatric care, no provision had been made in any of the prisons visited for regular visits by a psychiatrist. Such a state of affairs is of particular concern with regard to the E-type Prisons in Erzurum and Konya, as these establishments were found to be accommodating many prisoners with psychiatric problems.

At Erzurum, there were a number of prisoners with substance abuse problems and severe personality disorders, and cases of self-mutilation were not uncommon. However, such inmates received no proper assessment and no adequate care, but instead were frequently placed in the establishment's observation cells (conditions in which were extremely poor; see paragraph 135). At Konya, several inmates with serious psychiatric disorders were receiving no treatment.

Further, during its brief visit to Van M-type Prison, the delegation encountered two seriously ill prisoners with suicidal tendencies among recent arrivals. Neither of them had been seen by a psychiatrist and they were not receiving the care required for their psychiatric disorder.

122. As the CPT has emphasised in the past, all prisons will accommodate a certain number of prisoners who, while not requiring admission to a psychiatric facility, would benefit from ambulatory psychiatric care. The regular presence of a psychiatrist will enable those prisoners to be identified in good time and given appropriate treatment. In many cases this may well make it possible to avoid any subsequent need for their transfer to an outside facility. Further, such a presence will ensure that the state of health of inmates who are returned to prison after treatment in a psychiatric facility is satisfactorily monitored. **The CPT recommends that urgent steps be taken to arrange for regular visits by a psychiatrist to all the prisons visited by its delegation and, where appropriate, to other prisons in Turkey.** Moreover, **in the Committee's opinion, it is necessary that all doctors working in prisons are trained to diagnose and manage common psychiatric disorders and to recognise serious disorders requiring specialist care.**

123. To sum up, health care for prisoners, which was already found to be inadequate in many prisons during previous visits of the CPT, was at the time of the 2009 visit close to collapse. There was, as a result, serious and widespread neglect of prisoners' health, with significant harmful effects.

124. In the CPT's view, the above-mentioned transfer of responsibilities for prison health care from the Ministry of Justice to the Ministry of Health is, in principle, a positive development, having regard to the general precept that prisoners should be entitled to the same level of medical care as persons living in the community at large.

However, this optimistic view must be tempered by the absence of any plans by the Ministry of Health to set up a central mechanism to plan, co-ordinate and evaluate prison health care. The current plan appears to delegate the entire responsibility for health care in prisons to local health centres. This is clearly inadequate. Furthermore, medical staffing levels foreseen by the protocol signed between the two Ministries are insufficient[80].

125. **The CPT recommends that the Turkish authorities review the current system of prison health care, in the light of the remarks made in paragraphs 115 to 124. Immediate steps should be taken to set up a task force within the Ministry of Health, charged with planning, co-ordination and evaluation of health services in the Turkish prison system.**

c. medical screening

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

127. At Erzurum and Konya E-type Prisons, as well as at Batman, Diyarbakır and Mardin, initial medical examinations were usually carried out on the day of admission, except at weekends. The situation was less satisfactory at Erzurum H-type Prison where such examinations were conducted only twice weekly, and at Van M-type Prison where newly-arrived prisoners were seen by a doctor only when they indicated that they had health problems[81]. Further, at Konya, at least some of the examinations were carried out not by a doctor but by a prison officer assigned to the health-care service who had some basic medical training. It is a matter of particular concern that medical screening was virtually non-existent at Van F-type Prison.

In all the establishments visited, initial medical examinations were usually carried out in a perfunctory manner (essentially asking about the presence of any marks without conducting a proper physical examination). Further, in none of the establishments were newly-arrived prisoners screened for transmissible diseases, nor was information provided to prisoners regarding the prevention of such diseases. In addition, injuries were rarely recorded in a precise manner, and the statements made by the prisoners concerned, as well as the doctors' conclusion as to their consistency with the injuries recorded, were usually absent.

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80 The Protocol provides for a presence of a doctor working five half-days per week in prisons with a population of 500 to 1,000 inmates.

81 A prison officer, assigned to the health-care service, would simply ask new arrivals if they had any health problem and, if they indicated that they had a problem, they would be seen at the next consultation by a visiting doctor.

128. In the light of the above, **the CPT recommends that the Turkish authorities take the necessary steps in all prison establishments to ensure that:**

- **all newly-arrived remand prisoners are subject to a comprehensive medical examination, including screening for transmissible diseases, by a medical doctor (or a fully qualified nurse reporting to a doctor) as soon as possible after their admission and that all prisoners are provided with information regarding the prevention of transmissible diseases;**

- **the record drawn up after a medical examination of a prisoner, whether newly-arrived or not, contains (i) a full account of statements made by the prisoner which are relevant to the medical examination (including any allegations of ill-treatment made by him/her), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of i) and ii); in his/her conclusions, the doctor should indicate the degree of consistency between any allegations made and the objective medical findings (a copy of the conclusions should be made available on request to the prisoner concerned and his/her lawyer);**

- **whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner, the record is immediately brought to the attention of the relevant prosecutor.**

d. medical confidentiality

129. The CPT is very concerned by the continued lack of respect for the confidentiality of medical consultations in Turkish prisons, despite the specific recommendations repeatedly made by the Committee in previous visit reports. The information gathered during the 2009 visit indicated that doctor-inmate consultations (whether upon a prisoner's arrival or at a subsequent stage) were usually carried out in the presence of custodial staff.

Such a state of affairs is not acceptable. Clearly, the two circulars issued on the subject by the Ministry of Justice on 28 May and 22 August 2002, which were referred to by the Turkish authorities in their response to the CPT's report on the 2002 visits[82], have not had the desired effect.

130. The Committee recognises that special security measures may be required during medical examinations in a particular case, when medical staff perceive a threat. However, there can be no justification for prison officers being systematically present during such examinations; their presence is detrimental to the establishment of trust and a proper doctor-patient relationship and usually unnecessary from a security standpoint.

The CPT calls upon the Turkish authorities to take immediate steps to ensure that all medical examinations of prisoners (whether upon arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of prison officers. The Ministry of Health should treat this as a priority.

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82 See CPT/Inf (2003) 29, page 7.

7. Other issues

a. discipline

131. Adult sentenced and remand prisoners may be subjected to the following disciplinary sanctions: reprimand, suspension from participation in certain activities[83], exclusion from paid work, deprivation or restricted use of information and communication facilities[84], deprivation of visits (for a period of one to three months), and cellular confinement for up to twenty days.[85] For juveniles, the most severe disciplinary sanction is confinement to a room (alone) for up to five days[86].

132. According to the law, adult prisoners subjected to the sanction of cellular confinement are automatically deprived of all forms of contact with the outside world (the right to receive visits, to write letters or to make phone calls) during the serving of that sanction[87]. Moreover, the sanction of deprivation of visits is applied for disciplinary offences not related to visits (e.g. opposing a head count, gambling, etc.).

In this connection, the CPT wishes to stress that disciplinary punishment of prisoners should not involve a total prohibition of family contact and that any restrictions on family contact should be imposed only where the offence relates to such contact[88].

The CPT recommends that the rules governing disciplinary sanctions be revised accordingly.

133. As regards the disciplinary procedure, decisions were taken by a disciplinary board, chaired by the prison director and comprising several other senior members of staff. It appeared that prisoners facing disciplinary charges did not always receive a copy of these charges. Further, they were usually not heard in person by the disciplinary board before a decision was taken on the matter (it being within the board's discretion to summon the prisoner) and had no right to call witnesses on their own behalf or to challenge evidence given against them. **The CPT recommends that the above-mentioned shortcomings be remedied (if necessary, by amending the relevant legal provisions).**

On a positive note, all the prisoners concerned had received a copy of the decision of the disciplinary board, indicating the reasons for the board's decision and specifying the competent authority and the time-limit for an appeal.

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83 Such as prohibiting a prisoner from participating in the prison's cultural and sports activities for a period of one to three months.

84 Such as depriving a prisoner either completely or partially of the possibility of receiving or sending letters, faxes and telegrams, watching television, listening to the radio, making telephone calls and having access to other media for a period of one to three months.

85 Section 38 of the LESSM.

86 Section 46(9) of the LESSM.

87 Section 44, paragraph 1, of the LESSM. According to paragraph 5 of the latter provision, prisoners held in cellular confinement shall not be denied contact with competent authorities or lawyers.

88 See also Rule 60.4 of the European Prison Rules and the Commentary on that Rule.

134. As regards the conditions of detention in punishment cells, they were generally satisfactory in Erzurum E-type and H-type Prisons. Cells were of an appropriate size, and access to natural light and ventilation were on the whole adequate. Further, they were equipped with a bed, wash basin and a semi-partitioned lavatory.

However, at Konya, most of the disciplinary cells were in a poor state of repair (e.g. broken bed, broken window, etc.) and hygiene (infested with cockroaches). **Steps should be taken to remedy these shortcomings.**

As regards the limited access to natural light (due to metal shutters) and the lack of outdoor exercise at weekends for prisoners held in disciplinary cells at Konya Prison, reference is made to the remarks made in paragraphs 100, 101 and 137.

b. segregation

135. Specific mention must be made of the so-called "observation cells" (22 single cells in D block – "*Müşahede"*) at Erzurum E-type Prison, which were in fact mostly used for segregation of prisoners for various reasons (e.g. psychological disturbance, incompatibility with other prisoners, the person's own request, etc.). At the time of the visit, 16 prisoners were being held in these cells. The cells, which were grille-fronted and measured about 7 m^2 (excluding the small toilet area), were found to be in a deplorable state of repair and cleanliness. Further, they had no access to natural light (there being no window) and had only dim artificial lighting that filtered in from the corridor. It should also be noted that the inmates had no out-of-cell activity whatsoever (not even outdoor exercise) and were locked up in their cells for almost 24 hours a day, and that some prisoners had spent several months in such conditions. Indeed, the accumulation of poor material conditions, the total absence of out-of-cell activities, and long periods of isolation could, in the CPT's opinion, be considered as inhuman and degrading.

The issue of outdoor exercise for persons placed in these cells has already been addressed (see paragraphs 100 and 101).

In the light of the above, **the Committee recommends the Turkish authorities to take immediate steps to either withdraw from service or completely refurbish the "observation cells" at Erzurum E-type Prison (including by installing windows).** Further, **inmates placed in these cells should be guaranteed appropriate human contact.**

136. The delegation met two prisoners held in the above-mentioned cells, who had requested to be removed from their multi-occupancy living units since they could not tolerate cigarette smoke. One of these prisoners had consulted the medical service in February 2009. The relevant notes showed that chronic bronchitis had been diagnosed and the doctor had requested placement in a "non-smoking" cell; the prisoner concerned had since then been held in an "observation cell".

In the CPT's view, the management of any prison has an obligation to provide an environment free from passive smoking, known to have negative consequences to health, to all prisoners who request this, without prejudice to their access to adequate living conditions[89]. **The Committee therefore recommends that the prisoners' allocation policy be reviewed at Erzurum E-type Prison and, where appropriate, in other prisons in Turkey, in the light of the above remarks.**

c. security-related issues

137. At Konya Prison, the delegation noted that the windows in the "Hobi" units and the admission and disciplinary punishment cells were covered with perforated metal plates, which rendered access to natural light inadequate. During the end-of-visit talks with the Turkish authorities, the delegation requested that immediate steps be taken to remove the metal shutters.

In their letter of 23 September 2009, the Turkish authorities stated the following: "The perforated metal shutters in "Hobi" units and discipline cells had actually been installed in order to prevent cases of threat, provocation and breakout attempts (which has occurred in the past), solely for the sake of prison security. Due care has been taken to ensure that the shutters installed allow sufficient natural light and ventilation."

The CPT wishes to receive clarification regarding the steps taken to ensure that there is sufficient access to natural light in the admission and disciplinary punishment cells at Konya E-type Prison.

d. inspection procedures

138. In addition to annual inspections carried out by the Prison Administration and regular checks by the competent public prosecutor, Erzurum E-type and H-type Prisons and Konya E-type Prison also received visits by members of the respective Provincial Prison Monitoring Board[90]. However, the delegation was not able to obtain a complete picture as regards the frequency of such visits and the manner in which they were carried out.

The CPT would like to receive a list of all visits to the above-mentioned prisons by prison monitoring boards since January 2008 and copies of the reports on the most recent visit to each of the three establishments.

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89 See, for example, the judgment of the European Court of Human Rights in the case of *Ostrovar v. Moldova* (13 September 2005, application no. 35207/03), paragraph 85.

90 According to the 2001 Law on Prison Monitoring Boards (Section 7), such boards shall carry out visits to prisons for which they are responsible at least every two months and prepare reports on the basis of their findings. Members of these boards have the right, inter alia, to conduct private interviews with prisoners (see also CPT/Inf (2005) 18, paragraph 92).

E. Hasdal Military Prison

139. Hasdal Military Prison is part of the 3rd Army Corps and is located some 50 km north of Istanbul. Like any other military prison, it serves as a detention facility for soldiers (including members of the gendarmerie) who are remanded in custody (under military or civil jurisdiction) or sentenced to a prison term of up to one year (under military jurisdiction only). With an official capacity[91] of 160 places, the establishment was accommodating 89 prisoners at the time of the visit (18 sentenced and 71 on remand).

140. During the visit, hardly any allegations were received from prisoners of physical or other forms of ill-treatment by staff. Many prisoners indicated that there had been considerable tension within the establishment in the past, but that the atmosphere had generally improved in recent times.

That said, the delegation did receive accounts, from various sources, about an incident which apparently occurred in the establishment at the beginning of October 2008 and resulted in the deaths of two prisoners. It is a matter of concern that several of the prisoners met by the delegation were afraid to talk about this matter. According to the information available to the Committee, a fire broke out in one of the dormitories, and two prisoners were overcome by fumes and suffocated. It is claimed that prison officers who had opened the door of the dormitory to let fellow-inmates carry the two prisoners out into the corridor not only failed to provide first aid, but also beat with batons several prisoners present at the scene.

The CPT would like to receive detailed information on all investigations carried out in relation to the above-mentioned incident and on the action subsequently taken. The Committee would also like to receive copies of the two autopsy reports.

141. Material conditions in the detention units, each of which comprised a dormitory (with eleven bunk-beds) and an adjacent dining room, were of a high standard and do not call for any particular comments.

142. The situation was less favourable when it comes to the regime. Apart from daily outdoor exercise of one hour and 15 minutes[92], out-of-cell activities were limited to two outdoor football sessions of 45 minutes per week. For the rest of the time, prisoners were usually confined to the detention area, their main occupation being reading[93], watching television or playing board games. It is all the more worrying that a number of prisoners had been subjected to such an impoverished regime for prolonged periods (in some cases, more than four years).

The CPT welcomes the fact that a literacy course had recently been introduced for a number of prisoners (in co-operation with the Ministry of Education), which was held for two hours twice a week.

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91 In theory, the official capacity was 200 places, but it had been decided to reduce the number of beds to 160.

92 45 minutes in the morning and 30 minutes in afternoon.

93 Prisoners could borrow books from the prison library or purchase newspapers or magazines from outside.

The Committee recommends that the relevant authorities redouble their efforts to devise and implement a comprehensive regime of organised activities for all prisoners, including those on remand, at Hasdal Military Prison and, where appropriate, in other military prisons.

143. The delegation gained a positive impression overall of the health care provided to prisoners at Hasdal Military Prison. A doctor and a psychologist were present every Monday and, on all other days, prisoners were cared for by health-care staff of the infirmary of the Garrison of the 3rd Army Corps or were transferred, in case of need, to a military hospital for specialised treatment. It should be added that all prisoners were given a medical check-up on a monthly basis.

144. The arrangements made for prisoners' contacts with outside world were generally satisfactory. All prisoners could send and receive an unlimited number of letters, were entitled to four one-hour visits per month and one ten-minute telephone call per week.

That said, the delegation received a number of complaints from prisoners that meetings (as well as correspondence) with their lawyers were regularly monitored by staff, apparently by virtue of Section 59, paragraph 4, of the Law on the Enforcement of Sentences.

In this regard, **the CPT wishes to recall that the confidentiality of contacts between a prisoner and his lawyer is a fundamental safeguard against ill-treatment and that, consequently, such contacts should be subject only to scrutiny *ex post facto*, leading if necessary to prohibitive measures if the deontological and ethical rules applicable to lawyers have not been observed.**

145. As regards discipline, prisoners held in military prisons may be subjected to the same sanctions as prisoners in civil prisons[94] (including a deprivation of visits for a period of one to three months and cellular confinement for up to twenty days). During the entire period of cellular confinement, prisoners were automatically deprived of all forms of contact with the outside world (except with their lawyer).

In this regard, **the recommendation made in paragraph 132 applies equally to military prisons.**

146. In accordance with the relevant regulations, decisions on the imposition of a disciplinary sanction were usually taken by a military judge[95]. All relevant inquiries were carried out by an officer from outside the prison (including the taking of a statement from the prisoner concerned), and the results were examined by the establishment's disciplinary commission before being presented to the military court by a military prosecutor.

However, it is a matter of concern that military judges usually took a decision on the matter without having heard the prisoner concerned. Further, the regulatory framework does not provide for any possibility to appeal against the decision. **The CPT recommends that these shortcomings be remedied by amending the relevant legal provisions.**

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94 See paragraph 132.

95 Only in the case of a reprimand was a decision taken by the director of the prison without the involvement of a military judge.

APPENDIX I

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

Co-operation

recommendations

- appropriate steps to be taken by the relevant authorities to enable the CPT to have effective access in future to any criminal investigation files which are related to the alleged ill-treatment of detained persons (paragraph 7).

comments

- the CPT trusts that the relevant authorities will make the necessary arrangements to ensure that the Committee is provided detailed information on the content of the two investigation files referred to in paragraph 7 (paragraph 7);

- the CPT trusts that the Turkish authorities will take the necessary steps to prevent in future any repetition of situations of the kind described in paragraph 8 (paragraph 8).

requests for information

- a copy of the custody register of Ağrı Detention Centre for Foreigners, covering the month of June 2009 (paragraph 8).

Monitoring of places of deprivation of liberty

requests for information

- a list of all places of deprivation of liberty which have been visited by provincial/district human rights boards in every province since January 2008 (if possible, with an indication as to whether a visit had been announced in advance or not) (paragraph 11);

- for each type of establishment (including a law enforcement detention facility, a detention centre for foreigners, a prison and a psychiatric hospital), one representative example of a visit report drawn up by a human rights board (paragraph 11);

- detailed information on the preparations being made by the Turkish authorities for the ratification of the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), especially as regards the National Preventive Mechanism(s) envisaged (paragraph 12).

Law enforcement agencies

Ill-treatment

recommendations

- a formal statement emanating from the relevant authorities to be delivered to all law enforcement officials in the Diyarbakır area, reminding them that they should be respectful of the rights of persons in their custody and that the ill-treatment of such persons will be the subject of severe sanctions (paragraph 14);

- law enforcement officials throughout Turkey to be reminded, at regular intervals, that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be punished accordingly. Law enforcement officials should also be reminded that no more force than is strictly necessary is to be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them (paragraph 14);

- appropriate steps to be taken by the relevant authorities to put an immediate end to the resort to sleep deprivation at Diyarbakır Police Headquarters. As a rule, a detained person should be allowed within a given period of 24 hours a continuous period of at least eight hours for rest, free from questioning or any activity in connection with the investigation (paragraph 15);

- the prosecutorial and judicial authorities in the Diyarbakır area to be reminded of their obligations to initiate preliminary investigations and to take resolute action within their powers when any information indicative of ill-treatment emerges (paragraph 17).

requests for information

- in respect of the period from 1 January 2007 to the present time:

  - the number of complaints of ill-treatment made against law enforcement officials and the number of criminal/disciplinary proceedings which have been instituted as a result;

  - an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by law enforcement officials

(paragraph 18).

Safeguards against ill-treatment

recommendations

- law enforcement officials throughout Turkey to be reminded of their legal obligations regarding the implementation of the right of notification of custody (paragraph 19);

- the Turkish authorities to take the necessary steps to ensure that the right of access to a lawyer for persons in police/gendarmerie custody is fully effective in practice as from the very outset of custody (paragraph 21);

- the Turkish authorities to take all necessary steps – including of a legislative nature – to ensure that every person detained by a law enforcement agency under anti-terror legislation has the right to talk in private with a lawyer, as from the very outset of deprivation of liberty, it being understood that, whenever there are reasonable doubts about the professional integrity of the lawyer chosen by the detained person, another lawyer will be appointed *ex officio* (paragraph 22);

- steps to be taken to ensure that, whenever the access of a detained person to the lawyer of his/her own choice is delayed/denied, the reasons for the decision are recorded and a written copy of the decision and the reasoning are provided to the person concerned (paragraph 22);

- appropriate steps to be taken by the relevant authorities to ensure that medical examinations of persons in police/gendarmerie custody are carried out in full compliance with the requirements set out in Section 9 of the Detention Regulation. Further, steps should be taken to put an end to the use of handcuffs during such examinations (paragraph 23);

- the Turkish authorities to 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 information given orally at the very outset, and supplemented at the earliest opportunity (that is, immediately upon their arrival at a law enforcement establishment) by the provision of the Suspects Rights Form. Further, the persons concerned should always be given a copy of the form (paragraph 25);

- appropriate steps to be taken to put a stop to any practice of subjecting minors to informal questioning by law enforcement officials without having a lawyer present (paragraph 27);

- the Turkish authorities to provide minors deprived of their liberty by law enforcement agencies with a specific version of the Suspects Rights Form (paragraph 28);

- law enforcement officials to be reminded of the importance of opening custody records promptly in every case and of ensuring full, accurate and timely record keeping (paragraph 29);

- steps to be taken to ensure that a record is made and kept in every law enforcement establishment of every instance of a person being deprived of his/her liberty on the premises of that establishment (paragraph 30);

- the Turkish authorities to take steps to ensure that all interviews of detained persons in Anti-Terror Departments are electronically recorded (by audio and video recording) and that recordings are kept for a reasonable period and are made available to be viewed by appropriate persons (paragraph 34);

- prosecutors in all provinces to be encouraged to carry out more robust on-the-spot checks of law enforcement establishments, in line with the criteria set out by the Committee in paragraph 40 of the report on the 2003 visit (CPT/Inf (2004) 16) (paragraph 35).

comments

- as regards the medical examination of persons in police/gendarmerie custody, there needs to be reflection by all relevant parties (justice, health, police and gendarmerie) on the way forward, with a view to developing a system which is more simplified but still effective in terms of prevention of ill-treatment by law enforcement officials; the Committee is ready to take part in this process (paragraph 24);

- the CPT encourages the Turkish authorities to extend to all law enforcement establishments the practice of displaying, in detention areas, notices setting out the rights of detained persons (paragraph 26);

- it would be desirable for CCTV cameras in the interview rooms of Anti-Terror Departments to be adjusted so as to provide an image of the entire room and of all persons present in it (paragraph 33);

- the Turkish authorities are invited to consider the possibility of introducing recording of interviews of detained persons in all law enforcement departments (paragraph 34).

Conditions of detention

recommendations

- material conditions of detention to be improved in all the Anti-Terror Departments visited, in the light of the remarks made in paragraph 37 (paragraph 37);

- the Turkish authorities to 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 (paragraph 37);

- the Turkish authorities to explore the possibility of offering outdoor exercise on a daily basis to persons held for 24 hours or more by law enforcement agencies; the need for outdoor exercise facilities for detained persons should also be taken into account in the design of new premises (paragraph 37).

comments

- it is regrettable that no provision had been made for outdoor exercise at the new Common Detention Facility at Istanbul Police Headquarters (paragraph 36);

- it would be desirable for the current detention arrangements at Istanbul Police Headquarters to be further developed by deploying dedicated and specially trained custodial officers to the Common Detention Facility, as well as by establishing a single custody register (paragraph 38);

- the CPT encourages the Turkish authorities to create common police detention facilities also in other provinces of the country (paragraph 38).

Foreign nationals held under aliens legislation

Detention centres for foreigners

recommendations

- police officers at the detention centres in Ağrı, Edirne-Tunça and Kirklareli to be reminded that all forms of ill-treatment of immigration detainees are not acceptable and will be punished accordingly (paragraph 41);

- the Turkish authorities to take the necessary steps to prevent any "informal deportations" from occurring in the future (paragraph 43);

- the Turkish authorities to prevent any repetition of the severe overcrowding which reportedly occurred at Van Detention Centre in August and September 2009 (paragraph 44);

- steps to be taken to significantly reduce the official capacity of Istanbul-Kumkapı Detention Centre and to ensure that future occupancy levels are always kept within the limits of the new capacity (paragraph 45);

- urgent steps to be taken to ensure that the detention centres at Ağrı, Kırklareli (unit for male adults), Konya and Van are kept in an acceptable state of repair and hygiene (paragraph 48);

- the Turkish authorities to take steps at all the detention centres visited to ensure that foreign nationals are offered a greater number and broader range of activities (paragraph 49);

- the provision of food to immigration detainees to be reviewed in all the detention centres for foreigners, to ensure that it is adequate in terms of both quantity and quality (paragraph 51);

- the necessary steps to be taken in all the detention centres for foreigners to:

  - ensure that all newly-arrived detainees are promptly examined by a doctor or by a fully-qualified nurse reporting to a doctor;

  - arrange for the daily presence of a person with a recognised nursing qualification, the length of time of that presence depending on the number of immigration detainees; a nurse should be present on a full-time basis at Istanbul-Kumkapı. Such nursing staff could in particular perform the initial medical screening of new arrivals, receive requests from foreign nationals to see a doctor, ensure the provision and distribution of prescribed medicines, keep the medical documentation (thus ensuring confidentiality of medical data) and supervise the general conditions of hygiene

(paragraph 52);

- steps to be taken in all detention centres for foreigners to ensure that police officers working in direct contact with immigration detainees receive appropriate initial and continuous training (including in interpersonal communication skills) (paragraph 59).

comments

- the Ağrı Detention Centre should under no circumstances operate above its official capacity. Further, it is in any event totally unsuitable as a place to hold young children with their mothers (paragraph 46);

- television sets should be provided in all detention centres for foreigners (paragraph 50);

- a custody register for immigration detainees should be established at the temporary detention facilities at Konya Police Headquarters (paragraph 54);

- the CPT trusts that the rules on disciplinary procedures in detention centres for foreigners, which are being prepared by the Ministry of the Interior, will be in compliance with the criteria indicated by the Committee in paragraphs 132 and 133 (paragraph 55);

- the Turkish authorities are invited to extend to all detention centres for foreigners the practice of allowing immigration detainees to keep their mobile phones (paragraph 56);

- steps should be taken in all detention centres for foreigners to put an end to the practice of systematically censoring the correspondence of immigration detainees (paragraph 57);

- the Turkish authorities are invited to allow immigration detainees to receive visits also from non-family members (paragraph 58).

requests for information

- confirmation that all foreign nationals held at Ağrı and Istanbul-Kumkapı Detention Centres are able to benefit from at least one hour of outdoor exercise per day (paragraph 47);

- progress made in constructing an outdoor exercise area at the detention facilities at Konya Police Headquarters (paragraph 47);

- detailed information on the implementation of the plans to construct several regional detention centres for foreigners, as well as on the out-of-cell activities which will be offered to persons held in these new centres (paragraph 48);

- views on the remarks made by the Committee in paragraph 53 regarding the systematic use of in-room video surveillance in most of the detention centres for foreigners visited (paragraph 53);

- a copy of the rules on disciplinary procedures in detention centres, once they have been adopted (paragraph 55).

Legal situation of immigration detainees

recommendations

- the Turkish authorities to take steps to ensure that all immigration detainees are able to have unrestricted and confidential access to a lawyer throughout their detention (paragraph 63).

comments

- the CPT trusts that the Turkish authorities will take all necessary steps of a legislative and administrative nature to ensure that the deficiencies concerning the legal safeguards for immigration detainees described in paragraph 61 and addressed by the European Court of Human Rights in the judgment of *Abdolkhani and Karimnia v. Turkey* (dated 22 September 2009) are remedied as a matter of priority (paragraph 62);

- the Turkish authorities are invited to introduce a maximum period for the administrative detention of foreign nationals under aliens legislation (paragraph 62);

- every effort should be made to avoid resorting to the deprivation of liberty of minors in detention centres for foreigners. In line with Articles 3 and 37 (b) of the United Nations Convention on the Rights of the Child, detention of children is rarely justified and, in the Committee's view, can certainly not be motivated solely by the absence of residence status. When, exceptionally, a child is detained, the deprivation of liberty should be for the shortest possible period of time (paragraph 62).

requests for information

- updated information on the project of setting up a legal counselling service and of arranging the regular presence of a lawyer at Istanbul-Kumkapı Detention Centre (paragraph 63);

- confirmation that all foreign nationals held in detention centres are now informed that they are allowed, if they so wish, to contact and receive visits by representatives of UNHCR (paragraph 64).

Holding facilities for foreign nationals in the transit zone of Istanbul International Airport

recommendations

- the Turkish authorities to take the necessary steps to ensure that foreign nationals held in the transit zone are allowed to contact and meet representatives of UNHCR (paragraph 67).

Deportation of foreign nationals by air

recommendations

- the Turkish authorities to draw up detailed instructions on the procedure to be followed and, more particularly, on the use of force and/or means of restraint authorised in the context of deportations by air. Those instructions should take into account the principles set out in the CPT's 13th General Report (CPT/Inf (2003) 35, paragraphs 27 to 45) and Guidelines 15 to 20 of the Guidelines on Forced Return (adopted by the Committee of Ministers of the Council of Europe on 4 May 2005) (paragraph 69).

comments

- any administration of medication to persons subject to a deportation order must always be carried out on the basis of a medical decision taken in respect of each particular case; the taking of such a decision necessarily involves the person concerned being physically seen and examined by a medical doctor. Save for clearly and strictly defined exceptional circumstances, medication should only be administered with the informed consent of the person concerned. Further, all instances of administration of medication in the context of deportation procedures should be duly recorded by the services involved (paragraph 69).

Establishments under the Ministry of Justice

Preliminary remarks

recommendations

- the Turkish authorities to vigorously pursue the adoption and implementation of a coherent strategy designed to combat prison overcrowding, in the light of Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe 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) and Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse (paragraph 74).

Ill-treatment

recommendations

- staff at Konya E-type Prison to be firmly reminded at regular intervals that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions (paragraph 78);

- the Turkish authorities to develop a strategy with a view to addressing the problem of inter-prisoner violence at Konya E-type Prison, in the light of the remarks made in paragraphs 81 and 82 (paragraph 83);

- a centralised system for recording injuries to be introduced at Konya E-type Prison and, where appropriate, in other prisons in Turkey (paragraph 83).

comments

- custodial staff at Erzurum H-type Prison should receive further encouragement to interact with prisoners (paragraph 80).

requests for information

- detailed information on the action taken in response to the complaint lodged by the prisoner referred to in paragraph 79 about alleged ill-treatment by prison officers at Erzurum H-type Prison (paragraph 79).

Conditions of detention of adult prisoners at Erzurum E-type and H-type Prisons and Konya E-type Prison

recommendations

- the Turkish authorities to take immediate steps to ensure that every prisoner at Konya E-type Prison is provided with his/her own bed. More generally, the necessary steps should be taken to ensure that occupancy rates in all prisoner accommodation units of Erzurum and Konya E-type Prisons are kept at a reasonable level (paragraph 86);

- steps to be taken at Erzurum E-type and H-type Prisons and Konya E-type Prison and, where appropriate, in other prisons in Turkey to ensure that all prisoners are provided with:

  - a range of essential personal hygiene items and materials to clean their living units;

  - bed linen which is cleaned by the prison at regular intervals

  (paragraph 90);

- immediate steps to be taken at Konya E-type Prison to improve the provision of food for children (paragraph 91);

- the Turkish authorities to take steps at Erzurum E-type and H-type Prisons and Konya E-type Prison to improve facilities for organised activities and to significantly increase the number of prisoners who benefit from such activities (paragraph 99);

- steps to be taken at Erzurum H-type Prison to increase the possibilities for conversation periods (the goal being to reach the maximum duration of conversation periods permitted under the Ministry of Justice Circular No. 45/1) (paragraph 99).

comments

- steps should be taken to improve the state of the beds in the admission cells at Konya E-type Prison (paragraph 88).

requests for information

- updated information regarding the planned repair work at Erzurum H-type Prison (paragraph 85);

- detailed information on the measures taken to find new accommodation for the sex offenders at Konya E-type Prison (paragraph 87);

- confirmation that the prisoners kept in the "observation cells" of Erzurum E-type Prison are offered at least one hour of outdoor exercise per day (paragraph 101).

Conditions of detention of juvenile prisoners

recommendations

- the Turkish authorities to take appropriate measures at Konya E-type Prison and, where appropriate, in other prisons in Turkey, to ensure that juveniles are provided with a programme of organised activities, in the light of the remarks made in paragraphs 105 and 106 (paragraph 106).

comments

- steps should be taken at Konya E-type Prison to ensure that the quantity of food provided to juvenile prisoners is adapted to the needs of growing adolescents (paragraph 103);

- the CPT considers that a juvenile should not be kept in solitary confinement for the sole reason that he is suspected of a terrorism-related offence (paragraph 104);

- the CPT trusts that the Turkish authorities will take steps to ensure that there is no recurrence of overcrowding at Batman M-type Prison (paragraph 107).

requests for information

- detailed information regarding the plans to set up a juvenile prison in Izmir (paragraph 108).

Kırıkkale F-type Prison

recommendations

- the Turkish authorities to step up their efforts to further develop communal activity programmes at Kırıkkale F-type Prison, as regards both the range of activities on offer and the number of prisoners engaging together in such activities. Steps should be taken as a matter of priority to increase the possibilities for sports activities and conversation periods (the goal being to reach the maximum duration of conversation periods permitted under the Ministry of Justice Circular No. 45/1) (paragraph 111);

- the Turkish authorities to reconsider their policy vis-à-vis prisoners sentenced to aggravated life imprisonment, in the light of the remarks made in paragraph 112, and to amend the relevant legislation accordingly (paragraph 112).

Health care

recommendations

- steps to be taken at Erzurum E-type and H-type Prisons and Konya E-type Prison and, where appropriate, in other prisons in Turkey to ensure that dental treatment provided to prisoners free of charge is not limited to dental extractions (paragraph 120);

- urgent steps to be taken to arrange for regular visits by a psychiatrist to all the prisons visited by the delegation and, where appropriate, to other prisons in Turkey (paragraph 122);

- the Turkish authorities to review the current system of prison health care, in the light of the remarks made in paragraphs 115 to 124. Immediate steps should be taken to set up a task force within the Ministry of Health, charged with planning, co-ordination and evaluation of health services in the Turkish prison system (paragraph 125);

- the Turkish authorities to take the necessary steps in all prison establishments to ensure that:

  - all newly-arrived remand prisoners are subject to a comprehensive medical examination, including screening for transmissible diseases, by a medical doctor (or a fully qualified nurse reporting to a doctor) as soon as possible after their admission and that all prisoners are provided with information regarding the prevention of transmissible diseases;

  - the record drawn up after a medical examination of a prisoner, whether newly-arrived or not, contains (i) a full account of statements made by the prisoner which are relevant to the medical examination (including any allegations of ill-treatment made by him/her), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of i) and ii); in his/her conclusions, the doctor should indicate the degree of consistency between any allegations made and the objective medical findings (a copy of the conclusions should be made available on request to the prisoner concerned and his/her lawyer);

  - whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner, the record is immediately brought to the attention of the relevant prosecutor

  (paragraph 128);

- the Turkish authorities to take immediate steps to ensure that all medical examinations of prisoners (whether upon arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of prison officers. The Ministry of Health should treat this as a priority (paragraph 130).

comments

- the Turkish authorities are invited to consider separating the responsibility for the health care of inmates and prison staff (paragraph 117);

- it is necessary that all doctors working in prisons are trained to diagnose and manage common psychiatric disorders and to recognise serious disorders requiring specialist care (paragraph 122).

requests for information

- confirmation that the prisoner referred to in paragraph 119 has been transferred from Erzurum H-type Prison to a suitable establishment (paragraph 119).

Other issues

recommendations

- the rules governing disciplinary sanctions to be revised so as to ensure that disciplinary punishment of prisoners does not involve a total prohibition of family contact and that any restrictions on family contact are imposed only where the offence relates to such contact (paragraph 132);

- the shortcomings regarding the disciplinary procedure described in paragraph 133 to be remedied (if necessary, by amending the relevant legal provisions) (paragraph 133);

- the Turkish authorities to take immediate steps to either withdraw from service or completely refurbish the "observation cells" at Erzurum E-type Prison (including by installing windows) (paragraph 135);

- inmates placed in the "observation cells" at Erzurum E-type Prison to be guaranteed appropriate human contact (paragraph 135);

- the prisoners' allocation policy to be reviewed at Erzurum E-type Prison and, where appropriate, in other prisons in Turkey so as to ensure that an environment free from passive smoking is provided to all prisoners who request this, without prejudice to their access to adequate living conditions (paragraph 136).

comments

- steps should be taken to improve the state of repair and hygiene of the disciplinary cells at Konya E-type Prison (paragraph 134).

requests for information

- clarification regarding the steps taken to ensure that there is sufficient access to natural light in the admission and disciplinary punishment cells at Konya E-type Prison (paragraph 137);

- a list of all visits to Erzurum E-type and H-type Prisons and Konya E-type Prison by prison monitoring boards since January 2008 and copies of the reports on the most recent visit to each of the three establishments (paragraph 138).

Hasdal Military Prison

recommendations

- the relevant authorities to redouble their efforts to devise and implement a comprehensive regime of organised activities for all prisoners, including those on remand, at Hasdal Military Prison and, where appropriate, in other military prisons (paragraph 142);

- the rules governing disciplinary sanctions in military prisons to be revised so as to ensure that disciplinary punishment of prisoners does not involve a total prohibition of family contact and that any restrictions on family contact are imposed only where the offence relates to such contact (paragraph 145);

- the shortcomings identified regarding the disciplinary procedure (i.e. decisions usually taken by military judges without having heard the prisoner concerned; lack of a possibility to appeal against the judge's decision) to be remedied by amending the relevant legal provisions (paragraph 146).

comments

- the confidentiality of contacts between a prisoner and his lawyer is a fundamental safeguard against ill-treatment and that, consequently, such contacts should be subject only to scrutiny *ex post facto*, leading if necessary to prohibitive measures if the deontological and ethical rules applicable to lawyers have not been observed (paragraph 144).

requests for information

- detailed information on all investigations carried out in relation to the incident which apparently occurred at Hasdal Military Prison at the beginning of October 2008 and resulted in the deaths of two prisoners, and on the action subsequently taken. The Committee would also like to receive copies of the two autopsy reports (paragraph 140).

APPENDIX II

LIST OF THE NATIONAL AUTHORITIES AND ORGANISATIONS MET BY THE CPT'S DELEGATION

A. National authorities

Ministry of Foreign Affairs

Hasan GÖĞÜŞ	Ambassador, Director General for Multilateral Political Affairs
Füsun ARAMAZ	Head of Department for the Council of Europe
Yonca SUNEL	Chief of Section, Department for the Council of Europe

Turkish General Staff

Mahmut Esat YILMAZ	Major, Office of Legal Affairs

Ministry of Justice

Ahmet KAHRAMAN	Deputy Minister of Justice
Nizamettin KALAMAN	Director General for Prisons and Detention Houses
Cengiz GÜLER	Deputy Director General responsible for human rights issues
Erhan POLAT	Head of Department, Directorate General for Prisons and Detention Houses
Burhanettin ESER	Head of Department, Directorate General for Prisons and Detention Houses
Feyzullah TAŞKIN	Investigating Judge, Directorate General for Prisons and Detention Houses
Mehmet ARI	Investigating Judge, Directorate General for International Law and External Affairs

Ministry of National Defence

Mehmet Emin TEKPINAR	Colonel Judge, Chief of Section, Military Justice Affairs Department
Yasin AKDENIZ	Captain Judge, Deputy Chief of Section, Military Justice Affairs Department

Ministry of the Interior

Osman GÜNEŞ	Deputy Minister of the Interior
Abdurrahman SAVAŞ	Head of Department for External Affairs and the European Union
Mustafa ÇÖĞGÜN	Deputy Head of Department for External Affairs and the European Union
Ülkü YEĞENGIL	Specialist, Department for External Affairs and the European Union

Directorate General of Security

Yavuz ÖZDEMIR	Director, Department for Counter-terrorism
Ismet YÜZÜGÜLLÜ	Chief Superintendent Officer, Department for Combating Terrorism
Osman GÜVEN	Police Chief, Department for Combating Smuggling and Organised Crimes
Nuri Cengiz DILEK	Police Chief, Department for Foreigners, Borders and Asylum
U. Gürsoy YAVUZ	Director, Department for Intelligence
Dr. Mutlu KÖSELI	Police Chief, Department for Intelligence
Mehmet DOĞAN	Chief Superintendent Officer, Department for Public Order
Cengiz ZEYBEK	Chief Police Investigator
Hakan TAŞKIN	Head of Personnel Department
Sevda EFE	Ranking Police Officer, Department for External Relations

Gendarmerie

Ali ÖZKARA	Staff Colonel, Head of the Department for External Relations and Human Rights
Halil ŞEN	Lieutenant Colonel, Chief of the Department for Human Trafficking
Yusuf AY	Captain, Human Rights Project Officer

Ministry of Health

Dr. Turan BUZGAN	Deputy Under Secretary of the Ministry of Health
Dr. Irfan ŞENCAN	Director General for Curative Services
Dr. Bilal AYTAC	Head of Department for Curative Services
Dr. Ertan KAVASOĞLU	Chief of Section for Curative Services
Dr. Akfer KAHILOĞULLARI	Head of Department for Primary Heath Services
Meryem Keleş ZINCIRLI	Deputy Chief of Section for External Affairs

Directorate General for Social Services and Child Protection

Ismail BARIŞ	Director General
F. Nurdan TORNACI	Deputy Director General

B. International Organisations

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

C. Non-governmental organisations

Human Rights Association

Human Rights Foundation of Turkey.